



## Telecom Order CRTC 2022-309

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Ottawa, 8 November 2022

*Public record: Tariff Notice 1157*

### **Northwestel Inc. – Introduction of Fibre Construction for Enterprise Services**

#### **Application**

1. The Commission received an application from Northwestel Inc. (Northwestel), dated 12 July 2022, in which the company proposed to introduce Item 309 – Fibre Construction for Enterprise Services to its General Tariff. The application was filed as Tariff Notice (TN) 1157. Specifically, Northwestel proposed to consolidate the various Enterprise Services fibre construction provisions into a single item, for consistency and clarity as well as ease of reference for customers.
2. As a result, Northwestel also proposed changes to the following services in order to include references to the new Item 309:
  - i. CRTC 3001, Item 1736 - Terrestrial Enterprise Internet Services;
  - ii. CRTC 3003, Item 1110 - V-Connect Service;
  - iii. CRTC 3003, Item 1118 - Ethernet Metropolitan Area Network (E-MAN) Service; and
  - iv. CRTC 3003, Item 1124 - Ethernet Wide Area Network (E-WAN) Service.
3. Additionally, Northwestel proposed to add a provision to Item 309 to extend the current fibre construction allowance of 400 metres of cable distance from the company's nearest network access point to up to 1,000 metres. Northwestel submitted that extending the current fibre construction allowance would allow it to construct fibre between 401 and 1,000 metres from the company's nearest network access point at no charge to the customer. While Northwestel indicated that situations in which it would extend the construction allowance would be at its discretion, the company submitted that this would not result in unjust discrimination since customers in similar circumstances would be treated similarly.
4. Northwestel indicated that extending the current fibre construction allowance at no charge to the customer will encourage and accelerate customer demand for fibre-based services at the close edge of Northwestel's network where it is most economical to construct fibre, in order to make fibre deployment more worthwhile and pervasive in a given community.

5. While Northwestel did not file a price floor test in support of its proposal, it indicated that there are a number of factors that contribute to a positive business case for extending fibre to its customers. Specifically, the company submitted that (i) the services to which this proposal would apply generally have higher margins, (ii) customers would be required to subscribe to a minimum contract period of at least one year, and (iii) other customers could potentially access the fibre-based services once the fibre is built. Northwestel also submitted that fibre-based infrastructure is less expensive to maintain than the older copper-based infrastructure, and the resulting cost savings in maintenance also contribute to an overall positive business case.
6. Although there are upfront construction costs associated with fibre deployments, Northwestel submitted that it is important to replace aging infrastructure with fibre in order to make higher-speed fibre-based services available to more customers.
7. Northwestel requested an effective date of 27 July 2022. The Commission did not receive any interventions related to Northwestel's application.

### **Commission's analysis**

8. Northwestel's proposal to consolidate the various Enterprise Services fibre construction provisions into a single item will ensure consistency and clarity for customers in relation to the construction of facilities for these services.
9. Northwestel's proposal to extend the current fibre construction allowance of 400 metres of cable distance from the company's nearest network access point to up to 1,000 metres at no additional charge will benefit customers by increasing the accessibility of higher-speed services, and benefit the company by reducing the costs of infrastructure maintenance.
10. However, the Commission notes that Northwestel's use of the term "at the company's discretion" in Item 309.2(e) of its proposed tariff would provide Northwestel with too much flexibility in determining when it would extend fibre allowance for customers. Currently, the tariff reads as follows:
  - 309.2(e) At the Company's discretion, the Company may extend the Fibre Construction Allowance from 400 metres to up to 1,000 metres (as measured by actual cable distance) of the nearest Company network access point, per customer, per building. The Company will assess each request for fibre construction between 401 metres and 1,000 metres (as measured by actual cable distance) of the nearest Company network access point on a case-by-case basis.

The Commission considers that this wording should be changed to ensure that customers clearly understand when this option will be provided to them, as well as to limit unwarranted flexibility. Accordingly, the tariff would read as follows (changes are indicated in bold italics):

- 309.2(e) *Where warranted by the circumstances, as set out in (1) below*, the Company may extend the Fibre Construction Allowance from 400 metres to up to 1,000 metres (as measured by actual cable distance) of the nearest Company network access point, per customer, per building. The Company will assess each request for fibre construction between 401 metres and 1,000 metres (as measured by actual cable distance) of the nearest Company network access point on a case-by-case basis.<sup>1</sup>

## Conclusion

11. In light of all of the above, the Commission **approves** Northwestel’s application, effective 8 November 2022, with the following change:

- In Item 309.2(e), the wording “At the company’s discretion” is to be replaced with “Where warranted by the circumstances, as set out in (1) below”.

## Policy Directions

12. The 2019 Policy Direction<sup>2</sup> states that the Commission should consider how its decisions can promote competition, affordability, consumer interests and innovation.

13. The Commission has reviewed Northwestel’s application in light of the 2019 Policy Direction and has considered its aspects to the extent necessary, using measures that are efficient and proportionate to their purpose. The Commission considers that approval of this application is compliant with the 2019 Policy Direction since it promotes (i) consumer interests by ensuring consistency and clarity in the tariff pages related to the construction of facilities for fibre-based services, and (ii) innovation by ensuring access to high-quality telecommunications services.

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<sup>1</sup> For reference, Item 309.2(1) reads: When assessing whether to extend the Fibre Construction Allowance between 401 and 1,000 metres, the Company will consider factors such as the number of potential customers for fibre-based services on the constructed facility, the condition of existing outside facilities, the availability of appropriate support structures, easements, and/or rights of way, required permits, projected future growth in the area of the constructed facility, or other factors that would support extending the Fibre Construction Allowance.

<sup>2</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

14. Further, in compliance with subparagraph 1(b)(i) of the 2006 Policy Direction,<sup>3</sup> approval of this application advances paragraph 7(a) of the *Telecommunications Act*.<sup>4</sup>

Secretary General

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<sup>3</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

<sup>4</sup> The cited policy objective is: 7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions.