



Telecom Order CRTC 2025-192

PDF version

Reference: 2025-68

Gatineau, 1 August 2025

Public record: Tariff Notice 1244

Northwestel Inc. – Modifications to Large Capacity Wavelength Service

Summary

Northwestel Inc. (Northwestel) services a particular customer in the Far North using a dedicated wavelength capacity. Northwestel now proposes to increase the speed of the existing wavelength capacity and to add a second wavelength capacity. Because this service is provided in the Far North, where telecommunications services remain regulated, Northwestel requires the Commission's approval of rates and changes to the terms and conditions for use of these dedicated wavelengths.

The affected customer agrees with Northwestel's proposal, and the Commission did not receive any interventions for this application. Accordingly, the Commission approves the application.

A dissenting opinion by Commissioner Bram Abramson is attached to this order.

Application

1. On 7 February 2025, the Commission received an application from Northwestel Inc. (Northwestel) in which the company proposed changes to its Special Services Tariff Item 773 – Large Capacity Wavelength Service.
2. In its application, Northwestel proposed to upgrade the speed of the initial service from the company's McGill Lake point of presence (PoP) to High Level, Alberta, from 10 gigabits per second (Gbps) to 100 Gbps, and add a second 100 Gbps dedicated wavelength capacity over the company's facility from the McGill Lake PoP to Fort St. John, British Columbia.
3. Northwestel proposed a monthly rate of \$96,000 for the 100 Gbps dedicated wavelength capacity from the McGill Lake PoP to High Level and from the McGill Lake PoP to Fort St. John.
4. Northwestel also proposed housekeeping changes to remove references to the additional optional 10 Gbps wavelengths available between McGill Lake and High Level because they will no longer be necessary with the addition of the proposed 100 Gbps wavelength capacity.

5. Northwestel proposed to retain the original contract period, which is 25 years beginning in 2016.
6. Northwestel noted that the client of this customer-specific arrangement (CSA) agreed with the proposed rates, terms, and conditions.¹
7. While Northwestel currently only has a single customer for this service, it indicated that the service would be available to other customers in similar circumstances, and has forecasted that the demand for the service will continue to be very low. It also indicated that the proposed service has elements that are unique to this arrangement and are not available under its General Tariff, including custom speed options and serving locations, and an extended contract period. For these reasons, Northwestel submitted that the service is appropriately considered a Special Services Tariff item, and not a General Tariff item.
8. Because the service is part of a CSA, Northwestel indicated that it is categorized as an uncapped service and that, therefore, the proposal would have no impact on its price cap indices.
9. Northwestel filed a price floor test, which demonstrated that the proposed rates meet the requirements of that test.
10. Northwestel requested an effective date of 24 February 2025.
11. The Commission did not receive any interventions with regard to the application.

Commission's analysis

12. Northwestel's proposed modifications constitute revisions to a Commission-approved CSA, which was categorized as an uncapped service under Telecom Decision 2005-27. As a result, there are no impacts on the price cap indices.
13. Based on the results of Northwestel's cost study, which was filed in confidence, the Commission considers that the proposed rates and charges for this service, which have been agreed to by the customer, meet the requirements for Type 1 CSAs set out in Telecom Decision 2005-27. They also meet the revised price floor test guidelines for Type 1 and Type 2 CSAs set out in a Commission [letter](#) dated 13 June 2005.
14. The Commission is of the view that the proposed changes will enable the customer to support its increased traffic requirements via a 100 Gbps wavelength capacity for the remainder of the 25-year contract.

¹ Northwestel submitted the name of the client in confidence, pursuant to Broadcasting and Telecom Information Bulletin 2010-961.

15. The Commission considers that approval of this application would advance the policy objective set out in paragraph 7(h) of the *Telecommunications Act*.²

Conclusion

16. In light of all the above, the Commission approves on a final basis, by majority decision, Northwestel's application.
17. Revised tariff pages are to be issued within 10 calendar days of the date of this order. Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

Secretary General

Related documents

- *Procedures for filing confidential information and requesting its disclosure in Commission proceedings*, Broadcasting and Telecom Information Bulletin CRTC 2010-961, 23 December 2010, as amended by Broadcasting and Telecom Information Bulletin CRTC 2010-961-1, 26 October 2012
- *Review of price floor safeguards for retail tariffed services and related issues*, Telecom Decision CRTC 2005-27, 29 April 2005

² The cited policy objective is: 7(h) to respond to the economic and social requirements of users of telecommunications services.

Dissenting opinion of Commissioner Bram Abramson

1. Canadians, we like to affirm, need access to reliable, affordable, and high-quality telecommunications services for every part of their daily lives. That is true. It is no less true in the Far North, where my colleagues identified an affordability problem that surpasses even the high prices of other goods and services in the region, and exceeds the barriers faced routinely by Canadians in the South.¹
2. Telecommunications services are an input cost to virtually all modern economic activity. When rates substantially exceed the levels a well-functioning market would support, not only do they impair Far Northerners' ability to access essential services and the basic rights that go with them. They also raise the cost of economic activity in the Far North more broadly.
3. We should therefore be especially vigilant in high-cost serving areas like the Far North to ensure the rates charged are just and reasonable. Otherwise, Far Northerners will not have access to affordable telecommunications services for every part of their daily lives; the costs of participating in the Far North's economy will be unduly increased; and policy objectives like economic reconciliation will be all the poorer for it.
4. The economic evidence filed on Tariff Notice 1244 shows a mark-up over cost, including long-run incremental cost,² that is very high. In fact, it towers well above the margins a reasonably competitive market might permit. Yet a majority of the Telecommunications Committee³ finds the resulting rate to be just and reasonable. They lean heavily on three facts: that we have long done things this way; that the affected customer agreed to it; and that no one intervened to say any different.
5. I do not agree. Such a mark-up is neither just nor reasonable. It is not consistent with the mission I described above. It is out of step with what one would expect in a competitive market. I therefore dissent from the majority's decision, for reasons consistent with the dissenting opinion attached by Commissioner Anderson and I to Telecom Order 2025-159.
6. That opinion addressed, in pertinent part, the care that must be exercised in assigning services to the residual category of Special Services Tariffs (SSTs), rather than standardizing and pricing them through general tariffs. In this case, the majority relies on the propositions that the service locations and line speeds are specific to the customer. But virtually every retail service delivered to a customer location is, by its

¹ Telecom Regulatory Policy 2025-9. Here I follow that Regulatory Policy in using "Far North" for the Northwestel serving territory and "South" for the rest of Canada.

² *Ontario (Energy Board) v. Ontario Power Generation Inc.*, [2015] 3 S.C.R. 147, paragraph 16.

³ *Telecommunications Committee By-Law No. 10*, paragraph (e) ("Any act or thing done by the Telecommunications Committee shall be deemed to be an act or thing done by the members"), pursuant to *Canadian Radio-television and Telecommunications Commission Act*, R.S.C. 1985, c. C-22 (CRTC Act), subsection 12(3)—as distinguished from a panel struck under subsection 6(2) of the *CRTC Act: Shoan v. Canada (Attorney General)*, 2016 FCA 261, paragraph 6.

nature, specific to that customer's location: should a general tariff item not capture a standard pricing approach to how it does so? And when a customer demands a new line speed that the carrier is in a position to offer, is it too much to expect that the carrier simply add that speed to its tariff?

7. But though the overclassification of services as SSTs is a concern, the more troubling issue here is the mark-up. It is worth reviewing how the reasons set out in our Telecom Order 2025-159 dissent line up against those in the majority decision.

But we've always done it this way

8. "We've always done it this way" is, as I have emphasized in past dissents, not only one of the most dangerous phrases in business—it is also poor administrative law. Past decisions must not dictate subsequent ones. We are legally obliged not to fetter our discretion. Habit is not legal reasoning.⁴
9. Contrary to what some might suggest, telecommunications services are regulated throughout Canada—not just in the Far North—under what Commissioner Anderson and I characterized as a mix of two systems:
 - The older system, which we called the public switched telephone network (PSTN) structural approach, presumes that only incumbent local exchange carriers (ILECs) like Bell Canada and its ILEC affiliates, including Northwestel Inc. (Northwestel), have market power. It applies direct rate regulation unless there is enough competition to justify forbearance, usually keeping fallback oversight where forbearance is granted.
 - The newer market power approach carves out distinct service markets from the structural model. It applies market power analysis, in both retail and wholesale segments, to identify the minimum viable form of rate regulation necessary to discipline market power in those markets, usually by regulating upstream wholesale rates to downstream retail competition.
10. The Far North still relies almost exclusively on the older system. Northwestel must submit proposed rates, terms, and conditions for approval, accompanied by imputation tests showing recovery of long-run incremental costs with enough margin to prevent anti-competitive pricing.⁵
11. But that only ensures a price is not so low as to undercut competition. It does not say whether the price is so high as to extract excessive profits at the expense of customers who depend on the Commission to safeguard reasonable rates, and the end-users who

⁴ See my dissenting opinions to Telecom Orders 2024-183; 2024-207; and 2025-47, particularly at paragraph 10.

⁵ See Telecom Decision 94-19, section IV.F.; Order 2000-425; Telecom Decision 2005-27, sections VI-VII; and *Revised Imputation test Guidelines for Type 1 and 2 CSAs*, Telecom Commission Letter - 8652-C12-200312265, 13 June 2005.

depend on the services provided by those customers. The result is a stunted approach to deciding whether the proposed rates are just and reasonable.⁶

12. This might have been a defensible approach when nascent competition seemed just over the horizon. But it has now been many years since that assumption was last visited. The mark-ups in question would not survive in a competitive market. With Telecom Regulatory Policy 2025-9 issued, there is little indication the assumption will be re-examined soon. All that remains is the reflex to bless treble-marked-up rates because we've always done it that way. That should not suffice.

But the customer agreed to it

13. If a carrier proposes to charge a customer who's not a telecommunications company a rate well above the service's long-run cost, and there is no competition to discipline the rate, is the customer's consent enough?
14. Not necessarily. First, the customer may have no viable alternatives. That inequality of bargaining power undermines the voluntariness of any agreement—even, given our policy of encouraging fair and reasonable rates, when the customer has the sophistication associated with being a large institution or enterprise. The customer, even if large, may be dependent on the carrier, and on preserving their relationship. All the more so if the customer is a local enterprise or institution.
15. Second, there is a significant information asymmetry. The carrier knows its costs. The Commission has access to costing studies and price benchmarks, but the customer likely does not. Lacking such data, and expertise, the customer—unlike the Commission—may have little basis to assess the rate's fairness or commercial reasonability. Even if they do, they may not appreciate the difference between what is reasonable in the Far North and in the South, for whose rates we ought to have regard.
16. Third, customer acceptance may merely reflect what behavioural social scientists call principal-agent problems, leading to a form of rational ignorance associated with the diffusion of responsibility. In large enterprise or institutional settings, internal logics and frictions like bureaucratic delay and process, the ability to pass costs on downstream, and lack of departmental ownership over the budget line may reduce the incentive to challenge pricing.
17. Fourth, the impact of inflated rates does not end with the individual customer. Tariffed rates affect others, from customers purchasing related tariff services, to the broader economy of the Far North. That is why general tariff items ought to be used wherever services can reasonably be standardized, and why their displacement by SSTs

⁶ Subsection 27(1). One might wonder why, if Commission oversight is required to remedy the presence of market power and corresponding absence of vigorous competition, the same subsection does not expressly task us to ensure that the terms and conditions are just and reasonable, too—even if such a duty may reasonably be implied, as suggested by Recommendation 31 and its accompanying text in *Canada's Communications Future: Time to Act* (Final Report of the Broadcasting and Telecommunications Legislative Review, January 2020).

undermines regulatory integrity. Inflated input costs embedded into institutional and enterprise services ripple outward into the regional economy.

18. As a regulator, our duty is to ensure telecom users, who are price takers and not makers, pay fair rates. That duty is both individual and collective. Paragraphs 7(a) and (h) of the *Telecommunications Act* remind us of this broader collective frame. When we dismiss that responsibility by citing a customer's consent, we ignore the constraints on that consent and the wider economic consequences of our decisions.

But no contrary intervention was filed

19. It is true that no interventions were filed in respect of this one. That is not unusual. Nor is it persuasive.
20. To conflate silence with consent is to award the tie to the applicant, tipping the scales in their direction. That creates a procedural loophole. Silence may well signal procedural barriers or disengagement facilitated by how the Commission now handles tariff filings—in narrow, siloed processes, increasingly opaque to public scrutiny.⁷

Moving forward

21. We have a responsibility to ensure that rates for non-forborne services meet the statutory test of being just and reasonable. How we meet that responsibility speaks to the seriousness with which we uphold our commitment to reliable, affordable, and high-quality telecommunications services for every part of Canadians' daily lives—especially where those services are also inputs into broader economic life.
22. Doing so requires setting aside flawed presumptions about the meaning of procedural silence. It requires a more critical approach to interpreting customer acquiescence in the presence of market power. And it requires that we stop shielding poor decisions behind the veil of precedent. Stakeholders may reasonably expect consistency. But consistency cannot be an excuse to underweight facts—especially when the economic evidence before us is this stark.

⁷ This view is set out in greater detail in my dissenting opinion to Telecom Order 2024-219, paragraphs 12-14, and in Commissioner Anderson's and my dissenting opinion to Telecom Order 2025-74, paragraphs 11-15.