



Telecom Decision CRTC 2012-504

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Ottawa, 20 September 2012

Northwestel Inc. – Application to modify certain reporting requirements for retail quality of service

File number: 8660-N1-201204388

In this decision, the Commission denies requests from Northwestel to (i) modify the reporting requirements related to retail quality of service and (ii) introduce a force majeure provision and an associated reporting mechanism.

Introduction

1. The Commission received an application from Northwestel Inc. (Northwestel), dated 3 April 2012, in which the company requested that the Commission modify certain retail quality of service (Q of S) reporting requirements. Specifically, Northwestel requested that it report to the Commission quarterly results for retail Q of S indicator 2.1C,¹ rather than monthly results. Northwestel also requested the introduction of a *force majeure* provision and an associated reporting mechanism, which would enable the company to exclude from its Q of S results the effects of certain adverse events in remote communities without having to submit a formal application to the Commission. Northwestel requested that these changes be made effective on 1 January 2012, which was also the start date of the company's new price cap period.
2. The Commission received comments regarding Northwestel's application from the Government of the Northwest Territories (GNWT). The public record of this proceeding, which closed on 22 May 2012, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.
3. The Commission has identified the following issues to be addressed in this decision:
 - I. Should Northwestel's reporting requirements be modified to reflect only quarterly results for retail Q of S indicator 2.1C?
 - II. Should a *force majeure* provision, and an associated reporting mechanism, be adopted for Northwestel?

¹ Indicator 2.1C – Out-of-Service Trouble Reports Cleared “Remote” within 5 Working Days is used to monitor service outages in remote communities.

Background

4. As part of its mandate to ensure that reliable and affordable telecommunications services of high quality are made available to Canadians, the Commission monitors the quality of telephone service provided to retail customers in regulated exchanges. The Commission accomplishes this by requiring incumbent local exchange carriers (ILECs) to file reports of various Q of S indicators which measure their performance against Commission-approved standards.²
5. Northwestel files monthly results with the Commission for the following four retail Q of S indicators: (i) 1.2B – Installation Appointments Met “Rural,” (ii) 2.1B – Out-of-Service Trouble Reports Cleared within 48 Hours “Rural,” (iii) 2.1C – Out-of-Service Trouble Reports Cleared “Remote” within 5 Working Days,³ and (iv) 2.2B – Repair Appointments Met “Rural.” Northwestel files these monthly results with the Commission on a quarterly basis. When an indicator standard is not met for three consecutive months, or for any seven out of twelve months, Northwestel must provide monthly exception reports to the Commission, including action plans to correct the sub-standard results. These exception reports are required until the standard has been met for three consecutive months.

I. Should Northwestel’s reporting requirements be modified to reflect only quarterly results for retail Q of S indicator 2.1C?

6. Northwestel stated that, since 2001, the majority of cases where the company missed its retail Q of S standards involved indicator 2.1C. Northwestel submitted that its low number of monthly trouble reports for indicator 2.1C results in a single trouble report having a disproportionate impact on the company’s overall retail Q of S results. Northwestel submitted that compiling quarterly retail Q of S results for indicator 2.1C would increase the sample size of its trouble reports, thereby reducing the disproportionate impact of individual trouble reports on the company’s overall retail Q of S results.
7. The GNWT opposed modifying Northwestel’s reporting requirements for indicator 2.1C. The GNWT submitted that Northwestel’s proposal would improve the company’s retail Q of S reporting results, but that this improvement would not reflect any actual change in the service quality received by Northwestel’s customers. The GNWT also submitted that Northwestel’s proposal would lessen the amount of information made available to the Commission and other interested parties, which could negatively affect the ability to analyze Northwestel’s performance.

² In Telecom Decision 97-16, the Commission, among other things, established uniform national standards for reporting on retail Q of S indicator results by the ILECs.

³ In Decision 2000-746, the Commission, among other things, recognized the difficult operating environment in some of Northwestel’s exchanges and directed the company to report on a new retail Q of S indicator, indicator 2.1C – Out-of-service trouble reports cleared “remote,” with a standard of 90 percent or higher within five working days. This standard was established for remote communities, which were defined as (i) communities in which fewer than two full-time technicians are normally based, and (ii) communities that are accessible only by air, or that would normally take three hours or more for the round trip for a technician travelling by road from where he or she is normally based.

Commission's analysis and determinations

8. The Commission considers that Northwestel's proposal could undermine its ability to monitor the quality of regulated telecommunications services in the North and to identify service quality problems that could recur on a monthly basis. The Commission also considers that the continued requirement for the company to provide monthly results for indicator 2.1C on a quarterly basis does not impose an undue regulatory burden on Northwestel since these monthly results would still have to be compiled for the company to produce a quarterly result.
9. Therefore, the Commission considers that it would not be appropriate to modify Northwestel's reporting requirements related to retail Q of S indicator 2.1C and, accordingly, **denies** Northwestel's proposal. However, the Commission notes that Northwestel may provide aggregated quarterly data as a supplement to the required monthly data.

II. Should a *force majeure* provision, and an associated reporting mechanism, be adopted for Northwestel?

10. Northwestel submitted that the size and harsh climate of its northerly operating territory results in its operations being frequently impacted by events beyond its control. Northwestel proposed a *force majeure* provision that would be applicable only to remote communities and under specific conditions.⁴ Northwestel submitted that a *force majeure* provision would neutralize the impact of such events on its retail Q of S results.
11. The GNWT opposed Northwestel's proposal to adopt a *force majeure* provision. The GNWT noted that the current reporting process already allows Northwestel to provide explanations of events beyond its control that would fall under this provision.

Commission's analysis and determinations

12. The Commission notes that under Northwestel's proposal, retail Q of S results would be adjusted unilaterally (i.e. without Commission approval) by Northwestel to exclude the effects of *force majeure* events and the Commission would be notified of these exclusions only when the Q of S reports are filed. The Commission considers that, absent a retail rate adjustment plan (RAP),⁵ a *force majeure* provision is

⁴ Namely, when a Northwestel technician is unable to access a remote community due to (i) adverse weather, (ii) fully booked scheduled flights into the community, or (iii) the unavailability of accommodations in the community.

⁵ The retail RAP, which included a *force majeure* clause to adjust for circumstances beyond the ILECs' control, was established to compensate retail customers where an ILEC failed to meet the retail Q of S indicator standards. *Force majeure* applications were subject to a formal and public process. The retail RAP never applied to Northwestel and it was eliminated altogether in Telecom Decision 2008-105.

unnecessary. The Commission continues to consider that unadjusted monthly data is required to enable it to effectively monitor Northwestel's regulated retail Q of S results in a timely manner under the current regulatory regime (i.e. unadjusted data).⁶

13. Accordingly, the Commission **denies** Northwestel's proposal to adopt a *force majeure* provision and an associated reporting mechanism. However, the Commission notes that Northwestel may supplement the required monthly data by providing the Commission with adjusted data, and explanations, for Q of S indicator results the company deems were adversely impacted by events beyond its control.

Policy Direction⁷

14. The Commission considers that the regulatory reporting requirements regarding Q of S results, as maintained in this decision, further the policy objectives set out in paragraphs 7(b) and (f) of the *Telecommunications Act* (the Act)⁸ and are consistent with the Policy Direction.
15. In this regard, the Commission considers that the reporting requirements to compile Q of S data monthly, on an unadjusted basis, provide the Commission with the basic information it needs to effectively monitor the quality of regulated retail telecommunications services provided to Northwestel's customers and to intervene in a timely manner, where appropriate. The Commission considers that the reporting requirements in place are efficient and proportionate to their purpose and are no more burdensome for Northwestel than what would have prevailed under its proposal.

Secretary General

Related documents

- *Retail quality of service regime in non-forborne markets*, Telecom Decision CRTC 2008-105, 6 November 2008
- *Long-distance competition and improved service for Northwestel customers*, Decision CRTC 2000-746, 30 November 2000
- *Quality of service indicators for use in telephone company regulation*, Telecom Decision CRTC 97-16, 24 July 1997

⁶ The Commission notes that ILECs that were subject to the retail RAP were still required to provide the Commission with unadjusted retail Q of S results.

⁷ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁸ The cited policy objectives of the Act are

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; and

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective.