



Telecom Order CRTC 2023-400

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Public record: Tariff Notice 1185

Northwestel Inc. – Waiver of Service Charges for returning customers

Summary

Northwestel Inc. (Northwestel) submitted an application requesting to introduce language to its General Tariff that would allow the company to waive Internet installation service charges for returning customers of retail residential and business services.

As more Internet service options and packages become available in the Far North, service charges can be a barrier for Canadians who have switched to a new service provider and wish to return to their previous service provider.

In this order, the Commission **approves, by majority decision**, Northwestel's application for a period of 12 months, after which time Northwestel can file an application to extend the waiver of service charges if appropriate. The Commission considers that this decision will benefit consumers and promote affordability by reducing the upfront costs of switching providers.

Application

1. The Commission received an application from Northwestel Inc. (Northwestel), dated 18 July 2023, in which the company proposed changes to its General Tariff item 301 – Service Charges. Specifically, Northwestel proposed to introduce language that would allow the company to waive service charges associated with Internet installations for returning customers of retail residential and business services.
2. Northwestel indicated that its application aims to address disincentives from subscribing to its Internet services for customers who have moved to another service provider, notably SpaceX Canada Corp's Starlink services (Starlink). Currently, Northwestel's tariff requires it to charge returning customers for self-installations and technician visits for retail residential and business Internet services. Northwestel submitted that this can be a barrier for customers who would like to transfer their service back to Northwestel from another provider.
3. Northwestel referenced Telecom Decision 2022-343, in which the Commission found that Northwestel could lose a significant proportion of its subscribers in remote communities to Starlink and could have difficulty winning back customers

who have invested in Starlink equipment if Northwestel's application to modify the tariff approval process for certain Internet services was not approved.

4. Northwestel submitted that it is a standard practice in competitive markets that service providers may elect to reduce or waive installation charges when marketing to customers, and that other Internet service providers (ISPs) such as Starlink and Rogers Communications Canada Inc. have reduced or waived their service charges. Northwestel submitted that the ability to waive service charges provides a clear benefit to returning customers by reducing the costs associated with switching providers.
5. Northwestel acknowledged that its proposal does not meet the price floor test; however, the company referenced Telecom Decision 2022-343, in which the Commission determined that (i) pricing below cost is not considered predatory if there is a pro-competitive rationale, (ii) exceptions to the price floor test for Northwestel's Internet packages posed little risk of predatory pricing since Northwestel would not be able to recoup its losses by charging higher prices in the future without Commission approval, and (iii) the price floor test is only appropriate to the extent that it is responsive to the policy objectives.
6. Furthermore, Northwestel submitted that the fact that its proposal does not meet the price floor test raises no regulatory concerns because its proposal is consistent with paragraphs 7(b), 7(c), 7(f) and 7(h) of the *Telecommunications Act*.¹ Northwestel submitted that the ability to waive service charges for returning customers (i) poses no risk to the development of sustainable competition, which the price floor test aims to facilitate, and (ii) does not provide the company with a competitive advantage, since competitors can already reduce or waive their charges.
7. Northwestel submitted that its proposal is consistent with the 2023 Policy Direction² because it would support the key objectives outlined in paragraphs 2(a), 2(b) and 2(c).³
8. The Commission did not receive any interventions in regard to Northwestel's application.

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; 7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; 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; and 7(h) to respond to the economic and social requirements of users of telecommunications services.

² *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023

³ The cited objectives are: 2(a) encourage all forms of competition and investment; 2(b) foster affordability and lower prices, particularly when telecommunications service providers exercise market power; and 2(c) ensure that affordable access to high-quality, reliable and resilient telecommunications services is available in all regions of Canada, including rural areas, remote areas, and Indigenous communities.

Commission's analysis

9. In Telecom Decision 2007-97, the Commission determined that the winback rules previously established in Telecom Order 2001-92 and Telecom Decisions 2002-37 and 2003-1 (rules prohibiting carriers from attempting to win back customers that had indicated their intention to transfer to competitor ISPs) were no longer necessary due to the high level of competition in the retail high-speed Internet access services market.
10. The Commission has not imposed specific winback rules on Northwestel. As such, the tariff pages that set out the terms and conditions of Northwestel's service charges currently do not include an exception for winbacks.
11. In Telecom Decision 2022-343, the Commission determined that Starlink's entry into the Far North⁴ would likely impact the market for terrestrial residential Internet services, especially in communities where Northwestel provides services only via digital subscriber line. The Commission acknowledged that Starlink's entry into the market could result in less of a business case for Northwestel to build fibre-to-the-premises (FTTP) access facilities in more remote communities because Northwestel may lose a significant proportion of its subscribers in these communities to Starlink. The Commission also noted that it may be difficult for Northwestel to win back those subscribers once they have invested in Starlink equipment, even if Northwestel did build FTTP access facilities in those communities in the future.
12. The Commission considers that Northwestel's proposal would benefit consumers and promote affordability by reducing the upfront costs of switching providers, particularly given that returning customers would have previously borne the installation costs. Northwestel's proposal may also improve the company's business case for the rollout of FTTP, which will also benefit consumers in the Far North. However, while Northwestel's proposal is intended to win back customers that have migrated to Starlink, the Commission is concerned that there are other competitors that could potentially be impacted by the proposal. Although competitor ISPs are not regulated by the Commission and can reduce or waive charges (as Northwestel has proposed to do), there is not enough information on the record to determine the impact of Northwestel's proposal on competitor ISPs.
13. In Telecom Decision 2022-343, the Commission determined that rigid adherence to the price floor test under circumstances that limit Northwestel's ability to compete with Starlink could in fact deter pro-competitive conduct by undermining the company's incentives to innovate, outperform rivals, and engage in vigorous competition. However, rather than allowing Northwestel to forego charging rates, the Commission established general rate reduction limits for Northwestel's regulated Internet services.

⁴ For the purposes of that proceeding, the Far North referred to the communities served by Northwestel in Yukon, the Northwest Territories, and Nunavut, as well as parts of northern British Columbia, and parts of northern Alberta.

14. In Telecom Decisions 94-13 and 97-8, the Commission considered that below-cost pricing in the case of market trials and promotions was generally not anti-competitive, and exempted market trials and promotions from the application of a price floor test on the condition that sufficient information is provided by the incumbent local exchange carriers to demonstrate that the offering is a legitimate market trial or promotion of limited duration. Although this condition does not apply to Northwestel's proposal given that it is not a market trial or promotion, the Commission considers that its past policies provide guidelines as to acceptable practices and should be taken into consideration in assessing the reasonableness of the current proposal.
15. The Commission is therefore of the view that it would be appropriate to modify Northwestel's proposal to limit the waiver of service charges to a 12-month period, after which time the company may file an application to extend the waiver if appropriate. This modification would still provide customers with the benefits outlined above and would allow competitors to determine the effects of Northwestel's proposal and comment more fully on any future similar applications.
16. Should Northwestel wish to file a subsequent application to extend the waiver of service charges for returning customers, Northwestel is to file additional supporting information regarding the waiver's impact on customers and provide the Commission with a more thorough understanding of the impact of the promotion on the market and any competitive concerns that may arise as a result of the waiver.

Conclusion

17. In light of all of the above, the Commission **approves, by majority decision**, Northwestel's application to introduce language to its General Tariff item 301 – Service Charges allowing for the waiver of service charges for Internet installations for returning customers, with the following change:
 - Northwestel's proposal is limited to a period of 12 months from the date of this order, after which time the company may file an application to extend the waiver if appropriate. Any such application must include supporting rationale as to the impacts on customers and the market, and any competitive concerns.

Secretary General

Related documents

- *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; 2022-147-3, 13 October 2023; and 2022-147-4, 24 November 2023

- *Elimination of the winback rules for Digital Subscriber Line Internet and higher speed access services*, Telecom Decision CRTC 2007-97, 5 October 2007
- *Follow-up to Telecom Decision CRTC 2002-37 - Adoption of digital subscriber line winback rules*, Telecom Decision CRTC 2003-1, 17 January 2003
- *Independent Members of the Canadian Association of Internet Providers - Digital Subscriber Line Internet services by Bell Canada and Bell Nexxia*, Telecom Decision CRTC 2002-37, 27 June 2002
- *Terms and rates approved for large cable carriers' higher speed access service - Follow-up to Order CRTC 2000-789*, Telecom Order CRTC 2001-92, 1 February 2001
- *Local Competition*, Telecom Decision CRTC 97-8, 1 May 1997
- *Review of Regulatory Framework - Targeted Pricing, Anti-Competitive Pricing and Imputation Test for Telephone Company Toll Filings*, Telecom Decision CRTC 94-13, 13 July 1994