



Telecom Decision CRTC 2024-99

PDF version

References: 2020-367, 2022-147, 2022-147-1, 2022-147-2, 2022-147-3 and 2022-147-4

Ottawa, 9 May 2024

Public records: 8622-S93-202008482, 1011-NOC2020-0367 and 1011-NOC2022-0147

Northwestel Inc. – \$20 surcharge for stand-alone residential digital subscriber line (DSL) Internet access services

Summary

Canadians need access to reliable, affordable, and high-quality Internet services for every part of their daily lives. In this decision, the Commission **directs** Northwestel Inc. (Northwestel) to end its practice of adding a \$20 surcharge to the bills of customers who purchase digital subscriber line (DSL) Internet services without also purchasing Northwestel's home phone service.

The Commission originally approved the surcharge to help fund a portion of Northwestel's Network Modernization Plan to provide improved DSL Internet services in 45 communities in the Far North. With the completion of these upgrades, the surcharge's purpose has been fulfilled and it should no longer be added to customers' bills.

The Commission called for comments on the surcharge in Phase II of the Telecommunications in the Far North proceeding, which was initiated by Telecom Notice of Consultation 2022-147. This decision addresses comments from several participants to that proceeding, including Indigenous rights holders, and helps advance three goals. First, it will help make DSL Internet services more affordable in the Far North. Second, it may improve consumer choice by providing customers with more flexibility when choosing home phone, cell phone, or other voice services. Third, it supports consumer rights by making prices more transparent and by removing an additional fee that may have been confusing to customers.

The Commission continues to review other issues raised in Phase II of the Telecommunications in the Far North proceeding and will address those issues in a future decision.

Background

1. Northwestel Inc. (Northwestel) currently applies a \$20 monthly surcharge (the surcharge) to customers who purchase residential digital subscriber line (DSL) Internet service without also purchasing its home phone service in certain high-cost serving areas (HCSAs) as set out in Northwestel's General Tariff, item 1735 – Terrestrial Internet Services. These HCSAs are served by terrestrial

telecommunications facilities and have been categorized in Band H1, which includes all communities served by Northwestel with the exception of Whitehorse, Yukon, and Yellowknife, Northwest Territories.¹

2. Several parties to the Telecommunications in the Far North proceeding, initiated by Telecom Notices of Consultation 2020-367 and 2022-147, raised concerns regarding Northwestel's continued practice of applying the surcharge to customers' bills.
3. Northwestel's retail Internet services were originally forborne from regulation in 1998 via Telecom Order 98-619. In October 2013, Northwestel initially began applying the surcharge, before Telecom Regulatory Policy 2013-711 was issued. In that regulatory policy, the Commission re-asserted its powers under the *Telecommunications Act* (the Act) regarding retail Internet services and denied Northwestel's application of the surcharge.
4. The surcharge was subject to a number of review and vary proceedings, including those that led to Telecom Decisions 2014-379, 2015-78 and 2016-36, where the Commission ultimately approved Northwestel's application of the surcharge.
5. In the proceeding that led to Telecom Decision 2016-36, Northwestel submitted that it could no longer justify the investment necessary to provide 45 communities with upgraded DSL Internet services at 15 Mbps speeds in the absence of the surcharge or other financial relief. The Commission had previously rejected Northwestel's application of the surcharge in Telecom Decision 2015-78 on the basis that it would increase the disparity in rates between DSL and cable Internet customers, and further increase the difference in rates that customers in the Far North pay when compared to other regions of Canada.
6. The Commission ultimately approved the surcharge for residential retail subscribers of DSL Internet service in HCSAs. It did so since the Commission's previous reasons for rejecting it would be irrelevant if the 45 communities were not provided with access to reliable DSL services.
7. On the record of the proceeding that led to Telecom Decision 2016-36, Northwestel committed to investing in network upgrades in the 45 communities by the end of 2017 as part of its Modernization Plan. The completion of the Modernization Plan was formally acknowledged by the Commission by way of a Secretary General [letter](#) dated 4 July 2018.

¹ In Telecom Decision 2007-5, the Commission approved two bands for Northwestel's primary exchange service (i.e., home phone), (i) Band D, consisting of all wire centres in Whitehorse and Yellowknife; and (ii) Band H1, consisting of all other wire centres, which is designated as a high-cost band and previously received the local service subsidy.

Position of parties

8. On the record of Phase I of the Telecommunications in the Far North proceeding, numerous individuals and three organizations commented on Northwestel's surcharge. The three organizations were: Aaliak Consulting Ltd., the Government of the Northwest Territories (GNWT), and the Public Interest Advocacy Centre (PIAC).
9. On the record of Phase II, 12 parties provided comments on the surcharge. These parties were: Council of Yukon First Nations (CYFN), Eeyou Communications (ECN) and James Bay Cree Communications Society (JBCCS), First Mile Connectivity Consortium (FMCC), First Nation of Na-Cho Nyak Dun (FNNND), the GNWT, the Government of Nunavut (GN), IRP Consulting (IRP), Kluane First Nation (KFN), Northwestel, PIAC, and SSi Micro Ltd. (SSi).

Issues

10. The Commission has identified the following issues to be addressed in this decision:
 - Does Northwestel's surcharge remain appropriate, or should it be removed?
 - If the surcharge is removed, should Northwestel be compensated for its removal?

Does Northwestel's surcharge remain appropriate, or should it be removed?

11. In its analysis on whether the surcharge remains appropriate, the Commission considered the following:
 - the change in circumstances since the Commission initially approved the application of the surcharge in Telecom Decision 2016-36;
 - the impact that removal of the surcharge would have on Northwestel, and on affordability, consumer choice, enhancing and protecting consumer rights, and competition; and
 - the perspectives of parties to the proceeding, in particular the perspectives from Indigenous rights holders in regard to the surcharge.
12. The Commission has also analyzed the above areas with respect to the relevant policy objectives set out in section 7 of the Act. Specifically, the objectives to:
 - render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada (paragraph 7(b));
 - enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications (paragraph 7(c)); and
 - respond to the economic and social requirements of users of telecommunications services (paragraph 7(h)).

13. Furthermore, the Commission analyzed the 2023 Policy Direction,² specifically the objectives to:
- foster affordability and lower prices, particularly when telecommunications services providers exercise market power (paragraph 2(b));
 - 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 (paragraph 2(c)); and
 - enable innovation in telecommunications services, including new technologies and differentiated service offerings (paragraph 2(f)).

Change in circumstances

Positions of parties

14. Northwestel stated that the Commission determined that the surcharge is just and reasonable in Telecom Decision 2016-36, and that the application of the surcharge was appropriate and necessary to support DSL services in Band H1 communities, where the stand-alone DSL rate did not cover the costs associated with the loop used to provide the service.
15. FNNND stated that there is no longer any justification for the surcharge given that Northwestel's network modernization plans have been completed.

Commission's analysis

16. As noted above, Northwestel's Modernization Plan, which was the reason the Commission approved the surcharge in 2016, has since concluded.
17. As part of the record of Telecom Notice of Consultation 2022-147, Northwestel submitted surcharge revenue data for 2018-2021, and a forecast for 2022-2025, that exceeded the surcharge revenues required for the Modernization Plan. Based on Northwestel's submission, the Commission is of the view that the surcharge has fulfilled its purpose of contributing to the financing of the Modernization Plan.
18. Given that Northwestel has completed its Modernization Plan and that the number of DSL subscribers and associated revenues have continued to decrease, the Commission considers that the circumstances under which the Commission approved the surcharge have changed to the extent that the surcharge is no longer appropriate.

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

Financial impact on Northwestel

Positions of parties

19. Northwestel submitted that the surcharge remains appropriate and that its removal would result in a loss of revenue, and rates that are no longer just and reasonable.
20. Further, Northwestel stated that eliminating the surcharge may create a disincentive for customers to switch from legacy DSL to fibre-to-the-premises (FTTP) Internet services because it would increase the difference in price between those services. Northwestel argued that the surcharge is a useful mechanism to encourage customers to switch to FTTP once it becomes available, as FTTP currently offers a faster and more reliable service at a comparable price.
21. PIAC submitted that a subsidy should be applied to maintain retail rates, if needed, to address the removal of the surcharge. PIAC added that Northwestel has had sufficient time and incentive to find cost-savings to compensate for the removal of the surcharge.

Commission's analysis

22. Based on the evidence submitted by Northwestel, the Commission is of the view that the surcharge is of diminishing importance to Northwestel's revenues, and that removal of the surcharge would have minimal financial impact on the company. Further, the Commission considers that the impact of lost revenues projected by Northwestel would be minimal in comparison to Northwestel's total revenues for retail residential Internet services provided over terrestrial transport facilities. The Commission further notes that, in response to a request for information, Northwestel indicated that it does not plan to deploy new copper access facilities in any community where fibre services are available. In its response, Northwestel also indicated that it envisions that, within five years, all customers located within its FTTP footprint will be migrated to fibre services.
23. To that end, several Northwestel projects have received funding from the Broadband Fund to bring improved services to communities in the Far North. For example, in Telecom Decision 2020-258, Northwestel was granted \$16.8 million to bring fibre to 18 communities in the Northwest Territories. In the Yukon, Northwestel received \$38.6 million in funding in Telecom Decision 2020-260, to bring fibre transport to Faro, Mayo, and Ross River, while also providing FTTP access to these three communities, as well as 16 others.³ The Commission anticipates that, as fibre is deployed, customers in the Far North will continue to migrate away from DSL Internet services.

³ Including Beaver Creek, Burwash Landing, Carcross, Carmacks, Champagne, Dawson City, Destruction Bay, Haines Junction, Judas Creek/Marsh Lake, Pelly Crossing, Stewart Crossing, Tagish, Teslin, Upper Liard, Watson Lake, and underserved areas surrounding Whitehorse.

24. As noted above, Northwestel noted its concern that removal of the surcharge may create a potential disincentive for customers to migrate to fibre Internet services once those services become available. The Commission acknowledges that a portion of existing DSL customers may choose to remain DSL customers for longer if the surcharge is removed, as these services will become more affordable. However, the Commission considers that the onus is on Northwestel to create incentives for customers to migrate from DSL to fibre Internet instead of relying on a surcharge.
25. The Commission is of the view that the potential disincentive to migrate to fibre services, as a result of the removal of the surcharge, is significantly outweighed by the benefits for customers in terms of affordability, consumer choice, and enhancing and protecting consumer rights. Finally, the Commission notes that Northwestel's DSL and FTTP services, as per Northwestel's tariff, are already comparably priced for similar speed and usage, which demonstrates a capacity for Northwestel to offer FTTP services at prices and with usage caps that incent migration from DSL.
26. Northwestel argued that the Commission previously found the surcharge just and reasonable and that the surcharge should therefore be retained. However, the Commission notes that a finding that a rate is just and reasonable does not, by itself, mean that the rate continues to be just and reasonable indefinitely, especially if circumstances have changed as described above.
27. Subsections 27(1) and 27(2) of the Act form the basis of the Commission's rate setting authority. In addition, sections 7 and 47 and subsection 27(5) of the Act expand the scope of considerations relevant to the Commission's rate-setting analysis beyond a carrier's costs. These sections require the Commission to balance a broad range of interests and objectives in addition to a carrier's costs when determining whether rates are just and reasonable. While a carrier's costs are a relevant consideration, they must be balanced against considerations relevant to the achievement of the policy objectives and any policy direction in force at the time.⁴ To that end, the Commission can consider rates to be just and reasonable even if the rates are non-compensatory (i.e., even if the rates are lower than costs) for that specific service within a set period of time.
28. The Commission acknowledges that removal of the surcharge could mean that rates may no longer fully recover the cost of providing the service, resulting in decreased revenues for Northwestel. However, given that the revenues from the surcharge are minimal when compared to Northwestel's total revenues from terrestrial Internet services, the Commission does not consider that this would harm Northwestel's capacity to invest in or maintain its telecommunications infrastructure. Additionally, the Commission notes that revenues from the surcharge were projected to decrease significantly over time.

⁴ *Bell Canada v Bell Aliant Regional Communications*, 2009 SCC 40 at paragraph 53.

29. In addition, whereas the surcharge was previously justified to finance Northwestel's Modernization Plan, no such network improvement plan is currently required. Northwestel has received funding from the Commission's Broadband Fund to deploy FTTP facilities in its serving territory and can continue to apply for funding from a variety of sources as needed and as appropriate.
30. In light of the above, the Commission is of the view that the removal of the surcharge would have a minimal financial impact on Northwestel and that rates would remain just and reasonable. The Commission considers that this minimal financial impact is outweighed by the furtherance of several policy objectives, including affordability, consumer choice, and enhancing and protecting the rights of consumers. These policy objectives are discussed in greater detail in the sections that follow.

Affordability

Positions of parties

31. Parties to Phase I of the proceeding indicated that the affordability of retail Internet services is impacted by a variety of factors, including the application of the surcharge. In addition to this, residents in the Far North also experience higher rates of poverty when compared to other regions of Canada.
32. Several parties also raised affordability concerns on the record of Phase II, citing a disparity between prices of Internet plans in the Far North and other regions of Canada, as well as higher prices for lower quality and less reliable services, increased overage fees, and a lack of affordable unlimited plans. Numerous parties submitted that the Commission should take action to address the affordability of telecommunications services in the Far North.⁵
33. CYFN, FNNND, and KFN generally called for removal of the surcharge in the interest of affordability. FNNND and KFN also called for its removal in the interest of fairness.
34. FMCC expressed concern that customers residing in rural or remote areas are required to pay the surcharge as these communities tend to have higher percentages of low-income households. FMCC recommended that the Commission address the surcharge in relation to its commitment to equity and substantive equality. IRP called for the removal of the surcharge, stating that it is a barrier to digital equity.
35. PIAC indicated that, while surcharge revenues may decrease over time, the surcharge is, nevertheless, an issue, given that FTTP Internet services may not be accessible to all customers where they reside or may not be affordable for all customers.

⁵ CYFN, ECN and JBCCS, FMCC, FNNND, the GNWT, KFN, Northern Rockies Regional Municipality, PIAC, and individuals submitted such.

36. The GNWT noted that the Commission has identified broadband Internet as an essential service, and that the application of the surcharge further increases the pricing gap experienced by consumers living in certain HCSAs.

Commission's analysis

37. Affordability of retail Internet services is a key concern that has been raised by numerous interveners to the proceeding and was identified by the Commission as one of the key areas that it would explore.
38. As noted above, the Commission is required to balance a carrier's costs against other policy considerations when determining just and reasonable rates. Affordability is an important component of the policy objectives as set out in section 7 of the Act and the 2023 Policy Direction.
39. The Commission considers that the removal of the surcharge would make Internet rates more affordable for some of Northwestel's customers, which will help reduce the digital divide between the Far North and the rest of Canada.
40. For customers subject to the surcharge, its removal would reduce Internet bills by \$240 per year. Customers who currently purchase Northwestel's home phone service and DSL Internet service would also see savings if they decided to stop subscribing to a home phone service as a result of the removal of the surcharge.
41. With respect to PIAC's concerns that customers may not be able to afford to migrate from DSL Internet to FTTP services once available, the Commission notes that Northwestel's current tariff indicates that FTTP services are comparably priced for similar speed and usage relative to DSL Internet. The Commission considers that the concerns raised by PIAC instead point to an issue of customers paying similar or higher prices for a lower quality DSL Internet service when compared to FTTP Internet service.
42. Furthermore, improving the affordability of telecommunications services may increase access to these services, which was highlighted as an issue by multiple Indigenous interveners, including CYFN, FNNND, and KFN.
43. In light of the above, the Commission considers that removal of the surcharge would further the objectives set out in paragraphs 7(b) and (h) of the Act, which state that Canadian telecommunications policy must render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada, and respond to the economic and social requirements of users of telecommunications services.

Consumer choice

Positions of parties

44. Many individuals submitted that the surcharge unfairly penalized them for opting to subscribe to a cell phone over a home phone service.
45. Moreover, several participants who provided comments via the CRTC Conversations online platform expressed frustration about paying for a service that they do not want or use.
46. CYFN stated that there is an increased migration among consumers from home phone to wireless and Voice over Internet Protocol (VoIP) technologies and that the surcharge penalizes customers who choose to use more modern communications technologies.
47. ECN and JBCCS, and FNNND, stated that a consumer should not be penalized for not purchasing a service that they have determined they do not want or need.
48. FMCC agreed with FNNND that it is not appropriate to charge customers for a service that is not wanted. PIAC raised a similar concern, stating that the requirement for consumers to pay for a home phone service, even when they do not want or need it, requires consideration.
49. An individual submitted that Northwestel's Internet tariffs are not customer-oriented, indicating that tariff services should be unbundled, so customers are not forced to pay for things they do not want.

Commission's analysis

50. The surcharge may act as a barrier for customers seeking to migrate from home phone to cell phone services, or other technologies for their voice service needs (e.g., VoIP). The Commission considers that more customers may choose to purchase a cell phone service over a home phone service should the surcharge be removed. The surcharge may currently incentivize customers to purchase a home phone service along with their Internet service, regardless of whether they want or need it, while potentially acting to disincentivize the purchase of a cell phone service. In this way, removal of the surcharge could increase choice and flexibility for residents in the Far North when selecting the telecommunications services that best fit their needs.
51. In light of the above, the Commission considers that the surcharge may act as a barrier to consumer choice. Directing Northwestel to remove the surcharge would be consistent with the objectives of the 2023 Policy Direction. Specifically, it would be consistent with paragraph 8(c), which states that in making decisions of an economic nature, the Commission should balance, in addition to any other objectives that the Commission considers relevant in the circumstances, the objectives of improving consumer choice.

Enhancing and protecting the rights of consumers in telecommunications markets

Positions of parties

52. FNNND noted that the surcharge is difficult to understand.
53. FMCC stated that the marketing used for the surcharge is confusing for customers. It noted that it learned in Telecom Notice of Consultation 2022-147 that the surcharge is a \$20 monthly surcharge, per Item 1735 in Northwestel's General Tariff, to retail customers of its stand-alone residential DSL Internet services in certain HCSAs. It further stated that the actual amount that customers must pay is not clear on Northwestel's public-facing website.
54. FMCC and PIAC noted their concern with the surcharge as a cost-recovery mechanism, arguing that the use of the surcharge to recover costs lacks transparency (i.e., that Northwestel is hiding cost recovery for Internet services in unrelated telephony costs). FMCC submitted that applying the surcharge as a cost-recovery mechanism is less transparent and less appropriate than using a subsidy model, which would require Northwestel to demonstrate the costs of service provision to customers.

Commission's analysis

55. The Commission considers that the removal of the surcharge would help achieve greater price transparency for customers and reduce potential confusion when customers seek to purchase DSL Internet services.
56. The Commission considers that removal of the surcharge in the interest of improving clarity for consumers would align with views presented on the record by FMCC and FNNND, who stated that the surcharge is confusing to understand. Greater clarity with respect to the price of services being offered and provided would enable more informed decisions by consumers, including Indigenous rights holders who expressed this concern.
57. The Commission notes that FMCC and PIAC raised concerns regarding Northwestel's practice of using the surcharge as an obscure cost-recovery mechanism. In Northwestel's serving territory, where customers already pay higher prices for their Internet services and competition is not sufficient to protect the interests of customers, the Commission considers that the surcharge is confusing from a customer's perspective when also considering the price that customers pay for DSL Internet services. More specifically, the surcharge does not result from paying for a service that customers receive, but may appear to be an additional fee. Its purpose may also be unclear from a customer's perspective.
58. In light of the above, the Commission considers that removal of the surcharge is consistent with the 2023 Policy Direction. Specifically, it is consistent with subparagraph 17(b)(iii), which states that the Commission must enhance and protect the rights of consumers in telecommunications markets by strengthening the position

of consumers in their relationships with service providers, including by taking measures to promote clarity and transparency of pricing information and service plan characteristics in service providers' marketing materials.

Competition and impact on Northwestel's competitors

Positions of parties

59. FNNND, and IRP stated that allowing Northwestel to continue to apply the surcharge is a barrier to competition.
60. SSi submitted that, in contemplating the removal of the surcharge, the Commission's primary consideration should be the potential for reduced rates to distort competition. SSi also submitted that the Commission should first assess the relationship between the surcharge, Northwestel's operating costs and the competitive implications of pricing changes if they are not supported by appropriate cost-recovery safeguards. To contemplate the removal of the surcharge without first assessing these things suggests that the Commission is willing to prioritize consideration of the incumbent's retail rates, instead of its cost structure or its ability to distort competition.

Commission's analysis

61. In addition to consideration of affordability, consumer choice, and enhancing and protecting the rights of consumers, the Commission has considered how the removal of the surcharge would impact competition, including with respect to existing and prospective competitors in the Far North (i.e., competitors who do not currently operate in the Far North).
62. In response to a 15 June 2022 request for information, Northwestel provided a list of nine competitors offering fixed Internet services in communities where Northwestel also provides service. None of the identified competitors provide services over DSL infrastructure, and only one provides services over cable (New North Networks in Inuvik, Northwest Territories). The competitors identified by Northwestel are: Bell Mobility Inc., Galaxy Broadband Communications, Inc., Ice Wireless Inc., New North Networks (New North), SSi, SpaceX Canada Corp's Starlink services (Starlink), Telesat Canada, TELUS Communications Inc., and Xplore Inc. (Xplore).

Competitive impact on New North

63. In Inuvik, New North provides retail Internet services via cable infrastructure. Inuvik is a Mackenzie Valley Fibre Link community, where Northwestel provides DSL Internet services. Northwestel has offered FTTP Internet services to Inuvik residents since 2020.
64. The Commission acknowledges some potential for a competitive impact on New North, given that some customers may choose to migrate to Northwestel's DSL Internet services in the absence of the surcharge, since those services would become

cheaper than New North's lowest cost offering. That said, the Commission is of the view that it is unlikely that a significant number of customers will migrate away from New North's cable services to Northwestel's DSL services since the cable services provided by New North generally offer faster speeds, higher data caps, and better value than DSL services. Moreover, any impact to New North is also mitigated, to some degree, by the decreasing number of DSL customers in Inuvik and the migration of those customers to higher quality services provided over cable or fibre infrastructure.

Competitive impact on SSi

65. SSi competes with Northwestel in Nunavut and in Yellowknife, where SSi provides fixed wireless Internet access.
66. The Commission notes that the surcharge does not apply in Nunavut nor in Yellowknife. As such, the Commission considers that there is no competitive impact from the removal of the surcharge in these areas.

Competitive impact on Starlink

67. Starlink offers Internet access via its low-Earth orbit satellite constellation directly to customer premises across the Far North. Starlink's retail rates are higher than those for the DSL services offered by Northwestel, albeit for faster speeds and higher data caps. Given that Starlink's services are already higher priced, appear to offer unlimited data, and provide faster speeds when compared to Northwestel's DSL services, the Commission considers that the removal of the surcharge would have little impact on Starlink's ability to compete in the Far North.

Competitive impact on Xplore

68. Xplore provides services in 26 communities in the Far North where Northwestel also operates. The Commission notes that these services are higher in price than Northwestel's DSL services, regardless of the surcharge, and generally provide faster speeds and higher data caps. While the Commission acknowledges some potential for a competitive impact on Xplore if the surcharge is removed, the Commission considers that this impact is unlikely to be significant, given the speed and capacity offered by Xplore.

Other impacts on competition

69. While the Commission has analyzed the impact on existing competitors in the Far North in the paragraphs above, another consideration is the impact on prospective competitors (i.e., competitors who do not currently operate in the Far North).
70. The Commission is of the view that lowering rates for DSL Internet services by removing the surcharge would not impede market entry for prospective competitors. Internet customers in the Far North are migrating from DSL Internet services to fibre

Internet services, and the Commission considers that DSL Internet services may no longer fully respond to the needs of many customers in the Far North.

71. With respect to comments received from Indigenous rights holders on the record of the proceeding, FNNND and IRP submitted that the surcharge acts as a barrier to competition. Removal of the surcharge may have a positive impact on competition, in some respects, as unbundling Northwestel's home phone and DSL services may enable customers to seek out voice services from other providers and via other technologies (e.g., VoIP, mobile wireless, etc.). Accordingly, the Commission considers that removing the surcharge would eliminate a potential barrier to competition.

Overall assessment of the impact on competition

72. The Commission acknowledges some potential for impact on New North, which operates in Inuvik, Starlink, and Xplore. For New North, a decrease in the effective price for Northwestel's DSL Internet services could result in some customers migrating to Northwestel's DSL Internet services, although the Commission considers that the number of customers would be minimal.
73. When considering the impact of removing the surcharge on competition in the Far North, the Commission must balance a range of considerations. These considerations include the policy objectives set out in the Act and the 2023 Policy Direction. Regarding competition, the Act states that the Commission must make determinations to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications. While the Commission acknowledges some potential impact on competition if the surcharge is removed, it considers that the benefits for consumers in terms of affordability, consumer choice, and greater transparency, far outweigh any potential impact on competition.
74. In light of the above, the Commission considers that the surcharge no longer remains appropriate.

If the surcharge is removed, should Northwestel be compensated for its removal?

Positions of parties

75. The GNWT stated that the surcharge should be removed provided that Northwestel's plans for maintenance or removal of its copper network are taken into account. The GNWT also stated that the onus is on Northwestel to demonstrate the continued need for the surcharge and the financial impact of removing it.
76. Northwestel considered that, if the surcharge were to be removed effective January 2024, it would lose revenue that was directly attributable to the removal of the surcharge in 2024 and in 2025. Northwestel also considered that it would lose additional revenues in 2024 and 2025 resulting from customers choosing to purchase a DSL Internet service, without a residential home phone service.

77. Northwestel also submitted that it projected decreases in subscribers and revenues associated with stand-alone DSL Internet between 2022 and 2025. Northwestel indicated that this decrease is primarily attributable to customers switching to FTTP-based Internet services.
78. Should the Commission remove the surcharge, Northwestel indicated that the removal should be treated as a rate reduction and that Northwestel should be compensated via a subsidy on a dollar-for-dollar basis. Northwestel also submitted that the removal of the surcharge would result in rates that are no longer just and reasonable. Northwestel indicated that its request for compensation would be consistent with the GNWT's views that removal of the surcharge should be done in a way that is sustainable and takes into account Northwestel's plans for maintenance.
79. SSi considered Northwestel's request for dollar-for-dollar compensation if the surcharge is removed to be inappropriate.

Commission's analysis

80. In determining whether compensation for removal of the surcharge is required, the Commission must consider whether the rates would no longer be just and reasonable without compensation. As noted above, the analysis of whether a rate is just and reasonable is predicated on a number of considerations, including considerations that go beyond just the capacity of a telecommunications service provider to recover its costs. As such, a determination regarding whether to compensate Northwestel includes an assessment of Northwestel's ability to recover its costs and the achievement of the policy objectives, and any policy direction in force at the time.
81. The Commission notes that it can consider rates to be just and reasonable even if the rates are non-compensatory, for a specific service within a set period of time. In the specific case of removing the surcharge, the Commission considers that the rates may not fully recover the cost of providing the service, based on the financial information submitted by Northwestel. However, the surcharge impacts Northwestel's capacity to recover its costs to a very limited degree relative to Northwestel's total revenues from terrestrial Internet services.
82. Given that Northwestel's revenues from the surcharge are minimal relative to Northwestel's total revenues from terrestrial Internet services and that revenues from the surcharge are expected to decrease over time, the Commission considers that removal of the surcharge would have minimal impact on Northwestel's financial situation. Northwestel's ability to invest in or maintain modern telecommunications facilities would not be materially impacted by the removal of the surcharge. Moreover, the Commission considers that the removal of the surcharge would not result in rates that are no longer just and reasonable.
83. As noted above, the surcharge was originally approved in Telecom Decision 2016-36 not to ensure that rates were compensatory, but rather, to enable Northwestel to proceed with network upgrades, which have since been completed. Given that the original purpose of the surcharge is no longer applicable, the Commission is of the view that Northwestel should not be compensated for its removal.

84. In light of the above, the Commission considers that compensating Northwestel is not warranted.

Conclusion

85. In light of all of the above, the Commission considers that the surcharge is no longer appropriate and should be removed. Moreover, as Northwestel's rates remain just and reasonable in the absence of the surcharge, it will not be compensated for removal of the surcharge.
86. Accordingly, the Commission **directs** Northwestel Inc. to amend its General Tariff to reflect the removal of the surcharge by **23 May 2024**.

Policy Direction

87. The Commission considers that its determinations in this decision align with paragraphs 2(b), (c), and (f) of the 2023 Policy Direction. The Commission considers that the removal of the surcharge would lower prices for consumers, improving affordability in a service area where the record of the proceeding reflects high prices for Internet access. The Commission also considers that removal of the surcharge would serve to increase choice and encourage consumers to seek out alternative service providers for their voice services by removing a possible disincentive to accessing voice services via other technologies, such as VoIP services or cell phone services.

Secretary General

Related documents

- *Notice of hearing*, Telecom Notice of Consultation CRTC 2022-147, 8 June 2022, modified 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, 14 November 2023
- *Call for comments – Review of the Commission's regulatory framework for Northwestel Inc. and the state of telecommunications services in Canada's North*, Telecom Notice of Consultation CRTC 2020-367, 2 November 2020
- *Broadband Fund – Project funding approval for Northwestel Inc.'s Yukon fibre project*, Telecom Decision CRTC 2020-260, 12 August 2020
- *Broadband Fund – Project funding approval for Northwestel Inc.'s Northwest Territories fibre project*, Telecom Decision CRTC 2020-258, 12 August 2020
- *Northwestel Inc. – Application to review and vary certain determinations in Telecom Decision 2015-78 or approve an exogenous adjustment for retail Internet services*, Telecom Decision CRTC 2016-36, 1 February 2016
- *Northwestel Inc. - Tariffs for terrestrial retail Internet services*, Telecom Decision CRTC 2015-78, 4 March 2015

- *Northwestel Inc. – Application to review and vary certain determinations in Telecom Regulatory Policy 2013-711*, Telecom Decision CRTC 2014-379, 21 July 2014
- *Northwestel Inc. – Regulatory Framework, Modernization Plan, and related matters*, Telecom Regulatory Policy CRTC 2013-711, 18 December 2013
- *Price cap regulation for Northwestel Inc.*, Telecom Decision CRTC 2007-5, 2 February 2007
- *Telecom Order*, Telecom Order CRTC 98-619, 23 June 1998