



Telecom Order CRTC 2023-348

PDF version

Ottawa, 24 October 2023

Public record: Tariff Notice 1186

Northwestel Inc. – Introduction of Connecting Families Internet Packages

Summary

Internet access is essential for participation in modern society. It helps Canadians find employment, learn new skills, keep in touch with family and friends, and access health care and schooling.

This order allows Northwestel Inc. to offer below-market rates to qualifying lower-income households in the North. Without this program, these households may struggle to afford even basic internet access.

The Commission **approves, on a final basis**, Northwestel Inc.'s application to introduce two Connecting Families Internet Packages to its General Tariff.

Background

1. The Connecting Families initiative was launched in 2018 by Innovation, Science and Economic Development Canada (ISED) to help bridge the digital divide for Canadian families who struggle to afford access to home Internet service. Eligible customers include families receiving the maximum Canada Child Benefit (CCB) and low-income seniors receiving the maximum Guaranteed Income Supplement (GIS).
2. At a Commission hearing in Whitehorse, Yukon in April 2023 (the hearing), Northwestel Inc. (Northwestel) announced that it would participate in the Connecting Families initiative.
3. Northwestel is the only incumbent local exchange carrier (ILEC) for which the Commission regulates certain rates for retail Internet services. As such, in order for Northwestel to offer services as part of the Connecting Families initiative, the company must submit a tariff application with the Commission for approval.

Application

4. The Commission received an application from Northwestel, dated 21 July 2023, in which the company proposed to introduce two Connecting Families Internet Packages to its General Tariff item 1735 – Terrestrial Internet Services. Specifically,

Northwestel proposed to provide the following two Connecting Families Internet Packages to eligible residential customers at reduced rates:

Package	Monthly rate	Download speed (megabits per second [Mbps])	Upload speed (Mbps)	Included usage (gigabytes [GB])	Overage charge, per GB	Installation charge
Connecting Families 1.0	\$ 10	15	1	300	\$ 1	N/A
Connecting Families 2.0	\$ 20	50	10	400	\$ 1	N/A

5. Northwestel proposed to make Connecting Families 1.0 available in all of the communities in its serving territory that are served by terrestrial Internet facilities (i.e., digital subscriber line [DSL], cable, or fibre-to-the-premises [FTTP]). The company clarified that in DSL-served areas that cannot support speeds of 15 Mbps download and 1 Mbps upload, Northwestel proposed to offer its Connecting Families 1.0 Package at its best available speed for the same monthly rate of \$10. Northwestel also proposed to waive the installation charges and, in DSL-served areas where the customer does not subscribe to its residential telephone service, to waive the standalone DSL surcharge. Northwestel submitted that these packages also include a modem, including Wi-Fi functionality, and up to five email addresses at no charge.
6. Northwestel submitted that the rates proposed in its application for the Connecting Families Internet Packages are considerably lower than those approved by the Commission for its tariffed service offerings, and that they do not meet the price floor test for new packages as set out in Telecom Decision 2022-343. However, the company submitted that the rates are consistent with, among other things (i) its agreement with ISED, (ii) its comments before the Commission at the hearing, and (iii) previous information filed with the Commission. For these reasons, Northwestel submitted that the proposed rates, terms, and conditions are appropriate.
7. Northwestel requested an effective date of 24 October 2023, which would ensure that the Connecting Families Internet Packages are available to customers when ISED sends the first round of notices to eligible customers. The Commission approved Northwestel's application on an interim basis in Telecom Order 2023-275.
8. The Commission received interventions from an individual (Daniel Sokolov), the Government of the Northwest Territories (GNWT), the Public Interest Advocacy Centre (PIAC), and SSi Canada (SSi). Northwestel filed a reply to the interventions.

Should the Commission approve Northwestel's application on a final basis?

Positions of parties

9. The GNWT supported approval of Northwestel's application. It submitted that its own contribution to the record of Telecom Notice of Consultation 2022-147 (the Far North proceeding) demonstrated a significant low-income Internet affordability gap in the Northwest Territories. The GNWT further submitted that Northwestel's participation in the Connecting Families initiative is its first quick-to-implement preference to begin addressing this gap.
10. Daniel Sokolov, PIAC and SSi raised concerns about the impact of Northwestel's proposed packages on competition, with Daniel Sokolov and PIAC requesting that the Commission deny Northwestel's application. Daniel Sokolov submitted that Northwestel's proposal is anti-competitive because it would capture a market segment that would be slow to move to any competitor once a wholesale regime is implemented in the North.
11. SSi submitted that the price floor test applies to Northwestel because the Commission has determined that there is insufficient competition in the market for Internet access services to protect the interests of consumers and thereby justify forbearance. However, SSi acknowledged that it is unlikely that Northwestel could meet the standards set for the Connecting Families program while also satisfying the price floor test.
12. SSi further submitted that the proportion of households that are eligible for Connecting Families may be higher in the North, and that this raises a direct competitive concern, because a significant number of eligible customers may choose Northwestel's Connecting Families Packages over another competitive alternative. SSi expressed concern that under the terms of the Connecting Families initiative, these customers may not change Internet service providers (ISPs) for the duration of the initiative (currently until 31 March 2027).
13. PIAC submitted that permitting Northwestel alone to offer below-cost services will act as a barrier to competition throughout the Far North and create a captive base of low-income customers to whom Northwestel can attempt to upsell and charge overage fees. PIAC further submitted that it is rare to allow a regulator to approve any below-cost tariff, regardless of the societal benefit, and that this requires more carefully worded rate-setting authority than exists in the *Telecommunications Act* (the Act).
14. SSi also submitted that the facilities Northwestel would use to provide Connecting Families 2.0 have already been subsidized by the Commission's Broadband Fund. SSi expressed concern that Northwestel could access future Broadband Fund or other funding to the exclusion of competitors in order to support the proposed packages.

15. PIAC and SSi submitted that a portable subsidy that customers could use with any available ISP would be a preferable alternative to ensure that low-income Northerners have access to Internet service while minimizing any potential negative impact on competition. SSi added that this would allow all customers to benefit from the resultant innovation, performance and choice.
16. PIAC submitted that the tariffed rate for the proposed packages should be made available to all Northwestel customers who receive the maximum CCB or GIS, instead of only those selected for the program, who may only number a few hundred.
17. Daniel Sokolov and PIAC raised concerns about potential overage charges, which they submitted should not be included in packages for low-income households. PIAC stated that excessive overage fees are unwarranted, unfair to consumers, and no longer tolerated in the southern Canada market. Daniel Sokolov argued against Northwestel's proposed data usage caps, submitting that they are (i) too small for families, especially large and multigenerational ones, and (ii) unnecessary for DSL and FTTP services since Northwestel has received more than \$40 million in subsidies to bring FTTP to all Yukon communities, and most DSL users will migrate to FTTP.
18. Daniel Sokolov and PIAC objected to the tariff condition that requires customers to be in good standing with Northwestel in order to subscribe to the proposed packages. Both interveners submitted that this condition undermines the ability of the Connecting Families initiative to support struggling families, who may not have been able to pay Northwestel's overage charges. PIAC submitted that this condition is (i) incompatible with the evidence on the record of the Far North proceeding, which shows that many customers fall into arrears as part of a cost-control strategy in response to overage charges, and (ii) contrary to the Commission's determinations in Telecom Decision 2004-31 that customers cannot be denied local exchange services for arrears of optional services.
19. Finally, PIAC objected to the Commission not suspending this application when it suspended the Far North proceeding. PIAC argued that the application provides Northwestel with procedural, evidentiary, and public-opinion advantages relative to the other parties to the Far North proceeding and their proposals, as well as to the public and other public interest parties.

Northwestel's reply

20. In response to the competitive concerns raised, Northwestel submitted that the uptake of the Connecting Families initiative in southern Canada suggests that not every eligible customer, or even the majority of eligible customers, would choose to subscribe to the initiative. The company further submitted that it is not aware that the maximum number of eligible customers has ever been reached in southern Canada and does not believe that this is likely in northern Canada. Northwestel also submitted that competitors have the flexibility to offer lower rates or participate in the Connecting Families initiative themselves. Therefore, Northwestel concluded that the possible impact of the proposed packages on the competitive market would be minimal.

21. Northwestel submitted that participation in the Connecting Families initiative is voluntary and does not include any government subsidies. The company submitted that it would use its full retail rate when making calculations for any future Broadband Fund applications. Northwestel indicated that it would not factor the Connecting Families Packages into the calculation and would simply forgo the associated revenue if some of the forecasted retail demand materialized as Connecting Families subscribers.
22. Northwestel submitted that comments in support of a subsidy are beyond the scope of the present tariff notice, are more appropriately considered in the context of the Far North proceeding, and should not impede its participation in the Connecting Families initiative.
23. Regarding PIAC's comment that Northwestel should be required to offer the proposed packages to any customer who is eligible for the Connecting Families initiative (i.e. any customer who receives the maximum CCB or GIS) instead of only those selected for the initiative, Northwestel submitted that it will not know who is eligible for the initiative unless that person receives a notification from ISED and subscribes to a Connecting Families Package, and that it does not have data on customers' incomes. Northwestel submitted that the fact that its Internet services are regulated does not mean that it should be required to provide more than any other ISP participating in this voluntary program.
24. Regarding data usage caps and overage fees, Northwestel indicated that its Connecting Families 2.0 Package offers double the data usage required by the Connecting Families initiative, and its Connecting Families 1.0 Package offers three times the required data usage. Furthermore, its proposed overage charge, which is clearly set out in the tariff pages, is 50% of its standard rate. The company submitted that low-price plans with data caps can meet the needs of cost-conscious customers.
25. Northwestel submitted that ISED's agreement parameters for the Connecting Families initiative set out that participating ISPs may decline to propose service to an eligible individual that is not in good standing. Northwestel submitted that such measures are standard, prudent, and help prevent customers from incurring further arrears.
26. Northwestel noted that in Telecom Decision 2004-31, the Commission prohibited ILECs from suspending, disconnecting or threatening to disconnect a customer's tariffed services if that customer has made partial payments sufficient to cover their outstanding arrears for tariffed services, regardless of whether there remain outstanding arrears for non-tariffed services. Northwestel submitted that it does not do so for customers in arrears, and that whether a service is optional or not is an irrelevant consideration.
27. Northwestel submitted that the timing of its application was intended to allow the Commission and other parties to review and comment on the proposal, and to give the Commission time to dispose of the application in time for ISED to send the next round of eligibility letters to customers qualifying for the Connecting Families initiative. Northwestel also noted that the tariff filing procedure allows for a full process of intervention and reply.

Commission's analysis

28. The Connecting Families initiative is a national program that ISPs can voluntarily participate in for the benefit of their customers. ISED, which manages the program, works with participating ISPs to define the requirements of the program, including defining the minimum requirements of the offered packages such as the rates, speeds, and data allowances. Northwestel's proposed rates, terms and conditions are consistent with Northwestel's agreement with ISED, the minimum requirements for ISPs participating in the Connecting Families initiative, and with the information Northwestel filed with the Commission following the hearing.
29. Affordability of goods and services, not just telecommunications services, in the Far North compared to affordability in southern Canada has been an issue raised in many proceedings. This disparity is felt most acutely by low-income households. The Commission considers that, while Northwestel's participation in the Connecting Families initiative does not fully address Internet affordability in the North, it would benefit eligible low-income households.
30. In Telecom Decision 2015-78, the Commission approved rates for two Internet service packages that did not pass the price floor test. In making its determinations, the Commission acknowledged that these rates may have a negative effect on competition for these particular services, but it considered that it needed to take exceptional measures to ensure that residential Internet service is provided at reasonable rates across all of Northwestel's operating territories. The Commission was of the view that these measures would advance the ability of Canadians living in the North, particularly those in small and remote communities in Northwestel's operating territory, to access online services and participate in the digital economy at a level closer to southern Canadians.
31. Similarly, while SSi raised concerns about the impact that approval of Northwestel's application could have on competition, the Commission considers that the Connecting Families Internet Packages would contribute to addressing Internet affordability in the North, particularly for low-income households.
32. The scope of eligible customers for the Connecting Families initiative is limited to certain criteria as outlined in paragraph 1 of this order, and not all eligible customers are likely to subscribe to the program. Additionally, the Commission considers that the low-income households that are eligible for these packages are unlikely to be a significant source of revenue for competitors because they are likely accessing the most affordable Internet services, if any. Furthermore, since Northwestel will be serving this market segment below cost, the Commission considers that any advantage to Northwestel or any related impacts would likely be minimal. Whether and how competitors can offer services comparable to Northwestel's services in the Far North is a broader issue under consideration in the Far North proceeding.

33. The Commission considers that the elements of Northwestel's proposed packages, such as the inclusion of usage caps, overage charges and eligibility criterion of good standing with Northwestel, meet or exceed the requirements of the Connecting Families initiative. With respect to overage charges specifically, Northwestel is subject to the Internet Code (set out in Telecom Regulatory Policy 2019-269), which includes several provisions related to bill management. For example, service providers must notify customers when they are close to or at their data usage limit and must provide usage monitoring and management tools.
34. Regarding SSI's comments about Broadband Fund funding, the Commission notes that the Broadband Fund provides funding for specific projects and is not a per-subscriber subsidy. Should Northwestel apply for additional Broadband Fund funding, its participation in the Connecting Families initiative would not be considered in the Commission's analysis of Northwestel's application, because subsidizing participation in the Connecting Families initiative does not constitute an eligible Broadband Fund expense.
35. Regarding PIAC's arguments that the timing of Northwestel's application was prejudicial and that it should have been suspended, the Commission is of the view that it can make a decision on this application separately from the larger Far North proceeding. Furthermore, Northwestel's announcement at the hearing gave parties advanced notice of Northwestel's intention to join the Connecting Families initiative and file an application with the Commission. The Commission considers that parties could have reasonably anticipated the application, monitored the Commission's website, and intervened if desired, as PIAC and other interveners have done.
36. The Commission is of the view that Northwestel's participation in the Connecting Families initiative does not preclude any potential affordability measures or subsidies resulting from the Far North proceeding.
37. The Commission considers that approval of Northwestel's application advances paragraphs 7(b) and 7(h) of the Act¹ by making high-quality Internet packages available at reduced prices to customers who may otherwise struggle to afford these services.

Conclusion

38. In light of all of the above, the Commission **approves on a final basis**, effective **24 October 2023**, Northwestel's application to introduce two Connecting Families Internet Packages to its General Tariff item 1735 – Terrestrial Internet Services.

Secretary General

¹ The cited policy objectives 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(h) to respond to the economic and social requirements of users of telecommunications services.

Related documents

- *Northwestel Inc. – Interim approval of a tariff application*, Telecom Order CRTC 2023-275, 22 August 2023
- *Northwestel Inc. – Application to modify the approval process for the company's retail Internet service tariffs*, Telecom Decision CRTC 2022-343, 20 December 2022
- *Call for comments – Telecommunications in the Far North, Phase II*, Telecom Notice of Consultation CRTC 2022-147, 8 June 2022; as amended by Telecom Notices of Consultation CRTC 2022-147-1, 14 July 2022; 2022-147-2, 24 October 2022; and 2022-147-3, 13 October 2023
- *The Internet Code*, Telecom Regulatory Policy 2019-269, 31 July 2019; as amended by Telecom Regulatory Policy CRTC 2019-269-1, 9 August 2019
- *Northwestel Inc. – Tariffs for terrestrial retail Internet services*, Telecom Decision CRTC 2015-78, 4 March 2015
- *Terms of Service - Disconnection for partial payment of charges*, Telecom Decision CRTC 2004-31, 11 May 2004