



## Telecom Regulatory Policy CRTC 2025-9

PDF version

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

Ottawa–Gatineau, 16 January 2025

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

### Telecommunications in the Far North

#### Summary

The summary of this regulatory policy is available in the following languages: Inuktitut (South Baffin) [in [HTML](#) and [PDF](#)], Inuinnaqtun (in [HTML](#) and [PDF](#)), South Slavey (in [HTML](#) and [PDF](#)), and Tł̨ch̨q̨ (Dogrib) [in [HTML](#) and [PDF](#)].

Canadians need access to reliable, affordable, and high-quality telecommunications services for every part of their daily lives.

Connecting Canadians is complex and costly even in the most densely populated parts of the country; in the Far North, the challenges and costs are significantly higher. While the Far North accounts for approximately 40% of Canada's landmass, it is home to 0.3% of Canada's population. About half of the Far North's communities are so isolated they can only be reached by air. This remoteness makes it very challenging and expensive to build and maintain telecommunications networks.

To inform this proceeding, the Commission solicited evidence to help focus on the key issues faced by consumers and businesses in the Far North. In total, more than 250 groups, individuals, and Internet service providers (ISPs) shared their perspectives, including 23 that participated in a public hearing in Whitehorse, Yukon. Through those submissions, the Commission heard that:

- Internet prices in the Far North are too high;
- the quality of Internet services in the Far North is far lower and less reliable than elsewhere in Canada;
- there is not enough choice of ISPs, depriving consumers of options when buying Internet services; and
- solutions need to focus on helping advance reconciliation with Indigenous peoples.

In this regulatory policy, the Commission is taking action to help address these concerns.

First, to help make rates more affordable, the Commission is introducing a monthly subsidy. All households in the Far North will be eligible for the subsidy, regardless of their ISP. The details of this subsidy will be finalized in a [proceeding](#) launched today.

Second, to increase the quality and reliability of Internet services in the Far North, the Commission is requiring Northwestel Inc. (Northwestel), the incumbent provider of terrestrial Internet services in the Far North, to:

- provide automatic bill credits to consumers and businesses when terrestrial Internet services are not available for 24 hours or more. These credits provide a financial incentive to limit outages and improve network quality.
- file a yearly report on Internet outages in the Far North. The Commission will continue to monitor the company's progress and will adjust its approach as necessary.

Third, to encourage choice of Internet services in the Far North, the Commission is improving Northwestel's Wholesale Connect service. This service lets companies use parts of Northwestel's network to provide Internet services to consumers and businesses. Improvements to the service will make it easier for existing and new competitors to deliver high-quality services to consumers.

Finally, the Commission is hopeful that the measures it is taking in this regulatory policy will help advance its commitment to reconciliation with Indigenous peoples. In particular, this regulatory policy will:

- promote equity and substantive equality;
- decrease the digital divide experienced by Indigenous peoples in the Far North;
- advance economic reconciliation by enabling Indigenous-owned ISPs to build their own access infrastructure and provide their own services; and
- improve Indigenous peoples' access to equitable, affordable, and reliable telecommunications services.

Throughout this proceeding, the Commission has engaged directly with Indigenous peoples, including through in-person focus groups conducted as part of the Commission's [Research on telecommunications services in Northern Canada](#), at the public hearing, and by encouraging their participation through written submission. The perspectives it has received have been invaluable in developing this regulatory policy.

To promote greater Indigenous participation in all Commission proceedings and ensure that the distinct nature and lived experiences of Indigenous peoples are considered across its work, the Commission has created an [Indigenous Relations Team](#). The team offers a dedicated point of contact within the Commission for Indigenous peoples and aims to

improve engagement with Indigenous peoples, including by supporting their participation in Commission proceedings.

This regulatory policy sets out a path forward to helping improve telecommunications services in the Far North. Addressing these issues is fundamental to enabling those who reside in the Far North to participate fully in today's economy and society. The Commission will continue to monitor how telecommunications services are delivered in the Far North and will adjust its approach as necessary.

## **Background**

1. Canadians need access to reliable, affordable, and high-quality telecommunications services for every part of their daily lives. This is particularly true in the Far North, where the remoteness of communities makes being connected even more important.
2. The Commission launched this proceeding to determine how to help improve Internet and home telephone services in the Far North, while also advancing reconciliation with Indigenous peoples. Despite the importance of these services for residents of the Far North, they are generally less affordable and less reliable than comparable services elsewhere in Canada.
3. Phase I of this proceeding focused on building an understanding of the issues in the Far North that impact Internet and home telephone services. Phase II focused on solutions that would best meet the needs of communities in the Far North.
4. The Commission has identified the following four issues to be addressed in this regulatory policy:
  - affordability;
  - reliability;
  - consumer choice; and
  - reconciliation in the Far North.

## **Affordability – Subsidy**

5. Access to affordable Internet services is a particularly pressing issue for those living in the Far North, where the cost of living and poverty rates are high,<sup>1</sup> and where the remoteness of communities increases the need for online access to essential services like schooling and health care.
6. While the remoteness of the Far North increases the importance of affordable Internet access, it is also what makes providing these services so challenging. The vast and difficult terrain, combined with low population density and severe weather,

---

<sup>1</sup> Statistics Canada: [Disaggregated trends in poverty from the 2021 Census of Population](#)

makes the Far North a uniquely challenging and expensive region to build and maintain telecommunications networks.

7. The high costs to provide service in the Far North have translated into much higher retail prices for residents and businesses. As an example, data from the Commission's [Annual Communications Pricing Survey](#) indicates that, in 2023, the average monthly price of universal service objective-level speeds of 50 megabits per second (Mbps) download and 10 Mbps upload (i.e., 50/10 Mbps service) in the Far North was \$157, compared to \$94 elsewhere in Canada.
8. To address these challenges, the Commission explored a number of measures to improve the affordability of retail Internet services in the Far North, including whether this could be achieved through direct measures to reduce the amount customers pay for Internet service, measures to improve competition, or both. In this section, the Commission addresses one potential measure – the introduction of a subsidy.

### **Implementing a subsidy to improve the affordability of retail Internet services in the Far North**

#### **Positions of parties**

9. Many parties, including the First Nation of Na-Cho Nyäk Dun, the Government of the Northwest Territories (GNWT), the Public Interest Advocacy Centre (PIAC), and the Yukon Government (YG), supported a subsidy. These parties were of the view that a subsidy would help bring Internet service rates closer to those elsewhere in Canada and generally improve affordability, especially for low-income households.
10. At the same time, several Internet service providers (ISPs) believed that more competition would better address affordability issues and that a subsidy would impact continued investment and innovation.
11. Northwestel Inc. (Northwestel) submitted that retail Internet service rates in the Far North are just and reasonable and that no subsidy is needed.

#### **Commission's analysis**

12. The evidence on the public record shows that there is an affordability issue throughout the Far North, especially with respect to retail Internet services. Many parties, including Competitive Network Operators of Canada (CNOOC), the Council of Yukon First Nations (CYFN), the First Mile Connectivity Consortium (First Mile), the First Nation of Na-Cho Nyäk Dun, PIAC, and the territorial governments, indicated that affordability is a challenge in the Far North and that residents pay too much for Internet services that do not meet their needs.

13. Affordability was also the most common issue cited in all of the focus groups conducted as part of the Commission's [Research on telecommunications services in Northern Canada](#) (public opinion research). Many residents noted that their Internet service plans were much more expensive than those advertised in the rest of Canada, and some characterized them as prohibitively expensive.
14. The disparity between rates for Internet services in the Far North and those elsewhere in Canada has contributed to the affordability issue across the Far North. The Commission's 2023 Annual Pricing Survey indicates that residents of the Far North pay, on average, more than one and a half times what Canadians living elsewhere in the country pay for a 50/10 Mbps service. In addition, a recent [study](#) commissioned by Innovation, Science and Economic Development Canada found that fixed Internet service rates in all three territories (based on prices in the territorial centres of Whitehorse, Yellowknife, and Iqaluit) were considerably higher than the rest of Canada, particularly for higher download speeds.
15. The public record also shows that rates for Internet services are high because the costs of providing service in the Far North are high. Northwestel highlighted a number of challenges that contribute to the high cost of providing service. For instance, it noted that its operating area encompasses nearly 40% of Canada's land mass while serving 0.3% of Canada's population. Due to limited road access, some equipment and supplies must be flown in or brought by ocean barge, increasing the costs of deployment and maintenance. Northwestel also attributed the high cost of providing service to high commercial electricity rates, as well as its low use of equipment capacity, which results in higher per-unit costs to serve customers than elsewhere in Canada.
16. While Northwestel suggested that its terrestrial retail Internet service rates are just and reasonable and that a subsidy to address affordability is not required, the public record shows that the current rates are not affordable for customers. Accordingly, the Commission will introduce a retail Internet service subsidy in the Far North to ensure that Internet service rates are just and reasonable.
17. While some parties submitted that a subsidy may impact investment and innovation, there are several measures that can help minimize the cost and administrative burden of a subsidy. For instance, by introducing a subsidy based on a uniform discount model, as described in paragraphs 53 to 63 below, ISPs would not be required to conduct cost studies or verify subscriber eligibility. In addition, by setting an appropriate discount amount, the Commission can help reduce any impact on network investment. Finally, by relying on existing mechanisms for collecting and distributing funds, and monitoring the subsidy on an ongoing basis, the Commission can ensure its effectiveness and help reduce costs.
18. The Commission is hopeful that the introduction of a subsidy will help advance reconciliation by improving the affordability of telecommunications services for Indigenous peoples in the Far North. This will in turn help reduce inequalities between residents of the Far North (many of whom are Indigenous) and those living elsewhere in Canada.

19. In the following sections, the Commission explores several elements of the subsidy, including eligibility, administration, and the amount. Some of these elements will require further input from parties through Telecom Notice of Consultation 2025-10. This will help ensure that the subsidy is as effective as possible in addressing affordability challenges.

### **Which ISPs should receive the subsidy**

#### ***Positions of parties***

20. Most parties that commented on a subsidy indicated that it should be available to all ISPs operating in the Far North, regardless of whether they provide Internet service using terrestrial or satellite infrastructure.
21. Northwestel indicated that if the Commission were to determine that a rate reduction is needed to address concerns about affordability, it should do so in the form of a subsidy that is available only to Northwestel. It submitted that this would ensure that the full amount of a subsidy is passed on to customers since it is the only ISP whose retail Internet service rates are regulated.
22. CNOC submitted that international ISPs operating in the Far North should be eligible to receive the subsidy if they contribute to the National Contribution Fund (NCF). In contrast, Eeyou Communications Network and James Bay Cree Communications Society (collectively, ECN and JBCCS), as well as Iristel Inc., on its own behalf and on behalf of Ice Wireless Inc. (collectively, Iristel/Ice Wireless), submitted that subsidies should be limited to Canadian ISPs.

#### ***Commission's analysis***

23. The public record shows that the affordability of retail Internet services is an issue in all regions of the Far North. Accordingly, a subsidy intended to improve affordability should be available in all communities and to all ISPs operating in the Far North. This will help ensure that it does not act as a barrier to competition and consumer choice, and that customers can benefit regardless of where they live or who their ISP is.
24. While Northwestel is the only ISP whose retail terrestrial Internet service rates are regulated, the affordability issue in the Far North extends beyond services that are subject to rate regulation. A subsidy that provides relief to only Northwestel's terrestrially served customers does not address the full scope of the issue.
25. Furthermore, given that all of Nunavut's 25 communities are currently satellite-dependent, a subsidy that is not available to all ISPs may widen the affordability gap between Nunavut and the rest of the Far North. It may also widen the affordability gap between Indigenous peoples, who make up 86% of the population in Nunavut, and non-Indigenous peoples.

26. The Commission's forbearance from the regulation of Northwestel's retail satellite Internet services and Internet services offered by other providers (both ISPs that provide terrestrial services and ISPs that rely on satellites for transport [satellite-based ISPs]) does not prevent the introduction of a subsidy where, as here, there is evidence of an ongoing affordability issue. The introduction of a competitively neutral subsidy makes it possible to address affordability issues without turning to rate regulation to protect the interests of users.
27. While CNOC submitted that only ISPs that contribute to the NCF should be eligible to receive a subsidy, including international ISPs, such a restriction would prevent smaller ISPs that do not contribute to the fund from benefitting from the subsidy. Given the Commission's objective of ensuring that the subsidy helps improve affordability across the Far North, whether an ISP contributes to the NCF should not be a factor in determining eligibility. Further, as with other regimes that have been funded through the NCF, there is no impediment to having a subsidy flow to telecommunications companies that do not contribute to the fund.
28. Moreover, providing a subsidy to both foreign- and Canadian-owned ISPs is an appropriate measure by which to advance important policy objectives such as affordability and consumer choice.

#### **Customer eligibility for the subsidy**

##### ***Positions of parties***

29. Many parties, including the CYFN, the GNWT, and the YG, considered that a subsidy should result in rate reductions for all Far North residents.
30. Some parties, including First Mile, TELUS Communications Inc. (TELUS), and the Yukon Utilities Consumers' Group considered that the Commission should introduce a subsidy targeting low-income households.
31. Several parties also commented on whether a subsidy should benefit small businesses in the Far North. The First Nation of Na-Cho Nyäk Dun, Northern Rockies Regional Municipality (Northern Rockies), and the three territorial governments submitted that the subsidy should be available for both residential and business users. The YG added that many businesses in its territory tend to be small, have lower revenues than those elsewhere in Canada, and are vital to the communities they operate in.
32. TELUS opposed a subsidy for small businesses, indicating that it may be an inappropriate use of funds. TELUS noted that the Commission for Complaints for Telecom-television Services Inc.'s (CCTS) definition of small businesses could include branch offices in the Far North owned by large businesses, businesses that have high revenues but small monthly telecommunications bills, or businesses that

split their telecommunications expenditures between telecommunications service providers (TSPs) based on service or location.<sup>2</sup>

33. Some parties, including First Mile, also proposed that the Commission take action to improve the affordability of Internet services for certain non-profit organizations. For example, First Mile proposed that the Commission provide subsidies to improve the affordability of retail Internet services for schools and libraries.

#### ***Commission's analysis***

34. Given the widespread affordability issue across the Far North, as discussed above, a subsidy that is available to all residents would best address the issue. This approach would be the quickest to implement and the simplest to administer, and would do the most to lower prices in the Far North.
35. In contrast, a subsidy that is based on household income would involve a long implementation process and would have a greater administrative burden and higher costs. Household incomes can change frequently and would need to be assessed routinely at an individual customer level. Determining eligibility based on household income would therefore require the ongoing collection of personal data and extensive cross-departmental collaboration because the Commission does not have access to, nor regulatory oversight over, Canadians' personal income data.
36. Introducing a subsidy to improve affordability in a high-cost area is consistent with the Commission's past approach with the local service subsidy regime, which was established to subsidize the provision of residential local voice telephone services in high-cost serving areas (HCSAs).<sup>3</sup>
37. In light of the above, the Commission finds that a subsidy should be made available to all households in the Far North.
38. In addition, the public record shows that small businesses play an important role in the communities they serve. As the YG noted, many businesses in the Far North are drivers of employment and innovation, and typically offer services that would otherwise not be available.
39. The public record also shows that businesses in the Far North pay high rates for retail Internet services. For example, the GNWT submitted data indicating that Internet prices for small businesses in the Northwest Territories were, on average, more than double those elsewhere in Canada.

---

<sup>2</sup> In its [by-laws](#), the CCTS defines a small business as a business whose average monthly telecommunications bill is under \$2,500.

<sup>3</sup> The local service subsidy regime was established in Decision 2000-745 to subsidize the provision of residential local telephone services in all HCSAs in Canada. It was phased out in Telecom Regulatory Policy 2018-213.



40. Given the important role that small businesses play in the Far North, and the higher rates that they pay for Internet services compared to businesses elsewhere in Canada, the Commission is of the preliminary view that small businesses should be eligible to benefit from the subsidy. With regard to the CCTS's definition of small business, it can be defined differently for the purposes of the subsidy. It is important to allow parties the opportunity to comment on how small business should be defined in the context of a subsidy. Therefore, the Commission will consult further on this in Telecom Notice of Consultation 2025-10.
41. Like small businesses, community institutions, such as schools and non-profit organizations, also play an important role in the remote communities of the Far North and require access to affordable telecommunications services. The Commission will therefore also consult on whether the subsidy should be available to community institutions in the Far North in Telecom Notice of Consultation 2025-10.

### **The funding and administration of the subsidy**

#### ***Positions of parties***

42. Many parties, including ECN and JBCCS, the GNWT, Northern Rockies, PIAC, and the YG, supported a subsidy being funded via the Commission's NCF, and some proposed that it be administered by the NCF's Central Fund Administrator.
43. The CYFN submitted that the major service providers operating elsewhere in Canada, such as Bell Canada, Rogers Communications Canada Inc., and TELUS, should contribute to the subsidy fund. CNOC and TELUS opposed subsidies stemming from contribution payments from TSPs.

#### ***Commission's analysis***

44. The introduction of a subsidy in the Far North is in line with the Commission's authority under the *Telecommunications Act* (the Act). In Telecom Regulatory Policy 2016-496, the Commission defined fixed broadband Internet access services as basic telecommunications services. Under section 46.5 of the Act, the Commission may direct TSPs to contribute to a fund to support continuing access by Canadians to these services.
45. To support continuing access by Canadians to basic telecommunications services, the Commission has relied on the NCF. The NCF is a long-standing, well-established, and effective mechanism for the collection and distribution of funds that reflects the Commission's jurisdiction.<sup>4</sup> The NCF uses a revenue-based

---

<sup>4</sup> The NCF was established pursuant to section 46.5 of the Act, which permits the Commission to require all TSPs to pay into a fund to ensure continuing access to basic telecommunications services. The NCF has been successfully used to fund local exchange (home telephone/voice) services in HCSAs, Video Relay Service, and broadband connectivity via the Broadband Fund.

collection mechanism. This approach was selected as a way to more fairly spread the contribution base across a broad range of services and service providers.

46. While some parties were hesitant to support any subsidy stemming from TSPs' contributions, funding via the NCF is the only established mechanism currently available to the Commission for the collection and distribution of funds.
47. In light of the above, the Commission finds that the subsidy should be funded via the NCF. The Commission will explore how the subsidy should be administered in Telecom Notice of Consultation 2025-10.

#### **The conditions of the subsidy and measures to promote transparency and accountability**

##### ***Positions of parties***

48. ECN and JBCCS, the GNWT, and Northern Rockies submitted that TSPs that receive the subsidy should be required to meet a certain service threshold (e.g., the universal service objective) for the services they provide using the subsidy.
49. However, some parties were of the view that doing so may exclude potential new entrants that may not be able to meet such criteria. CNOC submitted that, when considering any conditions of subsidy related to quality of service, the Commission must be careful not to penalize ISPs that rely on wholesale access for aspects of service that are beyond their control. First Mile submitted that small ISPs, including Indigenous-owned providers, should be exempt from any conditions tied to the universal service objective.
50. To promote transparency and accountability, the GNWT and SSi Canada (SSi) proposed reporting measures and suggested that the Commission consult with other regulatory bodies that have introduced similar subsidy programs. To help ensure that the full value of the subsidy is passed on to customers, other conditions of subsidy were proposed, such as proof of costs of service and showing reductions in pricing.

##### ***Commission's analysis***

51. Many communities in the Far North, especially satellite-dependent communities, do not have access to universal service objective-level speeds. In addition, certain types of satellite Internet services, such as those delivered via geostationary or geosynchronous satellites, cannot deliver download speeds above 15 Mbps. By introducing a subsidy, the Commission does not want to disadvantage any community or ISP in the Far North. Accordingly, the Commission will not impose conditions related to quality of service at this time.
52. Regarding promoting transparency and accountability, an accountability framework will be established to help ensure that the full benefits of a subsidy are passed on to customers. Accordingly, the Commission will explore conditions of subsidy, including certain conditions of subsidy and reporting requirements, in Telecom Notice of Consultation 2025-10.

### **Appropriateness of the uniform discount subsidy model and the amount of the discount**

53. During the proceeding, parties were asked to comment on a proposed uniform discount subsidy model. The key features of this subsidy model are as follows:
- The amount of the subsidy would not be based on ISPs' costs of providing service but would offer a flat rate discount on customers' Internet service bills to bring them more in line with rates elsewhere in Canada.
  - The total subsidy amounts received by an ISP would be based on the number of customers it serves. It would be calculated by multiplying the monthly discount amount by the number of customers served.
  - The total annual contribution requirement of TSPs that contribute to the NCF would therefore be the sum of all subsidy amounts received by ISPs in the Far North.

### ***Positions of parties***

54. First Mile, the GNWT, and SpaceX Canada Corp. (SpaceX) were generally in favour of the proposed uniform discount subsidy model.
55. In contrast, several parties, including Northwestel, opposed the model or certain aspects of it. For example, Northwestel expressed concern about the model's potential to increase demand, network congestion, and service degradation. It also submitted that increased demand could cause degradation of service in communities served by terrestrial digital subscriber line (DSL)-based networks due to aging infrastructure.
56. TELUS submitted that a uniform discount would be ineffective in increasing adoption rates, and that, instead of ISPs receiving subsidies and offering discounts, households should receive vouchers to use with an ISP. The GNWT disagreed with TELUS, submitting that the company did not give evidence to support its position.
57. The GNWT proposed a minimum discount of \$25 monthly for residential customers and \$50 monthly for business customers. Iristel/Ice Wireless proposed a monthly discount of \$100 per household.
58. Some parties proposed alternative calculation methods. For example, PIAC proposed amounts based on HCSAs or zones used for the local service subsidy to achieve a target rate in each area that would bring prices closer to those in the rest of the country.

### ***Commission's analysis***

59. Based on the submissions on the public record, a uniform discount subsidy is the approach that would most quickly offer meaningful benefits in the Far North and do so with the least amount of administrative burden.

60. Other models, such as those based on calculating the costs of providing service in HCSAs, would add material complexity to design and implementation. They would also involve significant administrative burden for ISPs. Similarly, direct-to-consumer models are operationally impractical and would require the Commission to have information on consumers' bank accounts.
61. Moreover, it is unclear, based on the record of this proceeding, what effect a subsidy will have on stimulating demand for services. ISPs are responsible for managing any traffic increases on their networks, and ongoing network expansion and investment will mitigate the potential risk of network congestion or service degradation.
62. While TELUS was of the view that the uniform discount subsidy model would be ineffective in increasing service adoption rates, a uniform discount subsidy will improve the overall affordability of retail Internet services and enable some residents to pay for higher-speed plans that they might not otherwise be able to afford.
63. Finally, regarding the amount of the discount, some participants in the Commission's public opinion research indicated that a monthly reduction of \$50 to \$100 on their Internet service bills would provide much needed relief. Furthermore, some parties indicated support for a monthly discount amount of \$25, \$50, or \$100. However, the public record lacks sufficient evidence on the appropriate discount amount. Accordingly, this will be further explored in Telecom Notice of Consultation 2025-10.

#### **Monitoring of the subsidy**

##### ***Positions of parties***

64. CNOC submitted that a subsidy should not be viewed as a substitute for the development of competition, but instead as a measure to be phased out once it is determined that there is sufficient competition to protect the interests of end-users. The GNWT and PIAC countered that the entry of new competitors may not necessarily address affordability challenges.
65. The Government of Nunavut (GN) proposed that the success of a subsidy be measured by assessing improved affordability, increased adoption rates, and enhanced quality of Internet services.
66. The YG suggested a periodic review of the subsidy to ensure price parity with other parts of Canada. It also proposed that the subsidy expire once competition achieves this objective.

##### ***Commission's analysis***

67. The competitive landscape in the Far North is continuing to develop, including through the entry of new low Earth orbit (LEO) satellite-based ISPs, as well as ongoing network upgrades and expansion. These developments may increase the availability, quality, reliability, and affordability of retail Internet services in the Far

North. Accordingly, the Commission will explore the best approach to monitor the subsidy's ongoing effectiveness in the Far North in Telecom Notice of Consultation 2025-10.

### **Other affordability issues**

68. In addition to considering the introduction of a subsidy for retail Internet services, the Commission examined other potential measures that could improve the affordability of telecommunications services in the Far North. These included:
- requiring Northwestel to provide a wholesale high-speed access (HSA) service;
  - reducing the amount that customers pay in overage fees for Internet services;
  - creating an affordability standard; and
  - modifying Northwestel's price cap regime.

### **Should the Commission require Northwestel to provide a wholesale HSA service?**

69. Elsewhere in Canada, the Commission has required that companies offer wholesale HSA services as a means to improve affordability, reliability, innovation, and consumer choice for Internet services. These services enable competitors to use the incumbents' networks to provide competing retail Internet services to Canadians.
70. In this proceeding, the Commission considered whether it would be appropriate to require Northwestel to provide a wholesale HSA service.
71. For a wholesale HSA service to be viable and effective in improving affordability, rates for the service must be (i) low enough for competitors to profitably enter the market and provide their own retail services, and (ii) high enough for the network owner to be profitable and continue to invest in its network.
72. Given the disproportionately high costs of providing service in the Far North, it is unlikely that mandating a wholesale HSA service would help address the root cause of the affordability issue. Rates for a wholesale HSA service are based on the costs to an incumbent of providing the service. When the underlying costs are high, as they are in the Far North, wholesale rates will also be high.
73. After reviewing the costing information submitted by Northwestel, the Commission finds that, given the current retail rates and limited customer base in the Far North, it is not feasible to set rates for a wholesale HSA service that meets the two objectives above. A mandated wholesale HSA service would result in rates that would either (i) make it impossible for wholesale-based competitors to compete for customers with their own retail services, or (ii) undermine critical investment in network infrastructure. The only way to establish a wholesale HSA rate that would enable

competition would be to significantly increase Northwestel's current retail rates, which would make Internet services even less affordable for residents of the Far North.

74. Therefore, a wholesale HSA service in the Far North is not viable and, as such, the Commission will not mandate its provision.
75. In the appendix to this regulatory policy, the Commission details the analysis it undertook in considering whether to mandate a wholesale HSA service in the Far North. It first assessed the suitability of its existing framework (i.e., the Wholesale Analysis) for this region, then applied the framework's elements (i.e., the essential services test, or Essentiality Test, and policy considerations). The Commission also considered whether mandating a wholesale HSA service would meaningfully support reconciliation and opportunities for Indigenous communities.

**Should the Commission reduce the amount that customers pay in overage fees for Internet services in the Far North?**

76. ISPs charge overage fees when retail customers exceed their data usage limits. Overage fees disadvantage the most vulnerable customers, particularly those residing in communities without access to unlimited data plans. Even where unlimited data plans are available, they may be too expensive for many customers.

**Positions of parties**

77. Many parties, including the CYFN, the First Nation of Na-Cho Nyäk Dun, the GNWT, Kluane First Nation, and PIAC, submitted that the Commission should take action to address or eliminate overage fees.
78. Northwestel disagreed, noting that the Commission had previously determined that its overage fees are just and reasonable. Northwestel submitted that overage fees would continue to decline as a result of its ongoing fibre deployment in the Far North but suggested that these fees are a necessary traffic management tool, particularly in satellite-dependent communities.
79. The GN noted that data caps apply to all Internet usage in Nunavut, even for local Internet traffic not transmitted through satellite technology. It noted that the only unlimited plans available were offered through SpaceX, which has high upfront costs. The GN proposed that the Commission explore a regulatory framework that distinguishes between traffic that relies on satellite transport networks and local Internet traffic that does not rely on satellite transport networks. This would enable Nunavummiut to use local Internet traffic without incurring overage fees.
80. Northwestel indicated that implementing the GN's proposal would not be technically feasible under its current network architecture because Northwestel measures traffic at the modem level and does not differentiate between local and wide area network (WAN) Internet traffic. It added that any modifications would involve significant

costs while providing minimal benefits to customers due to the small amount of Internet traffic hosted locally within Nunavut.

### **Commission's analysis**

81. The framework established for regulating Internet traffic management practices in Telecom Regulatory Policy 2009-657 recognizes that measures beyond investment in network capacity, such as the use of overage fees, may be needed to help manage network congestion.
82. The subsidy for retail Internet services will help some customers afford unlimited data plans, where available, or otherwise offset the costs associated with overage fees. Furthermore, the ongoing deployment of fibre infrastructure in the Far North, along with the entry of LEO satellite-based services with unlimited plans, is expected to lower the impact of overage fees over time.
83. Data submitted by Northwestel in this proceeding indicates a downward trend in its revenues from overage fees for retail Internet services. While the Commission is encouraged by this trend, ongoing monitoring is needed to help ensure that overage fees in the Far North continue to decrease.
84. The Commission therefore finds it appropriate to monitor Northwestel's overage fees in the Far North and directs Northwestel to file a yearly report on overage fees for the next five years. This report must include data on (i) the number and percentage of subscribers who paid overage fees or purchased additional usage blocks, (ii) total revenues from overage fees, and (iii) the overall data usage trends over time. Northwestel must provide an abridged version of this report with aggregated data for publication on the Commission's website. Commission staff will provide additional information on this reporting requirement in a letter to Northwestel. This monitoring will enable the Commission to help ensure that overage fees continue to decrease, as was submitted by Northwestel, and determine if further regulatory action is required.
85. Regarding the GN's proposal that local Internet traffic should not be subject to overage fees, the Commission recognizes Northwestel's current technical limitations. Nevertheless, the Commission encourages Northwestel to explore modifications to its network that could accommodate the GN's proposal, thereby ensuring that local Internet traffic is not subject to overage fees.

### **Should the Commission create an affordability standard?**

86. In this proceeding, the Commission sought comments on whether it should establish guidance or standards on what constitutes an affordable retail telecommunications service in the Far North.

### **Positions of parties**

87. Several parties, including CNOC, Northwestel, SSi, and TELUS, opposed the creation of a standard on what constitutes an affordable retail telecommunications service in the Far North. However, many other parties, including the CYFN, First Mile, and the three territorial governments, supported the creation of an affordability standard.
88. Several parties, including First Mile, the GNWT, and PIAC, also proposed that an affordability standard be supported by data collection and reporting to improve the availability of comprehensive data on telecommunications affordability in the Far North.
89. Northwestel opposed the creation of an affordability standard, indicating that it would be too complex to establish. It proposed that the Commission instead focus on determining whether a subsidy is needed to make Internet services more affordable in the Far North.

### **Commission's analysis**

90. Statistics Canada is continuing to work on developing metrics to examine poverty in the Far North. In addition, Employment and Social Development Canada, Indigenous Services Canada, and Statistics Canada are collaborating to develop methods to improve data on affordability in the Far North.<sup>5</sup>
91. Given the work being done by other government departments, the Commission will not develop an affordability standard for the Far North at this time.

### **Should the Commission approve Northwestel's proposals with respect to its price cap regime?**

92. Price cap regulation sets a limit on the prices that companies can charge their customers for telecommunications services. The services that are subject to price cap regulation are grouped into service baskets, and each basket is subject to specific pricing constraints. Northwestel's price cap regime is structured into eight service baskets.
93. In this proceeding, Northwestel submitted proposals with respect to the price cap regime for its (i) Residential Non-HCSA Services basket, (ii) Residential HCSA Services basket, (iii) Retail Internet Services basket, and (iv) Other Capped Services basket.

---

<sup>5</sup> See, for example, Statistics Canada's [Proposals for a Northern Market Basket Measure and its disposable income](#), and [Construction of a Northern Market Basket Measure of poverty for Nunavut](#).



### **Residential Non-HCSA Services and Residential HCSA Services baskets**

94. The Residential Non-HCSA Services (in Whitehorse, Yukon, and Yellowknife, Northwest Territories) and Residential HCSA Services (in all other wire centres in Northwestel's operating territory) baskets include Northwestel's residential local exchange services (i.e., home telephone services).
95. In Telecom Regulatory Policy 2020-40, the Commission indicated that it was concerned that the phase-out of the local service subsidy may result in rates for Northwestel that are not just and reasonable. The Commission also indicated that permitting residential rates for local exchange services to increase at the rate of inflation would be an appropriate measure to mitigate against the loss of the local service subsidy and contribute to rates continuing to be just and reasonable until the current review is complete. As a result, in Telecom Notice of Consultation 2020-367, the Commission determined that Northwestel would continue to receive local service subsidy payments on an interim basis until 31 December 2021.
96. In Telecom Notice of Consultation 2022-147, the Commission sought comments on the potential shortfall for Northwestel that could arise from the elimination of the local service subsidy, and whether it should be reintroduced for Northwestel. The Commission also sought comments on current rates for home telephone services and matters related to the price cap regime for these services.

### ***Positions of parties***

97. Northwestel indicated that it was no longer seeking compensation for any potential shortfall resulting from the removal of the local service subsidy. Further, it proposed no changes to the existing price cap regime for its local exchange services.
98. PIAC supported maintaining the existing price caps but raised concerns with the maximum 5% annual increase allowed for both HCSAs and non-HCSAs, indicating that this could still represent a significant price increase for low-income consumers.<sup>6</sup>

### ***Commission's analysis***

99. Given that Northwestel is no longer seeking compensation following the phase-out of the local service subsidy, the Commission will not reintroduce the local service subsidy or compensate Northwestel for any potential shortfall arising from its removal. The Commission determines that the transition subsidy payments for Northwestel for the 14-month period from 2 November 2020 to 31 December 2021 are now set on a final basis.

---

<sup>6</sup> The rates in each of these residential service baskets (HCSAs and non-HCSAs) are permitted to increase annually by the rate of inflation, to a maximum of 5% per year, as determined in Telecom Regulatory Policy 2020-40.

100. Regarding PIAC's concerns with the 5% annual allowable increase, the affordability of local exchange service rates was not a notable issue raised by parties to the proceeding, with most parties focusing on retail Internet service affordability. Additionally, current home telephone rates in the Far North remain comparable to or lower than those elsewhere in Canada. Further, Northwestel's rate increases for these services are typically lower than the 5% maximum allowable, because under normal economic conditions, the inflation rate sits below this threshold.

101. Accordingly, the Commission finds that the existing price constraints in Northwestel's Residential Non-HCSA Services and HCSA Services baskets should remain unchanged.

#### **Changes to the Retail Internet Services basket**

102. The basket structure and pricing constraints for Northwestel's Retail Internet Services basket were set in Telecom Decision 2015-79. In that decision, the Commission established two sub-baskets: Residential Internet Services and Business Internet Services. Each of these has its own pricing constraints, but combined, they have an overall weighted average basket constraint of 0%. This means that the weighted average price of all services in the basket cannot increase.

#### ***Positions of parties***

103. Northwestel proposed separating the Retail Internet Services basket into two distinct baskets to remove the link between the terrestrial Residential Internet Services and Business Internet Services sub-baskets. This change would remove the need for an overall weighted average price constraint over the two sub-baskets.

104. Specifically, Northwestel proposed a new standalone Residential Internet Services basket where:

- the weighted average price at the basket level cannot be raised;
- the rates remain capped; and
- the price floor test requirement for existing services is eliminated, so that without any cost study, Northwestel can raise the speeds or usage cap for plans with limited data allowances and lower any existing rate for all services in the basket.

105. Northwestel also proposed a new standalone Business Internet Services basket where:

- the weighted average price at the basket level cannot be raised; and
- the maximum permitted increase for each service element in the basket would be doubled (from 5% to 10% per year).

106. Northwestel submitted that separating the Retail Internet Services basket into two different baskets would ensure that lowering rates in one basket would not make headroom (i.e., space to raise rates) in the other.
107. Regarding the changes to its proposed Residential Internet Services basket, Northwestel submitted that it requires additional flexibility to allow it to effectively respond to growing competition from new ISPs such as SpaceX.
108. Regarding the changes to the proposed Business Internet Services basket, Northwestel submitted that raising the maximum constraint for each service element in the basket to 10% would allow it the flexibility it needs to better meet the market's needs while making sure that prices stay just and reasonable for all customers. It also submitted that the constraint for each service element of 10% already exists for its Business Services and Other Capped Services baskets, as is the case for large incumbents. Northwestel added that there is nothing unique about its business Internet services when compared to those of other incumbents, and that the same thresholds should apply.
109. PIAC and SSi opposed Northwestel's request for additional pricing flexibility. They submitted that Northwestel's request makes it more difficult for other TSPs to compete and that, if it were granted, it would risk driving competitive TSPs out of the market.

***Commission's analysis***

110. Basket constraints are used to provide companies with the flexibility to restructure rates while providing a level of protection to customers. In addition, constraints for each service within a basket are imposed to provide additional protection by limiting a company's ability to increase or decrease service rates for customers.
111. Northwestel's request to separate the Retail Internet Services basket into two distinct baskets would simplify Northwestel's basket structure for residential and business services. Consumers would continue to be protected by the existing pricing constraints in each basket. Accordingly, the Commission finds that it is appropriate to separate the Retail Internet Services basket into two new baskets for retail residential Internet services and retail business Internet services.
112. Since Northwestel's price cap framework for its retail Internet services was developed, the competitive landscape in Northwestel's operating territory has evolved, notably with the introduction of SpaceX's LEO satellite-based Internet services. The Commission noted the competitive effect of this development on Northwestel in Telecom Decision 2022-343 and provided additional pricing flexibility for Northwestel's residential DSL Internet services, residential cable Internet services, and residential fibre-to-the-premises (FTTP) Internet services.
113. Regarding Northwestel's request for additional flexibility within its proposed Residential Internet Services basket, the Commission has examined the extent to which Northwestel has used the additional pricing flexibility provided in Telecom

Decision 2022-343. Since then, Northwestel has decreased rates or introduced new packages to its cable and FTTP services.<sup>7</sup> In terms of rate decreases, Northwestel has not fully used the flexibility provided.

114. Moreover, the price floor test is an element of regulation that the Commission uses to support competition. While the Commission indicated in Telecom Decision 2022-343 that price decreases below the price floor can be a legitimate response to competition, the price floor is still necessary to make it possible for potential competitors to enter a market where there is little to no competition.
115. As such, the Commission finds that the additional pricing flexibility requested by Northwestel for retail residential Internet services is not warranted. The evidence submitted by Northwestel is insufficient to show that the conditions that led to Telecom Decision 2022-343 have changed such that additional flexibility is required at this time.
116. Regarding Northwestel's request to double the maximum annual rate increase allowed for its proposed Business Internet Services basket from 5% to 10%, the record of this proceeding indicates that Northwestel's terrestrial retail business Internet service customers face affordability challenges. Accordingly, the Commission finds that it would not be appropriate to allow Northwestel to double the maximum allowed annual rate increase.

#### **Changes to the Other Capped Services basket**

117. Services in the Other Capped Services basket include most other retail services, like optional home telephone features, digital private line, and non-recurring installation and construction charges. The constraints that apply to this basket were set in Telecom Regulatory Policy 2011-771:
- the ability to increase rates annually at the basket level by up to the rate of inflation; and
  - the ability to increase rates annually by up to 10% for each individual service in the basket.

#### ***Positions of parties***

118. Northwestel proposed reclassifying residential and business optional local services from the Other Capped Services basket to the Uncapped Services basket. Residential and business optional services include enhanced calling features such as call waiting, call forwarding, call display, and voice messaging services. The Uncapped Services basket includes competitive services like toll-free and Centrex services, and special assembly services that are developed for long-term customer commitments. Services in the Uncapped Services basket do not have an upward constraint on prices.

---

<sup>7</sup> See Northwestel's Tariff Notices 1177, 1184, 1220, 1221, and 1229.

119. Northwestel stated that, in Telecom Decision 2007-27, the Commission decided that optional local services would be classified as uncapped services for large incumbents because they are discretionary in nature, and demand tends to be more sensitive to prices. This means that when prices increase, customers can choose to explore other alternatives or cancel their service entirely. Northwestel suggested that its optional services are also discretionary in nature and that the same rationale should apply to its optional local services.

#### ***Commission's analysis***

120. The Commission finds reclassifying optional residential and business local services from the Other Capped Services basket to the Uncapped Services basket is not appropriate given that residential and business customers in the Far North have limited ability to obtain these services from another TSP. There is no evidence to suggest that there are competitive alternatives for such services in this region. As such, optional residential and business local services will remain in the Other Capped Services basket and continue to be subject to rate regulation.

#### **Conclusion on affordability issues**

121. Improving affordability, particularly affordability of retail Internet services in the Far North, has been a priority for the Commission throughout this proceeding. Evidence on the public record demonstrates that the costs of delivering Internet services in the Far North are so high that competition alone would not be enough to move prices to a more affordable level on a sustainable basis. The Commission is therefore relying on other mechanisms to help achieve this goal.

122. To improve the affordability of Internet services in the Far North, the Commission is introducing a subsidy. The subsidy will be available to all ISPs operating in the Far North, helping to ensure that it contributes to improving affordability across the region. Details of this subsidy will be finalized in the proceeding initiated by Telecom Notice of Consultation 2025-10.

123. The Commission is also requiring Northwestel to report on overage fees. This will help the Commission ensure that overage fees continue to decrease and determine if further regulatory action is required.

#### **Reliability**

124. The reliability of telecommunications services in the Far North emerged as a second issue in this proceeding.

125. Reliability refers to the frequency of service outages and intermittent service interruptions that stop customers from being able to consistently access the services they need to support everyday activities. Geographic and environmental factors, such as vast distances between communities and harsh climates, make networks in the Far North more susceptible to reliability issues and more expensive to make resilient.

126. The record of this proceeding demonstrates that outages in the Far North are frequent, significant, and widespread. In the [CRTC Conversations online survey](#) on Telecommunications in the Far North, 94% of participants indicated that they had experienced an outage in the last year. This is supported by data submitted by Northwestel, which shows a high number of outages, often with long durations. Furthermore, parties to the proceeding were particularly concerned with the impact of Internet outages in the Far North.

127. To address these challenges, the Commission considered whether it should:

- impose automatic bill credits and refund requirements for Internet service outages;
- impose requirements for the communication of planned outages;
- impose monitoring and reporting requirements;
- require Northwestel to develop a network improvement plan and publish network planning and financial information;
- impose any new conditions of service on satellite-based ISPs;
- impose quality of service requirements on Northwestel's retail Internet services; and
- take action to improve the complaint resolution process in the Far North.

**Should the Commission impose automatic bill credits and refund requirements for Internet service outages?**

128. According to the record of this proceeding, some ISPs in the Far North provide bill credits for Internet service outages. However, there are currently no requirements for ISPs to provide an automatic refund or credit in the event of an outage.

129. Automatic bill credits and refund requirements could build on the consumer protections set out in the [Internet Code](#).<sup>8</sup>

**Positions of parties**

130. Several parties, including First Mile, the First Nation of Na-Cho Nyäk Dun, the GNWT, and the Yukon Utilities Consumers' Group generally supported automatic refunds or bill credits for outages.

131. The GNWT submitted that residents should not be expected to pay for telecommunications services that they are unable to access. This was also raised in the Commission's public opinion research. Participants in the public opinion research added that the onus should not be on customers to request refunds or credits, but rather that they should be provided automatically.

---

<sup>8</sup> The Commission created the Internet Code so that customers of retail fixed Internet access services are better informed of their rights and responsibilities contained in their contracts with ISPs.

132. Conversely, Iristel/Ice Wireless and SSI submitted that the Commission should not impose automatic bill credits or refund requirements for Internet service outages. SSI also noted that outages in the Far North can often take days to fix due to the lack of on-site technicians or technicians being unable to access the community, and that such requirements could drive up costs.
133. Northwestel stated that substantial investment would be required to implement automatic bill credits, including establishing automated processes for its current operating system. Northwestel did not provide an estimate of implementation costs.
134. CNOC, Northwestel, SpaceX, and TELUS suggested that refunds in the Far North should be considered in a broader proceeding that includes all of Canada. PIAC supported automatic refunds or bill credits for outages and also suggested that they should be considered in a nationwide proceeding.

### **Commission's analysis**

135. While all Canadians are affected by outages, those living in the Far North experience them with both a higher frequency and longer duration, which has a significant impact on residents and businesses. In recognition of this, the Commission is implementing measures to help improve reliability in the Far North.
136. Regarding Northwestel's submission that putting in place an automatic bill credit system for Internet services would require a large investment, ISPs in the Far North, including Northwestel, already provide bill credits. Accordingly, it is possible for ISPs to implement automatic bill credits, and it is appropriate to require them to do so, rather than placing the responsibility on customers to request compensation for services they did not receive.
137. In light of the above, the Commission finds that requiring automatic bill credits is appropriate in the Far North. Providing automatic bill credits is less of an administrative burden than issuing refunds. Consistent with requirements under section G.4 of the Internet Code, a customer who discontinues their service will remain eligible for a refund.
138. Furthermore, because all Canadians experience the disruption caused by service outages, the Commission intends to explore ways to improve consumer protections in the event of outages in an upcoming proceeding. If additional requirements are imposed in that proceeding that provide greater benefits to consumers, the requirements from the current proceeding will be adjusted so that residents of the Far North will benefit equally.

### **Which ISPs should be subject to automatic bill credits?**

#### **Positions of parties**

139. ECN and JBCCS stated that all TSPs in the Far North should be subject to automatic bill credit requirements. Likewise, Northwestel stated that if the Commission mandates automatic bill credits, all providers in the Far North should be subject to the same obligations.

140. Small ISPs noted that they lacked the resources to implement automatic bill credits and that such a requirement would negatively impact their ability to offer services in the Far North.
141. Satellite-based ISPs, including Galaxy Broadband, Northwestel, SSi, and Xplore, generally opposed automatic bill credits or refunds, suggesting that the most common factors that lead to service outages of satellite systems are outside their control. This includes exposure to solar eclipses and flares, interference from other objects in orbit, and space weather events.
142. Satellite-based ISPs also indicated that the complexities of operating satellite services limit their ability to implement automatic bill credits or refunds.
143. Northwestel stated that the satellite transport it uses is provided by a third party and is therefore outside its network detection systems.

#### **Commission's analysis**

144. In Telecom Regulatory Policy 2013-711, the Commission found that there is insufficient competition in the retail terrestrial Internet service market to protect customers. Northwestel, as the incumbent provider, may have less incentive to improve the reliability of its network, and customers may not have the option of switching to another ISP when they are not satisfied with the reliability of their services. Therefore, it is appropriate for the Commission to consider additional reliability measures for Northwestel. Requiring Northwestel to provide automatic bill credits will help ensure the majority of customers in the Far North, particularly those who do not have the option of switching to another ISP, are compensated when there are service outages. In contrast, small ISPs provide service in areas where there is some degree of competition, and may have more limited resources available to apply automatic bill credits. Therefore, to balance the benefit to customers with the burden on small ISPs, the automatic bill credit requirement should be imposed on only Northwestel's terrestrial retail Internet services.
145. Furthermore, requiring automatic bill credits for satellite Internet service would not be appropriate given that several satellite ISPs submitted that most outages are caused by factors outside their control, or result from issues with satellite transport, which is typically provided via a third party.
146. In light of the above, the Commission finds that requiring Northwestel to provide automatic bill credits to its customers for outages to its terrestrial Internet services is warranted. This could incentivize Northwestel to reduce the frequency of network outages and address outages more quickly. While the Commission will not require all ISPs in the Far North to implement automatic bill credits, ISPs that do not already provide them may choose to do so to remain competitive in the market.
147. Accordingly, the Commission directs Northwestel to file an amendment to its General Tariff, by **30 January 2025**, to include the provision of such credits for all terrestrial retail Internet service outages.



## **What conditions must be met to require ISPs to issue automatic bill credits or refunds?**

### **Positions of parties**

148. ECN and JBCCS, Northwestel, and SpaceX submitted that the requirement to provide automatic bill credits or refunds should not apply to outages outside the control of TSPs. SpaceX also submitted that the requirement should not include outages due to actions of the end-user or at the end-user's premises.
149. ECN and JBCCS proposed that both residents and businesses be eligible to receive compensation. Parties did not identify additional challenges associated with applying credits to both types of customers.
150. ECN and JBCCS also submitted that automatic bill credits should be based on the duration of the outage. Northwestel proposed that automatic bill credits be limited to cases where the Internet service outage lasted at least 24 hours and affected at least 100 customers.
151. Regarding planned outages, ECN and JBCCS submitted that TSPs should make every effort to do maintenance and repairs at night or during off-peak hours to minimize service disruptions. However, if a service disruption cannot be avoided, the TSP should be prepared to compensate customers.

### **Commission's analysis**

152. Consistent with parties' submissions, the Commission finds that Northwestel should not be required to provide automatic bill credits when an outage is attributed to (i) actions of the end-user or is caused by issues at the customer premises, or (ii) circumstances outside Northwestel's control.
153. Regarding which customers should receive automatic bill credits for outages, the record of this proceeding shows that outages affect both residential and business customers. Parties, including Northwestel, did not identify any additional challenges associated with providing automatic bill credits to business customers. Therefore, business customers, in addition to residential customers, should receive automatic bill credits for outages.
154. Regarding the threshold duration that would trigger automatic bill credits, Northwestel's General Tariff item to provide credits for outages of home telephone services has a minimum threshold of 24 hours. To balance the benefit to the customer with the administrative burden on Northwestel of investigating outages and processing credits, and to be consistent with Northwestel's automatic bill credit requirement for home telephone services, it would be appropriate to set the minimum Internet service outage duration at 24 hours before it triggers an automatic bill credit.

155. Regarding automatic credits for planned outages, most such outages would likely not meet the 24-hour threshold needed to trigger a credit. That said, a requirement to provide automatic bill credits in these situations would incentivize Northwestel to reduce the length and frequency of planned outages.
156. While Northwestel submitted that automatic bill credits should be limited to cases where the outage affects at least 100 customers, Northwestel's General Tariff item to provide credits for outages of home telephone services does not have a minimum threshold of affected customers. All customers affected by an Internet service outage of 24 hours or more should receive an automatic bill credit, since they should not have to pay for services that they do not receive.
157. In light of the above, the Commission directs Northwestel to provide automatic bill credits to its residential and business customers for terrestrial Internet service outages when an outage (including a planned outage) lasts for 24 hours or more.
158. In addition, the Commission directs Northwestel to provide, as part of its filing to amend its General Tariff, a list of circumstances that it views as beyond its control and for which it should not have to provide automatic bill credits. Potential interveners will be able to comment on the list of circumstances proposed by Northwestel. These comments will support the Commission's analysis of the reasonableness of Northwestel's proposed list of circumstances.

**How should automatic bill credits or refunds be calculated, and when and how should they be issued?**

**Positions of parties**

159. ECN and JBCCS submitted that calculations of bill credits should be based on what a customer is paying for their service. Northwestel submitted that bill credits should be calculated on a per-service basis and be prorated based on the duration of the outage.
160. ECN and JBCCS, as well as Northwestel, submitted that credits can be applied to customers' monthly bills. Northwestel proposed identifying the credit as a separate line item on customers' bills.
161. ECN and JBCCS indicated that credits should be distributed within one month after the outage, while Northwestel submitted that credits should be distributed within the three billing cycles after the outage.

**Commission's analysis**

162. Consistent with parties' proposals on how to calculate automatic bill credits, the amount should be prorated based on the monthly cost of the customer's plan and the duration of the outage. In addition, having credits appear as a separate item on a customer's monthly bill will provide transparency and clarity to customers. The credit should be easily identifiable as a standalone line item, the date of the outage

and the amount of the credit. Furthermore, requiring Northwestel to provide the credit no later than three billing cycles from the date of the outage will give the company enough time to investigate the cause of the outage and to calculate and provide the credit.

163. In light of the above, the Commission directs Northwestel to provide automatic bill credits that are:

- prorated based on the monthly cost of a customer's plan and the duration of the outage;
- easily identifiable on a customer's monthly bill as a separate line item, showing the date of the outage and the amount of the credit; and
- distributed no later than three billing cycles after the date of the outage.

### **Should the Commission impose requirements for the communication of planned outages?**

#### **Positions of parties**

164. In cases where outages are planned, Northwestel indicated that it sends a communication by email and text message to territorial, provincial, and municipal governments, the Royal Canadian Mounted Police, providers of essential services, and wholesale customers. Its government relations team also works to ensure that Indigenous governments are aware of planned outages. In addition, Northwestel posts notifications of scheduled outages, service interruptions, and maintenance on social media and its website.

165. Several parties submitted that communications regarding planned outages should be more accessible and transparent to customers. The First Nation of Na-Cho Nyäk Dun and Northern Rockies commented that planned outages have been disruptive to communities and that notifications have not been effectively communicated to customers. Northern Rockies added that there have been several instances in which it was given little or no notice of planned outages, which negatively impacted government communications.

166. An individual intervener proposed that, for planned outages, there should be an option for customers to join a mailing list to be informed ahead of time.

#### **Commission's analysis**

167. The Commission recognizes Northwestel's efforts to notify some of its customers about planned outages. However, Northwestel does not provide email and text message notifications to its retail customers. Although Northwestel posts notifications of scheduled outages and maintenance on social media and its website, not all retail customers use social media or regularly check the company's website for notifications. Furthermore, during an outage, these customers may not be able to check the website due to the outage itself.

168. Retail customers should receive direct notifications and be notified before any planned outages, service interruptions, or maintenance. This will allow customers to better prepare for outages and minimize the effects of the disruption.
169. An opt-out approach, by which customers automatically receive outage notifications unless they opt out, would lead to broader dissemination of important information and updates, and could help reduce consumer frustration associated with planned outages.
170. In light of the above, the Commission directs Northwestel to (i) create a distribution list for retail customers to receive notifications by email or text message regarding planned outages, service disruptions, or maintenance; and (ii) provide an opt-out option for customers who do not wish to receive these notifications, by **16 July 2025**.

### **Should the Commission impose monitoring and reporting requirements?**

#### **Positions of parties**

171. CNOG, Iristel/Ice Wireless, Northwestel, PIAC, SpaceX, and TELUS pointed to Telecom Notice of Consultation 2023-39, the Commission's ongoing proceeding for a national framework for mandatory notification and reporting for major telecommunications services outages. They stated that given that proceeding, there should not be a separate regulatory framework in the Far North. Northwestel and TELUS submitted that a national framework would prevent confusion and inconsistency, and would promote the efficient use of resources.
172. Northwestel also submitted that, since the Commission is considering outage notifications and reporting in Telecom Notice of Consultation 2023-39, those issues should be out of scope in the current proceeding.
173. Several parties submitted that there should be a separate framework for network outage reporting and remediation given the frequency and duration of outages in the Far North. First Mile, the First Nation of Na-Cho Nyäk Dun, the GNWT, the GN, PIAC, and the YG all submitted that the Commission should require TSPs to submit detailed reports on outages. Parties proposed that the reporting include the cause of the outage, the estimated length of the outage, and the number of customers affected. The GNWT indicated that additional reporting requirements would improve understanding of network issues and infrastructure needs, and improve transparency related to outages. The First Nation of Na-Cho Nyäk Dun submitted that Indigenous peoples have the right to transparent information about the services they are paying for.
174. SSi submitted that the Commission also needs to consider whether requiring small TSPs to report on non-major Internet outages is necessary.

### **Commission's analysis**

175. In Telecom Notice of Consultation 2023-39, the Commission imposed an interim measure requiring all carriers to report a major service outage within two hours of when the carrier becomes aware of it, and to file a follow-up report with the Commission. As a result of that proceeding, the Commission is establishing a national reporting framework for major service outages.
176. However, customers in the Far North face more frequent outages, many of which fall short of the criteria defining a major service outage. When combined, these outages amount to a significant amount of time and negatively impact both residents' ability to use Internet services for work, education, and essential services, as well as businesses' ability to conduct online business and financial transactions. Therefore, reporting requirements specific to the Far North are appropriate. Moreover, the issuance of Telecom Notice of Consultation 2023-39 did not remove the potential for obligations specific to the Far North from consideration in this proceeding, as reflected in the submissions of parties to this proceeding.
177. Reporting requirements specific to the Far North will enable the Commission to monitor the frequency of outages, develop a better understanding of reliability issues, and decide if any action is required to improve reliability. They will also help improve transparency for residents of the Far North by ensuring that information on outages is available on the Commission's website.
178. Regarding which ISPs should be subject to additional reporting requirements for outages, small ISPs in the Far North have fewer resources to support additional reporting. Parties also cited more issues regarding the lack of transparency with respect to Northwestel's outages than with other ISPs operating in the Far North. Therefore, the Commission finds it appropriate to put in place a monitoring and reporting framework that applies only to Northwestel.
179. For the purposes of reporting, an outage means any Internet service outage of a total duration of 30 minutes or more that impacts five or more customers. This definition will capture outages that may not be included in the national reporting framework for major outages, as will be defined in the proceeding initiated by Telecom Notice of Consultation 2023-39. Furthermore, Northwestel can provide outage data with this level of detail because it has done so when submitting data in the context of the current proceeding.
180. In light of the above, the Commission directs Northwestel to file a yearly report on outages, including an abridged version to be published on the Commission's website. The report must include the following information for each outage:
- number of customers affected;
  - location(s) of the outage;
  - cause(s) of the outage;

- start time of the outage;
- duration of the outage; and
- service(s) affected.

181. The abridged version of the yearly report should include the total number of outages by territory or province, a description of the types of outages over the course of the year, and Northwestel's efforts to improve the reliability of its networks.

182. Requiring yearly reporting will provide the Commission with valuable information while balancing the administrative burden on Northwestel. Commission staff will provide additional information on this reporting requirement in a letter to Northwestel.

**Should the Commission require Northwestel to develop a network improvement plan and publish network planning and financial information?**

183. In Telecom Regulatory Policy 2011-771, the Commission determined that Northwestel had failed to make necessary upgrades to its network, affecting the quality and reliability of its network and contributing to a number of outages. Therefore, it directed Northwestel to develop a plan to modernize its network and ensure that its customers receive telecommunications services comparable to those available elsewhere in Canada.

184. Northwestel filed a Modernization Plan in July 2012. The Modernization Plan identified investments over a period of five years to modernize infrastructure and deliver new services across Northwestel's operating territory. The completion of the Modernization Plan was formally acknowledged by the Commission in a Secretary General [letter](#) in 2018.

**Positions of parties**

185. Several parties expressed concerns regarding the reliability of Northwestel's network and submitted that the company should be required to develop a network improvement plan to improve the quality and reliability of its services.

186. Northwestel submitted that committing financial resources to specific network improvements will limit its ability to respond to the changing competitive and economic landscape. It also indicated that this could hamper its ability to respond to unanticipated or urgent situations.

187. In the GNWT's view, a regulatory framework to promote quality and reliability outcomes in the Far North would be more practical than relying on a network improvement plan.

188. Several parties also submitted that there is a lack of information available to the public about ongoing or future network projects or how Northwestel uses public funding to improve its networks. First Mile proposed that the Commission require

Northwestel to make information regarding its network-building plans publicly available. Northwestel opposed these proposals since such plans would disclose competitively sensitive information to potential competitors.

### **Commission's analysis**

189. Although multiple parties supported a network improvement plan, citing Northwestel's 2012 Modernization Plan, that plan was created before the launch of the Commission's Broadband Fund. Under the Broadband Fund, TSPs can apply for funding to build or upgrade access and transport infrastructure for fixed and mobile wireless broadband Internet access services and are required to meet connectivity targets. Northwestel has received funding from the Broadband Fund to bring improved services to communities in the Far North.
190. Furthermore, the other reliability measures set out in this regulatory policy will encourage Northwestel to invest in its network and improve the reliability of its services. Moreover, the monitoring and reporting requirements will help the Commission determine if any additional action is required to improve reliability.
191. In light of the above, the Commission will not require Northwestel to develop a network improvement plan at this time.
192. With respect to parties' comments about network planning and financial information, the Commission does not currently require other TSPs to share network planning and financial information with the public. Accordingly, the Commission finds that it would not be appropriate to direct Northwestel to do so.

### **Should the Commission impose any new conditions of service on satellite-based ISPs?**

#### **Positions of parties**

193. Several parties submitted that the reliability of Internet services in satellite-dependent communities remains a significant concern due to weather and technological challenges. The First Nation of Na-Cho Nyäk Dun and PIAC submitted that the Commission needs to ensure that residents in satellite-dependent communities benefit from the same level of service as those in terrestrially served communities. While the Commission asked parties about potentially imposing new conditions of service on satellite-based ISPs, only limited proposals were submitted. Instead, parties generally highlighted matters related to funding, investment, and competition.
194. Northwestel pointed to SSi's capacity expansion in Nunavut funded by the Commission's Broadband Fund, and the entry of LEO satellite-based ISPs in the Far North.
195. SSi indicated that it is continually upgrading its network to improve the reliability of its services but highlighted a lack of investment in Arctic satellite capacity. It proposed that federal funding be used to address this issue.

## Commission's analysis

196. The record of this proceeding indicates that LEO satellite services have a limited take-up in the Far North and are still a nascent technology. As this technology evolves, new ISPs may enter the market and offer greater competition, more choice, and improvements in the quality and reliability of Internet services. That said, it is still too early to assess the potential impact of new entrants. Therefore, the Commission will continue to monitor developments in the satellite service market in the Far North to assess the performance of any new service providers before considering imposing new conditions of service on satellite-based ISPs.
197. Regarding SSI's submission that more investment is needed to increase the capacity of satellite services in the Far North, in Telecom Decision 2023-418, the Commission approved SSI's funding application to increase satellite transport capacity in all 25 communities in Nunavut. In addition, Northwestel received funding for satellite projects in the Yukon and the Northwest Territories through the Broadband Fund in Telecom Decision 2020-258.
198. In light of the above, the Commission will not impose new conditions of service on satellite-based ISPs in the Far North at this time.

## Should the Commission impose quality of service requirements on Northwestel's retail Internet services?

### Positions of parties

199. Several parties, including First Mile, Northern Rockies, PIAC, and Taku River Tlingit First Nation submitted that the Commission should impose quality of service requirements with respect to Northwestel's Internet services. PIAC proposed that the Commission impose quality of service metrics such as latency,<sup>9</sup> packet loss,<sup>10</sup> and jitter,<sup>11</sup> as mentioned in Telecom Regulatory Policy 2016-496.<sup>12</sup> Taku River Tlingit First Nation submitted that the Commission should consider retail quality of service objectives that focus on reliability, service provisioning times, and call centre response times.

---

<sup>9</sup> Latency is the time data takes to arrive at its destination. A low latency is required for high-quality real-time applications.

<sup>10</sup> A packet is a sequence of bits arranged in a specific format, containing control data and possibly user data, that is transmitted and switched as a whole. Packet loss is the failure of a packet to travel through the network to its destination. Internet traffic is carried as Internet Protocol packets. Due to network congestion or impairments, some packets do not reach their destination intact. These are considered to be lost packets.

<sup>11</sup> Jitter is the variation in the time between packets arriving at their destination, caused by network congestion, timing drift, or route changes.

<sup>12</sup> The quality of service reporting metrics for latency, packet loss, and jitter were established to define high-quality fixed broadband Internet access service and to measure the successful achievement of the broadband portion of the universal service objective.



### **Commission's analysis**

200. Quality of service requirements, including the requirements for latency, packet loss, and jitter highlighted in Telecom Regulatory Policy 2016-496, are already imposed on projects funded through the Broadband Fund's performance criteria, and additional requirements would mostly be duplicative. Furthermore, information on Northwestel's Internet service performance is publicly available in the [2020 report](#) on the Commission's Measuring Broadband Canada project, which found that Northwestel met its maximum advertised upload and download speeds.
201. In addition, Northwestel's investments in its network and other measures set out in this regulatory policy, such as automatic bill credits and reporting requirements for outages, will help address quality of service issues.
202. In light of the above, the Commission will not impose quality of service requirements on Northwestel at this time.

### **Should the Commission take action to improve the complaint resolution process in the Far North?**

203. The CCTS is responsible for addressing consumer complaints about telecommunications and television services. However, its mandate is limited to services that are forborne from regulation. Accordingly, customers of Northwestel's satellite Internet services and any other TSPs in the Far North can bring complaints to the CCTS since those services are forborne. On the other hand, customers of Northwestel's terrestrial Internet services must bring complaints to the Commission since those services are not forborne.

### **Positions of parties**

204. The CYFN, the GN, and the GNWT indicated that the current complaint process is confusing for consumers. First Mile and PIAC stated that the process could be simplified. Several parties, including First Mile, the GN, and the GNWT, submitted that there should be a single point of contact for consumers where telecommunications-related complaints can be raised.
205. Several parties also submitted that there is insufficient information available to the public regarding complaints under the Commission's purview. PIAC strongly encouraged the Commission to improve the public transparency of complaints in relation to Northwestel's rate-regulated retail Internet services by releasing reports at regular intervals.

### **Commission's analysis**

206. Since the CCTS was put in place, the Commission has received calls to include rate-regulated services within the scope of complaints handled by the CCTS. In reviews that the Commission conducted of the CCTS's mandate in both Telecom Regulatory Policy 2011-46 and Broadcasting and Telecom Regulatory Policy

2016-102, it determined that it would be duplicative to add complaints for these services to the scope of complaints handled by the CCTS. The Commission finds that this position remains appropriate.

207. Regarding parties' comments on the information available to the public on complaints, the Commission recognizes the benefits of making more information available to Canadians. The Commission collects data on complaints and is currently examining how it can be more transparent and improve the collection and publication of complaint-related data.

### **Conclusion on reliability**

208. While all Canadians are affected by outages, those living in the Far North experience them with both a higher frequency and longer duration, which has a significant impact on residents and businesses. In recognition of this, the Commission is implementing measures to help improve reliability in the Far North.

209. To address the reliability of terrestrial Internet services, the Commission is introducing measures to encourage Northwestel to reduce outages and improve network quality. The Commission is requiring Northwestel to provide automatic bill credits to consumers and businesses when terrestrial Internet services are not available for 24 hours or more.

210. Furthermore, the Commission is requiring Northwestel to file a yearly report on Internet outages in the Far North. This will allow the Commission to monitor the company's progress and adjust its approach, as necessary. This will also help improve transparency for residents of the Far North by ensuring that information on outages is available on the Commission's website.

### **Consumer choice**

211. The need for more choice of ISPs in the Far North emerged as a third key issue in this proceeding. Many parties submitted that competition with respect to retail Internet services is extremely limited in the Far North and that residents in most regions are limited to a single service provider.

212. To promote competition in the Far North, the Commission has required Northwestel to provide wholesale access to its terrestrial transport network via its Wholesale Connect service. This service enables competitors to access Northwestel's transport network in combination with their own access networks to offer Internet services to consumers and businesses. However, competition in the Far North remains very limited.

213. To help provide more choice for consumers in the Far North, the Commission is requiring that Northwestel make certain improvements to Wholesale Connect. These improvements, which were requested by existing competitors, will foster consumer choice by helping existing and prospective competitors enter the market and provide high-quality Internet services in the Far North.

214. The Commission determined in the “Other affordability issues” section above that the costs of implementing and providing a wholesale HSA service in the Far North are too high to allow competitors to enter the market profitably without harming investment by Northwestel in its infrastructure. However, the circumstances for making improvements to Wholesale Connect are different. Since the service is provided over Northwestel’s transport facilities only, the cost to implement and provide the service is much lower. Furthermore, since it is an established service, the incremental cost of making certain changes to Wholesale Connect will be lower than the cost of implementing a new HSA service. Therefore, rates for Wholesale Connect can be low enough to allow competitors to enter the market, but high enough not to harm investment.

215. Based on comments received, the Commission considered the following questions:

- Should Northwestel provide Wholesale Connect as a Layer 2 Ethernet or wavelength-based service?
- Should the maximum transmission unit (MTU) be increased from 1,500 bytes to at least 9,000 bytes?
- Should the Class of Service (CoS) and Service Level Agreement (SLA) provisions in Northwestel’s tariff be changed?
- Should the monitoring regime applicable to Wholesale Connect be changed?
- Should Northwestel provide the option to purchase dedicated bandwidth as part of Wholesale Connect?
- Should 10 gigabit per second (Gbps) Ethernet ports be available in Northwestel’s network breakout point (NBP) communities?
- Should more than one point of presence (PoP) per community per wholesale customer be available?
- Should Northwestel provide more than one NBP on a redundant path?

216. Changes to the rates for Wholesale Connect were excluded from the scope of this proceeding. These rates will be reviewed after configurations for the modified service are approved by the Commission.

**Should Northwestel provide Wholesale Connect as a Layer 2 Ethernet or wavelength-based service?**

217. Wholesale Connect is currently a Layer 3 Internet Protocol Virtual Private Network (IP-VPN) service. IP-VPN, Ethernet, and wavelength are different technologies used to build a WAN. Ethernet or wavelength technologies could be used to provide a Layer 2 service.

218. The key difference between a Layer 3 and Layer 2 service is the level of control that the wholesale customer has over the network, including routing, network policies, and protocols.

### **Positions of parties**

219. Parties raised several concerns regarding the limits of Wholesale Connect as a Layer 3 IP-VPN service, which negatively impact their ability to provide competitive retail services because they have less control over the network. CNOC, Iristel/Ice Wireless, the GNWT, and SSi stated that Northwestel should be required to provide Layer 2 Ethernet- and wavelength-based transport services. Iristel/Ice Wireless and SSi indicated that this would increase the functionality of the services that Wholesale Connect customers can offer.
220. Northwestel submitted that since it does not offer Ethernet- or wavelength-based wholesale transport services, it does not have insight into the cost of developing them. It does, however, offer a commercial Layer 2 service called Ethernet Wide Area Network Service (E-WAN), which allows for Ethernet point-to-point connectivity between locations on its multiprotocol label switching network.
221. Northwestel stated that if the Commission were to require a wavelength-based transport service, it would have to develop the service from the ground up. It estimated that this process would take eight to twelve months.

### **Commission's analysis**

222. Parties provided evidence, including information that was submitted in confidence by Iristel/Ice Wireless, that the current Layer 3 IP-VPN Wholesale Connect service does not meet the needs of competitors to allow for effective retail competition. Given this, the Commission finds that the current service places competitors at an unreasonable disadvantage, contrary to subsection 27(2) of the Act.
223. Requiring Northwestel, pursuant to subsections 27(2) and 42(1) of the Act, to provide a wholesale Ethernet-based Layer 2 transport service based on its retail E-WAN service would provide significant benefits to competitors, since Ethernet-based transport services provide better network performance, as well as more flexibility and control, to wholesale customers than the current IP-VPN solution. Furthermore, a Layer 2 service is the best option for users that want to set their own network policies.
224. In addition, it would help address concerns that Wholesale Connect does not allow for effective retail competition, given the evidence provided by competitors that the service does not meet their needs.
225. Finally, it would be less likely to result in cost-prohibitive wholesale rates for competitors than a wavelength service, since Northwestel's retail E-WAN could be used as a starting point to create a new Ethernet-based wholesale transport service more quickly and at a lower cost than a wavelength-based transport service. This could be done in six months with E-WAN as a starting point.
226. In light of the above, the Commission finds that it would be appropriate for Northwestel to provide an Ethernet-based Layer 2 wholesale transport service.

Furthermore, the Commission finds that it would be appropriate for Northwestel to consult with Iristel/Ice Wireless and SSi regarding configurations for the service to ensure that the new service meets their needs. Details are discussed further in paragraphs 271-272 below.

### **Should the MTU be increased from 1,500 bytes to at least 9,000 bytes?**

227. The MTU defines how big a single data packet can be. Wholesale Connect currently provides an MTU of 1,500 bytes. Ethernet-based wholesale transport services can support “jumbo frames” where the MTU can be up to 9,000 bytes. Transmitting data in jumbo frames makes data transmission more efficient.

#### **Positions of parties**

228. Iristel/Ice Wireless and SSi supported increasing the MTU on Wholesale Connect from 1,500 bytes to at least 9,000 bytes. Both indicated that this would allow them to offer better services to compete with Northwestel.

229. Northwestel submitted that it cannot technically provide jumbo frames using its existing Wholesale Connect service. It submitted that jumbo frames are not a logical choice for a Layer 3 service like Wholesale Connect. Instead, they are more appropriate for a Layer 2 service, where the customer has a dedicated network and all equipment on the network can be configured to an MTU of 9,000 bytes.

#### **Commission’s analysis**

230. Most or all of the challenges that Northwestel raised with respect to implementing jumbo frames assume that Wholesale Connect remains a Layer 3 service. It would be much easier to configure an MTU size of 9,000 bytes on a Layer 2 service.

231. In light of the above, and as further discussed in paragraphs 271-272 below, the Commission determines that Northwestel must consult with Iristel/Ice Wireless and SSi regarding an appropriate MTU size as part of the new Ethernet-based Layer 2 service.

### **Should the CoS and SLA provisions in Northwestel’s tariff be changed?**

232. The Wholesale Connect tariff includes an SLA provision, which establishes performance targets for service availability, packet loss, latency, and jitter. If Northwestel fails to meet an SLA target, the customer may receive a credit.

233. The tariff provides different CoS targets at different price points. A competitor must first purchase Basic CoS bandwidth, and may then designate no more than 40% of it as Medium, High, or Highest CoS bandwidth. The SLA targets only apply to the Medium, High, and Highest CoS bandwidth levels, and not the Basic CoS.

#### **Positions of parties**

234. Parties raised several concerns related to the CoS and SLA provisions.

235. Iristel/Ice Wireless and SSi submitted that Northwestel has too much flexibility to deny credits under the SLA. SSi submitted that the current SLA targets allow for a significantly degraded service at even the Highest CoS level. For example, the Highest CoS SLA targets allow for up to 1% packet loss, a significant service degradation relative to industry norms. Iristel/Ice Wireless submitted that the maintenance and force majeure exceptions should be removed from the tariff.
236. Iristel/Ice Wireless noted that only 40% of purchased bandwidth can be subject to SLA targets and that, as a result, at least 60% of the CoS bandwidth purchased by competitors is unusable for the provision of telecommunications services. They also proposed that Northwestel be required to update the methodology it uses to measure its compliance with the SLA.
237. Iristel/Ice Wireless also considered that the penalty credits paid by Northwestel under the SLA are too low, since even the most significant penalty for repeated failures results in only a 25% credit for the customer.
238. Northwestel submitted that the CoS and SLA provisions cannot be changed for the following reasons:
- As a Layer 3 service, Wholesale Connect's CoS model works only if the total amount of priority traffic is quite small, since any time one packet is given priority, another packet is delayed or dropped. The defining characteristic of Basic CoS is that it is traffic with no priority or guarantee.
  - If an SLA were mandated on the Basic CoS, this would dramatically decrease the speed options available and increase the cost to provide Wholesale Connect and the associated rates.
  - The cap on non-Basic CoS traffic at 40% is intended to limit the amount of bandwidth that is prioritized on Northwestel's multiprotocol label switching network. Non-Basic CoS traffic is a highly constrained resource, one that many classes of customers rely on, including government, law enforcement, health care, education, and air traffic control.

#### **Commission's analysis**

239. Regarding Iristel/Ice Wireless's concern that there is too much flexibility to deny credits, and its request that maintenance and force majeure exceptions be removed from the tariff, it would not be reasonable to deter Northwestel from performing necessary maintenance or to penalize it for downtime that is outside its control. However, if a specific dispute arises that a wholesale customer considers unfair, it can bring the issue to the Commission's attention.
240. Other issues raised should be explored in a follow-up proceeding regarding configurations for the Ethernet-based Layer 2 wholesale service, since:
- Northwestel provided a reasonable explanation as to the limits of Wholesale Connect as a Layer 3 service and why it is able to provide only a small

proportion of designated CoS bandwidth. This could be improved under a Layer 2 service; and

- the SLA targets for the highest CoS in the Wholesale Connect tariff are not at par with the universal service objective targets for latency, jitter, and packet loss.

### **Should the monitoring regime applicable to Wholesale Connect be changed?**

241. In Telecom Regulatory Policy 2018-123, the Commission established a regime to monitor and assess the quality of the Wholesale Connect service that Northwestel provides to competitors.

242. Parties generally agreed that it would be more appropriate to address quality of service issues through the CoS and SLA provisions in the Wholesale Connect tariff. More targeted measures to support quality of service can be made in those provisions, and it is the best way to address the quality of service issues raised.

243. In light of the above, the Commission finds it appropriate to continue applying the existing monitoring regime to Wholesale Connect and determines that the regime will also apply to the Ethernet-based Layer 2 service.

### **Should Northwestel provide the option to purchase dedicated bandwidth as part of Wholesale Connect?**

244. Dedicated bandwidth is bandwidth that is guaranteed to be available at all times. That is, if a business subscribes to a 1 Gbps dedicated bandwidth service, it will always have access to 1 Gbps of bandwidth.

245. The Wholesale Connect tariff does not currently allow competitors to purchase dedicated bandwidth.

### **Positions of parties**

246. The GNWT, Iristel/Ice Wireless, and SSi submitted that Wholesale Connect should provide the option to purchase dedicated bandwidth. SSi submitted that this change needs to be considered because of the lack of meaningful service assurance associated with Wholesale Connect.

247. Northwestel submitted that while it may be technically possible for the current Layer 3 service to provide a “dedicated-like” level of service, it would take time, and the additional costs would be prohibitive. Furthermore, it indicated that implementing this option could negatively affect other customers on the network, including critical services supporting government, health care, and other essential services.

### **Commission’s analysis**

248. The Commission is concerned that a dedicated-like service may be very expensive and could compromise traffic related to critical services.

249. In addition, truly dedicated bandwidth cannot be provided as part of Wholesale Connect, which is a Layer 3 service. However, a Layer 2 service could offer dedicated bandwidth.

250. In light of the above, this issue will be considered in the context of the Ethernet-based Layer 2 service that Northwestel is to provide.

### **Should 10 Gbps Ethernet ports be available in Northwestel's NBP communities?**

251. Northwestel's Wholesale Connect tariff defines an NBP community as a community outside Northwestel's serving territory where Wholesale Connect traffic accesses the broader Internet.

252. Northwestel currently provides 1 Gbps ports in its NBP communities. In general, higher-speed ports offer a better user experience by, for example, increasing the quality of video transmission or data transfers and reducing congestion.

### **Positions of parties**

253. The GNWT, Iristel/Ice Wireless, and SSI supported making 10 Gbps Ethernet ports available in NBP communities. Iristel/Ice Wireless submitted that the current limit of 1 Gbps bottlenecks competitors whose needs exceed that limit. As an intermediate step between 1 Gbps and 10 Gbps Ethernet ports, Iristel/Ice Wireless proposed that 2 Gbps connections be supported by aggregating two 1 Gbps ports.

254. Northwestel submitted that to provide a 10 Gbps port option, it would need to significantly upgrade its infrastructure, which would require it to incur significant costs. Further, Northwestel noted that based on the current Wholesale Connect usage of all competitors, there is no indication that competitors' needs are exceeding or will soon exceed the capacity of the 1 Gbps ports.

255. Northwestel indicated that it could be possible to make available a 2 Gbps connection. However, it would have to assess the costs, and requests would have to be assessed on a case-by-case basis. If a Wholesale Connect customer requested it, Northwestel indicated that it would be prepared to file a tariff application, with a supporting cost study, to introduce a 2 Gbps port link aggregation.

### **Commission's analysis**

256. Requiring Northwestel to upgrade its infrastructure to provide 10 Gbps ports would carry significant costs and likely increase rates.

257. According to confidential information provided by Northwestel, competitors' current usage is significantly lower than the capacity of the 1 Gbps Ethernet ports. However, usage could increase if the service better met the needs of current and prospective competitors.



258. In light of the above, the Commission finds it appropriate to require Northwestel to provide 2 Gbps port link aggregation if a competitor requests this option. This is a balanced, cost-effective option that will provide significantly more capacity.

**Should more than one PoP per community per wholesale customer be available?**

259. The Wholesale Connect tariff states that the service allows for the transport of communications traffic across Northwestel's network between communities. The tariff also states that the service is to be provided to one designated PoP per community per wholesale customer. Iristel/Ice Wireless and SSI supported making more than one PoP available per community per wholesale customer.

260. Mandating more than one PoP in a community for a wholesale customer is beyond the scope and purpose of Wholesale Connect. The purpose of Wholesale Connect is to provide a wholesale transport service, which allows wholesale customers to distribute their network traffic between communities. The proposed change would, to some extent, allow wholesale customers to distribute network traffic within communities.

261. Under the Wholesale Connect tariff, the wholesale customer selects the PoP location. The customer can then select the location that is most beneficial in terms of deploying local access infrastructure in a cost-effective way.

262. In light of the above, the Commission finds that it would not be appropriate to require Northwestel to provide more than one PoP per community per wholesale customer.

**Should Northwestel provide more than one NBP community on a redundant path?**

263. As previously indicated, Northwestel's Wholesale Connect tariff defines an NBP community as a community outside Northwestel's serving territory where Wholesale Connect traffic accesses the broader Internet.

264. When this proceeding was first launched, the only NBP community was High Level, Alberta. However, since then, Iristel/Ice Wireless requested another NBP community on a redundant path.<sup>13</sup> As a result, Northwestel introduced a new NBP in Fort St. John, British Columbia.

**Positions of parties**

265. Several parties supported adding more than one NBP community on a redundant path. The GNWT, Iristel/Ice Wireless, and SSI submitted that an additional NBP community on a redundant path would offer significant improvements over a single path in terms of resiliency.

---

<sup>13</sup> Redundant paths improve network resiliency by providing a backup route for network traffic in case of a failure on the main path.

266. Iristel/Ice Wireless submitted that the addition of an NBP in Fort St. John does not address the fact that all of the Yukon is served by a single fibre transport route and that a break anywhere along that route will result in an outage in the entire territory.
267. Northwestel submitted that having more than one NBP community on a redundant path is not possible in practice since there are very few communities where it can provide an NBP. Currently, it offers an NBP in High Level, with the possibility of a redundant path through another NBP in Fort St. John. If it placed an NBP along its network before reaching these communities (i.e., in Hay River, Northwest Territories, or Fort Nelson, British Columbia), network traffic would still need to find a path south through either High Level or Fort St. John, respectively. Accordingly, it submitted that the existing NBP communities remain appropriate.

### **Commission's analysis**

268. The addition of a new NBP in Fort St. John, as approved in Telecom Order 2021-414, already provides the potential for increased reliability of service for Wholesale Connect customers. While it may provide a redundant path for some communities, it does not provide increased reliability for every community, including in the Yukon.
269. However, as Northwestel indicated, adding additional NBPs may not be feasible, or may not improve resiliency. By definition, an NBP allows the exchange of traffic from a given network to outside networks, which provides access to the broader Internet. As noted, Northwestel itself has only two NBPs: one in High Level, and one in Fort St. John. Therefore, if Northwestel provided its Wholesale Connect customers with an additional NBP somewhere within its network, traffic from that NBP would still need to flow through one of Northwestel's two NBPs to access the broader Internet. As a result, this would not necessarily provide more resiliency, since it neither creates redundant infrastructure nor adds more locations where Northwestel can exchange network traffic outside its serving territory.
270. In light of the above, the Commission finds that Northwestel should not be required to create an additional NBP on a redundant path.

### **Summary of requirements related to Wholesale Connect**

271. In light of all the above, and pursuant to subsections 27(2) and 42(1) of the Act, the Commission directs Northwestel to develop an Ethernet-based Layer 2 service for competitors. This service is to include CoS options and an MTU size that is appropriate for competitors.
272. The Commission directs Northwestel to consult with Iristel/Ice Wireless and SSI regarding configurations for the service, including an appropriate MTU size, and to file proposed configurations for approval by **16 July 2025**. The proposed configurations should address the following:

- how wholesale customers' desire to directly buy bandwidth at a CoS of their choice, without having to purchase any other item under the associated tariff, can be balanced against any underlying infrastructure limitations;
- whether the SLA for the new service can provide targets consistent with the universal service objective standard for latency, jitter, and packet loss;
- how penalty credits under the SLA can be addressed for the new service; and
- whether a dedicated bandwidth service can be provided.

273. In addition, the Commission directs Northwestel, upon receiving a request from a competitor, to file a tariff application for 2 Gbps port link aggregation. The application is to include a supporting cost study.

274. Northwestel must maintain its current Layer 3 Wholesale Connect service until the Ethernet-based Layer 2 service fulfills the needs of competitors and the existing Wholesale Connect service can be phased out.

275. The monitoring regime set out in Telecom Regulatory Policy 2018-123 will continue to apply to Wholesale Connect without any changes. It will also apply to the new Ethernet-based Layer 2 transport service.

### **Conclusion on consumer choice**

276. It is a priority for the Commission to help address the need for more choice of ISPs in the Far North. In this proceeding, the Commission considered what steps it could take to foster competition and improve choice.

277. The Commission has determined that a wholesale HSA service in the Far North is not viable. However, improvements to Wholesale Connect could improve competition without harming investment.

278. The Commission is therefore requiring that Northwestel make improvements to its Wholesale Connect service, as described above. These improvements will help foster consumer choice by helping existing and prospective competitors enter the market and provide high-quality Internet services in the Far North.

### **Reconciliation in the Far North**

279. Many residents of the Far North are Indigenous, and the outcomes of this proceeding will directly impact their communities. Thus, at every stage of its decision making in this proceeding, the Commission sought to prioritize the needs of Indigenous communities in the Far North.

280. The Commission recognizes the important work that needs to be done to advance reconciliation and is committed to engaging with Indigenous peoples based on the recognition of rights, respect, co-operation, and partnership.

281. The Commission thanks all First Nations and Inuit participants and organizations advocating on behalf of Indigenous peoples for sharing their views on possible measures it could take to help advance reconciliation. The Commission has already taken action to address some of the views that were shared.

282. For example, earlier this year, the Commission announced the creation of an Indigenous Relations Team. The Indigenous Relations Team offers a dedicated point of contact within the Commission for Indigenous peoples and aims to:

- ensure that the needs of Indigenous communities are reflected and addressed in the Commission's work;
- build and strengthen the Commission's relationship with Indigenous peoples;
- help Indigenous peoples better participate in Commission proceedings; and
- mediate or facilitate the relationships between Indigenous peoples and TSPs.

283. In addition, in Telecom Regulatory Policy 2024-328, the Commission has implemented changes to the Broadband Fund to better support Indigenous applicants and communities. In a separate process to develop an Indigenous Stream under the Broadband Fund, the Commission will engage with Indigenous parties to remove barriers for Indigenous applicants to apply for funding to improve connectivity in underserved Indigenous communities.

284. Building on this action, the current regulatory policy further advances reconciliation in the Far North by addressing the following issues:

- equity and substantive equality;
- the United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration);
- the First Nations principles of ownership, control, access, and possession and the National Inuit Strategy on Research objectives and actions;
- Indigenous rights, treaties, agreements, and negotiations;
- economic reconciliation; and
- how telecommunications services are offered and provided to Indigenous peoples in the Far North

### **Equity and substantive equality**

285. In Telecom Notice of Consultation 2022-147, the Commission asked what actions it should take to ensure that the principles of equity and substantive equality are appropriately addressed in its evaluation of possible regulatory outcomes.

### **Positions of parties**

286. The parties that commented on the issue of equity and substantive equality are Champagne and Aishihik First Nations, the CYFN, ECN and JBCCS, First Mile, the First Nation of Na-Cho Nyäk Dun, the GN, the GNWT, IRP Consulting, Kwanlin Dün First Nation, PIAC, the Tr’ondëk Hwëch’in Government, and the YG.

287. To advance equity and substantive equality in the provision of telecommunications services in the Far North, parties submitted that the Commission should:

- actively participate with local Indigenous governments to co-design policy implementation, drawing on local knowledge while being attentive to cultural sensitivities;
- recognize the importance of access to affordable Internet services;
- not pursue a one-size-fits-all approach to the provision of telecommunications services; and
- collaborate with Indigenous communities in data collection to ensure that decisions about access, cost, affordability, and reliability are accurately informed.

288. In particular, First Mile, Kwanlin Dün First Nation, and PIAC referred to equity and substantive equality in the context of inconsistent access to affordable and reliable telecommunications services in Canada. Kwanlin Dün First Nation stated that “neither equity nor substantive equality is possible as long as the quality and cost of Internet is inconsistent across Canada” and that regulations should ensure that costs are similar for all customers regardless of where they are in Canada.

289. The First Nation of Na-Cho Nyäk Dun called on the Commission to help ensure that Indigenous communities have access to telecommunications services that are of the same quality and affordability as those available in non-Indigenous communities.

290. Champagne and Aishihik First Nations submitted that the Commission should incorporate digital equity into its mandate and should acknowledge that the deficiencies in the telecommunications services in the Far North exist because of systemic barriers.

291. The Tr’ondëk Hwëch’in Government also noted the importance of digital connectivity in healing intergenerational trauma associated with historical and ongoing colonialism.

### **Commission’s analysis**

292. The Commission acknowledges that:

- access to equitable, affordable, and reliable telecommunications services helps Indigenous peoples participate in social and economic settings, including the digital economy;

- the digital divide experienced by Indigenous peoples in the Far North is a result of systemic barriers; and
- equity and substantive equality are only achievable if Indigenous and non-Indigenous peoples have comparable levels of access to telecommunications services in terms of quality and cost of service.

293. The Commission is hopeful that its determinations in this proceeding, including the introduction of a subsidy and measures to improve reliability, will help further equity and substantive equality by reducing the inequalities between residents of the Far North (many of whom are Indigenous) and those living elsewhere in Canada.

### **The UN Declaration**

294. The UN Declaration is an international human rights instrument that defines the individual and collective rights of Indigenous peoples. It establishes a range of collective and individual rights that constitute the minimum standards required to protect the rights of Indigenous peoples and to contribute to their survival, dignity, and well-being.

295. In Telecom Notice of Consultation 2022-147, the Commission asked what actions it should take to apply the principles of the UN Declaration to its evaluation of possible regulatory outcomes.

### **Positions of parties**

296. The parties that commented on the UN Declaration are Champagne and Aishihik First Nations, the CYFN, ECN and JBCCS, First Mile, the First Nation of Na-Cho Nyäk Dun, the GN, the GNWT, Kluane First Nation, Kwanlin Dün First Nation, the National Indigenous Economic Development Board (NIEDB), PIAC, SSi, TELUS, Taku River Tlingit First Nation, and the YG.

297. All parties that commented on the issue supported the Government of Canada's commitment to implementing the UN Declaration. Several parties asked that the Commission consider the principles established in the UN Declaration as part of its decision making.

298. The CYFN stated that the Commission should make sure that rights under the UN Declaration are implemented. Champagne and Aishihik First Nations, the First Nation of Na-Cho Nyäk Dun, the GNWT, PIAC, and SSi echoed this view.

299. PIAC submitted that ensuring access to affordable broadband is a critical component of validating and exercising the rights provided in the UN Declaration.

### **Commission's analysis**

300. The Commission acknowledges that:

- the UN Declaration is a statement of the collective and individual rights that are necessary for the survival, dignity, and well-being of Indigenous peoples; and
- working together in partnership and respect is a key component towards helping advance reconciliation.

301. The UN Declaration and the views of First Nations and Inuit participants and organizations advocating on behalf of Indigenous peoples have informed measures to further reconciliation in this proceeding. The steps the Commission is taking in this regulatory policy to help improve affordability, reliability, and competition align with provisions in the UN Declaration.

**First Nations principles of ownership, control, access, and possession and National Inuit Strategy on Research objectives and actions**

302. The First Nations principles of ownership, control, access, and possession – commonly referred to as the OCAP® principles – assert that First Nations alone should have control over data collection processes in their communities, and that they own this information and control how it can be used.

303. The National Inuit Strategy on Research (NISR) outlines the coordinated actions required to improve the way that Inuit Nunangat research is governed, resourced, conducted, and shared (the NISR objectives and actions).

304. In Telecom Notice of Consultation 2022-147, the Commission asked for comments on actions it should take to apply the OCAP® principles and NISR objectives and actions to its evaluation of possible regulatory outcomes.

**Positions of parties**

305. The parties that commented on this issue are the CYFN, ECN and JBCCS, First Mile, the First Nation of Na-Cho Nyäk Dun, the GN, the GNWT, Kluane First Nation, Kwanlin Dün First Nation, PIAC, SSi, and the YG.

306. All parties that commented on this issue agreed that any data activities undertaken by the Commission should respect the data sovereignty of Indigenous peoples following the OCAP® principles and NISR objectives and actions, including prior consultation on methods and use of the data.

**Commission's analysis**

307. The Commission acknowledges that:

- the OCAP® principles and NISR objectives and actions are important considerations in the Far North and across Canada; and

- improving access to telecommunications services supports Indigenous peoples' ability to advance the OCAP® principles and NISR objectives and actions.

308. The outcomes in this proceeding, which will help improve access by First Nations and Inuit to affordable and reliable telecommunications services, will support the OCAP® principles and NISR objectives and actions. Access to telecommunications services is essential for communities to participate in every stage of research projects, including contributing to research agenda-setting in the Far North.

### **Indigenous rights, treaties, agreements, and negotiations**

309. In Telecom Notice of Consultation 2022-147, the Commission asked for comments on actions it could take to ensure that Indigenous rights, treaties, agreements, and negotiations in the Far North are appropriately addressed in this proceeding.

### **Positions of parties**

310. The parties that commented on this issue are Champagne and Aishihik First Nations, the CYFN, ECN and JBCCS, First Mile, the First Nation of Na-Cho Nyäk Dun, the GN, the GNWT, Kluane First Nation, Kwanlin Dün First Nation, PIAC, SSi, the Tr'ondëk Hwëch'in Government, and the YG.

311. Two main themes emerged on the record of this proceeding:

- the Commission should take into consideration Indigenous rights and treaties in the context of this proceeding; and
- the Commission, as an agent of the Crown, has certain obligations with regard to Indigenous peoples.

### **Commission's analysis**

312. The Commission acknowledges that:

- it is responsible for conducting its proceedings and rendering its decisions in a manner that respects Indigenous peoples' rights, treaties, and agreements;
- ensuring its actions respect Indigenous peoples' rights, treaties, and agreements is consistent with the constitutional recognition and affirmation of these rights; and
- affordable and reliable telecommunications services are important in facilitating Indigenous peoples' access to culture, language, health care, education, and other social and economic opportunities.



313. With that in mind, throughout this proceeding the Commission has undertaken meaningful efforts to engage with and adapt its processes to meet the needs of Indigenous peoples.

### **Economic reconciliation**

314. Economic reconciliation refers to the economic redress of historical injustices to Indigenous peoples. It is a key component of reconciliation that strives to achieve economic balance and equality for Indigenous peoples, rectifying social, political, and financial harms that have resulted from systemic disempowerment.

315. In Telecom Notice of Consultation 2022-147, the Commission asked for comments on actions it should take to apply the principles of economic reconciliation to its evaluation of possible regulatory outcomes.

### **Positions of parties**

316. The parties that commented on economic reconciliation are Champagne and Aishihik First Nations, ECN and JBCCS, First Mile, the First Nation of Na-Cho Nyäk Dun, the GN, the GNWT, Kluane First Nation, the NIEDB, PIAC, TELUS, Taku River Tlingit First Nation, and the YG.

317. In general, parties suggested that economic reconciliation encompassed, but was not limited to, the following:

- meaningful partnerships and mutually beneficial opportunities for economic prosperity; and
- the redressing of past injustices through the provision of capacity building as well as economic, employment, and growth opportunities for Indigenous peoples.

318. ECN and JBCCS, the First Nation of Na-Cho Nyäk Dun, and Taku River Tlingit First Nation indicated that the development and ownership of Indigenous telecommunications infrastructure and technologies is an important aspect of economic reconciliation.

### **Commission's analysis**

319. The Commission acknowledges that furthering economic reconciliation provides the means to redress past injustices and support future growth and prosperity, and that this is an important consideration in this proceeding.

320. The Commission is hopeful that the outcomes of this proceeding will help advance economic reconciliation. Although some of the ideas raised by parties, like profit- or equity-sharing opportunities, employment equity, or hiring-focused requirements, are beyond the Commission's authority to impose, the Commission expects TSPs in the Far North to take action to help advance economic reconciliation, including by

providing capacity building as well as economic, employment, and growth opportunities to Indigenous peoples wherever possible.

321. The introduction of a subsidy to improve affordability, and the removal of Northwestel's standalone DSL surcharge, as announced in Telecom Decision 2024-99, can also help improve the economic conditions and reduce inequalities between residents of the Far North, many of whom are Indigenous, and those living elsewhere in Canada.
322. Moreover, improving access to wholesale transport by improving Wholesale Connect could further economic reconciliation by making it easier for Indigenous-owned ISPs to build their own access infrastructure and provide their own services.
323. After the close of record of the proceeding, and prior to the publication of this regulatory policy, Sixty North Unity [announced](#) its intention to acquire Northwestel from Bell Canada for up to \$1 billion in cash, subject to adjustments. Sixty North Unity is a consortium of Indigenous development corporations and communities from the Yukon, the Northwest Territories, and Nunavut. As of the time of publication of this regulatory policy, the purchase has not been concluded. The determinations in this regulatory policy have been made solely based on the record of this proceeding. The Commission is open to reconsidering any elements of this regulatory policy or the broader regulatory framework that applies to Northwestel, should the proposed transaction close.
324. The Commission notes comments made by parties, First Nations and Inuit rights holders, and organizations advocating on behalf of Indigenous peoples regarding the importance of Indigenous ownership of telecommunications infrastructure in advancing economic reconciliation. On that basis, the Commission acknowledges that, should the transaction close, Sixty North Unity would become the owner of the largest telecommunications network in the Far North, which could be an important step towards economic reconciliation.

### **How telecommunications services are offered and provided to Indigenous peoples in the Far North**

325. In Telecom Notice of Consultation 2022-147, the Commission asked if it should take action to improve how telecommunications services are offered or provided to better meet the needs of Indigenous peoples in the Far North.

### **Positions of parties**

326. The parties that commented on this issue are Champagne and Aishihik First Nations, the CYFN, ECN and JBCCS, First Mile, the First Nation of Na-Cho Nyäk Dun, the GN, the GNWT, IRP Consulting, Kluane First Nation, the NIEDB, PIAC, SSi, Taku River Tlingit First Nation, the Tr'ondëk Hwëch'in Government, and the YG.

327. Parties provided proposals related to employment, training, digital literacy, and customer service in Indigenous languages. In addition, parties indicated the need to recognize Indigenous communities' unique needs for service provision.

#### **Commission's analysis**

328. While the Commission does not have jurisdiction to implement parties' proposals regarding employment, training, and digital literacy, it acknowledges that:

- telecommunications services in the Far North should address the economic and social needs of Indigenous users; and
- there is not one general approach to the provision of telecommunications services to Indigenous peoples.

329. Accordingly, the Commission encourages all TSPs to ensure that they are as responsive as possible to the specific needs of their Indigenous customers.

330. The Commission also encourages Northwestel to reach out to the communities it serves regarding what information should be made available in Indigenous languages.

331. In addition, a new requirement that Northwestel report on its progress in making information available in Indigenous languages is discussed below in paragraphs 347-349.

#### **Meaningful engagement with Indigenous communities**

332. In Telecom Notice of Consultation 2022-147, the Commission asked if it should impose requirements or expectations on TSPs regarding meaningful engagement with Indigenous communities.

#### **Positions of parties**

333. The parties that commented on engagement are Champagne and Aishihik First Nations, CNOOC, the CYFN, ECN and JBCCS, First Mile, the GN, the GNWT, Iristel/Ice Wireless, IRP Consulting, Kluane First Nation, the NIEDB, Northwestel, PIAC, SSi, TELUS, the Tr'ondëk Hwëch'in Government, and the YG.

334. In general, two distinct themes emerged on the public record on this issue:

- the Commission's role in hearing and responding to the specific needs of Indigenous peoples; and
- the role of TSPs in engaging with Indigenous peoples and the Commission's role in mediating or facilitating this relationship.

335. Parties submitted measures that the Commission could introduce to ensure meaningful engagement with Indigenous communities, including:

- issuing an expectation or imposing a requirement for TSPs to engage with Indigenous communities; and
- imposing requirements on TSPs to abide by a Commission-approved engagement framework.

### **Commission's analysis**

336. The Commission acknowledges the importance of meaningful and ongoing engagement with Indigenous peoples in relation to the provision of telecommunications services. It is committed to hearing and responding to their specific needs. As discussed above, the Commission has committed to developing an Indigenous Stream under its Broadband Fund. As part of that process, the Commission will engage with Indigenous parties to remove barriers for Indigenous applicants to apply for funding to improve connectivity in underserved Indigenous communities.

337. Regarding TSP engagement with Indigenous communities, the record of this proceeding lacks consensus on specific and detailed measures that the Commission could require or expect of TSPs in the Far North. Specifically, the public record indicates that there is not one general approach when it comes to engagement. Any imposition of requirements at this stage might not meet the needs of a given Indigenous group. The Commission therefore finds that it is not appropriate to impose such requirements on, or provide expectations to, TSPs at this time.

338. However, the Commission acknowledges that:

- both the Commission and TSPs have their own roles to play in furthering meaningful engagement with Indigenous communities;
- meaningful and ongoing engagement by the Commission and TSPs in relation to the provision of telecommunications services is critical to furthering reconciliation with Indigenous peoples;
- there is no one-size-fits all approach to engagement; and
- there is much work to be done to help improve engagement by the Commission and TSPs in the Far North to advance reconciliation.

### **Northwestel's Reconciliation Plan**

339. In September 2022, Northwestel published a [Reconciliation Plan](#).

340. In this proceeding, Northwestel submitted that its Reconciliation Plan was built from feedback received during Broadband Fund consultations and its lessons from recent partnerships, and that it was developed under the guidance of its Community Advisory Board.

341. There are four components to Northwestel's Reconciliation Plan:

- improved access to high-quality Internet services;

- engagement;
- improved Indigenous representation with respect to employment and human resources processes; and
- increased appreciation of Indigenous history and culture.

342. Some outcomes that Northwestel committed to working towards by 2025 include ensuring that:

- communities have access to 50 Mbps download/10 Mbps upload or faster Internet speeds;
- Northwestel has an employee base that is 15% Indigenous; and
- Northwestel's workforce fully understands the history of Indigenous peoples in Canada, including the history and legacy of residential schools, the UN Declaration, treaty and Aboriginal rights, Indigenous law, and Indigenous–Crown relations.

#### **Positions of parties**

343. The GNWT commended the recent efforts that many TSPs have made to formalize their relationships with Indigenous peoples via the publication of reconciliation plans and other initiatives. However, the GNWT also cited issues that First Nations in the Far North had raised about Northwestel's consultations and engagement practices.

344. Kluane First Nation and the Tr'ondëk Hwëch'in Government submitted that Northwestel's engagement with them has fallen short of what they had expected from the company.

#### **Commission's analysis**

345. The Commission recognizes Northwestel's efforts in developing its Reconciliation Plan and establishing its Community Advisory Board, while noting First Nations' concerns with the plan.

346. There is a need for Northwestel to strengthen its reconciliation efforts. The Commission therefore expects that Northwestel will continue to collaborate with Indigenous communities and increase its efforts to address their concerns.

347. Furthermore, the Commission directs Northwestel to file, starting by **16 January 2026**, a yearly report on:

- the progress it has made towards the goals set out in its Reconciliation Plan;
- any changes to its Reconciliation Plan; and
- any areas identified for improvement.

348. Northwestel is to file these reports in 2026, 2027, and 2028.

349. As part of this reporting requirement, the Commission directs Northwestel to report on:

- employment-related matters, including with respect to its employment and training of Indigenous workers; and
- its progress in making more of its information available in Indigenous languages.

350. This will better enable the Commission to monitor Northwestel's progress towards its commitments.

### **Conclusion on reconciliation in the Far North**

351. The Commission is hopeful that the measures it is taking in this regulatory policy will help advance its commitment to reconciliation with Indigenous peoples. As a result of submissions from Indigenous participants in this proceeding, the Commission has created an Indigenous Relations Team, which works to promote Indigenous participation in Commission proceedings and help ensure the distinct nature and lived experiences of Indigenous peoples are considered across the Commission's work. Furthermore, this regulatory policy will help improve Indigenous peoples' access to equitable, affordable, and reliable telecommunications services. It will also support economic reconciliation by enabling Indigenous-owned ISPs to build their own access infrastructure and provide their own services.

### **Policy Direction**

#### **Affordability**

352. The introduction of a subsidy for retail Internet services in the Far North aligns with paragraphs 2(b) and (c) of the 2023 Policy Direction<sup>14</sup> (the Policy Direction). Enabling customers in the Far North to benefit from a discount will help improve affordability and lower prices for retail customers, and help improve access to high-quality, reliable, and resilient telecommunications services, including in rural, remote, and Indigenous communities.

353. The Commission's determinations with respect to Northwestel's price cap regime are in line with paragraphs 2(a), (b), and (c) of the Policy Direction. Namely, maintaining the existing pricing constraints for Northwestel's tariffed services in a market where there is insufficient competition to protect the interests of users will foster affordability for consumers. At the same time, maintaining the existing price

---

<sup>14</sup> *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023

floor constraints for its retail residential Internet services will ensure that Northwestel's retail rates do not introduce barriers to market entry and competition.

### **Reliability**

354. Requiring Northwestel to provide automatic bill credits for terrestrial Internet service outages aligns with paragraph 2(c) of the Policy Direction. This measure will increase Northwestel's incentive to invest in its network to help ensure that high-quality, reliable, and resilient telecommunications services are available in rural, remote, and Indigenous communities.

355. Furthermore, requiring Northwestel to provide increased communication, monitoring, and reporting of outages is consistent with paragraph 2(d) of the Policy Direction. This measure will serve to enhance and protect the rights of consumers in their relationships with TSPs, since they will be better informed about outages, service disruptions, and the reliability of Northwestel's Internet services.

### **Competition**

356. Requiring improvements to Wholesale Connect, but not mandating a wholesale HSA service in the Far North, appropriately balances the objectives of encouraging competition and investment, reducing barriers to market entry, and ensuring the availability of high-quality telecommunications services in all regions of Canada, as stated in paragraphs 2(a), (c), and (e) and section 8 of the Policy Direction.

357. The improvements that Northwestel is required to make to Wholesale Connect will help encourage competition and reduce barriers to entry by providing better access to the incumbent's infrastructure and allowing competitors to provide their own retail services.

358. Not mandating a wholesale HSA service helps ensure that Northwestel will continue to invest in high-quality telecommunications services in the Far North and avoids worsening the challenging business case for delivering and maintaining services in rural, remote, and Indigenous communities.

### **Dissenting opinion**

359. The dissenting opinion of Commissioner Claire Anderson is attached.

Secretary General

### **Related documents**

- *Call for comments – Implementing a retail Internet service subsidy in the Far North*, Telecom Notice of Consultation CRTC 2025-10, 16 January 2025
- *Broadband Fund policy review – New policy for funding capital projects*, Telecom Regulatory Policy CRTC 2024-328, 12 December 2024

- *Northwestel Inc. – Appropriateness of Northwestel’s \$20 surcharge for stand-alone residential digital subscriber line (DSL) Internet access services*, Telecom Decision CRTC 2024-99, 9 May 2024
- *Broadband Fund – Project funding approval for SSi Micro Ltd.’s satellite project in Nunavut*, Telecom Decision CRTC 2023-418, 20 December 2023
- *Call for comments – Development of a regulatory framework to improve network reliability and resiliency – Mandatory notification and reporting about major telecommunications service outages*, Telecom Notice of Consultation CRTC 2023-39, 22 February 2023, as amended by Telecom Notice of Consultation CRTC 2023-39-1, 11 September 2023
- *Competitive Network Operators of Canada – Application to review and vary Telecom Regulatory Policy 2021-239*, Telecom Decision CRTC 2023-23, 3 February 2023, modified by Telecom Decision 2023-23-1, 2 March 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 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
- *Northwestel Inc. – Wholesale Connect Service – Addition of a new network breakout point in Fort St. John, British Columbia*, Telecom Order CRTC 2021-414, 15 December 2021
- *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
- *Review of the price cap and local forbearance regimes*, Telecom Regulatory Policy CRTC 2020-40, 4 February 2020
- *Phase-out of the local service subsidy regime*, Telecom Regulatory Policy CRTC 2018-213, 26 June 2018
- *Modern telecommunications services – The path forward for Canada’s digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016
- *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*, Broadcasting and Telecom Regulatory Policy CRTC 2016-102, 17 March 2016



- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015, as amended by Telecom Regulatory Policy CRTC 2015-326-1, 9 October 2015
- *Northwestel Inc. – Basket structure and pricing constraints for terrestrial retail Internet services*, Telecom Decision CRTC 2015-79, 4 March 2015
- *Northwestel Inc. – Tariffs for terrestrial retail Internet services*, Telecom Decision CRTC 2015-78, 4 March 2015
- *Northwestel Inc. – Regulatory Framework, Modernization Plan, and related matters*, Telecom Regulatory Policy CRTC 2013-711, 18 December 2013
- Telecom Order CRTC 2013-96, 25 February 2013
- *Northwestel Inc. – Review of regulatory framework*, Telecom Regulatory Policy CRTC 2011-771, 14 December 2011
- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011; as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011
- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Review of the Internet traffic management practices of Internet service providers*, Telecom Regulatory Policy CRTC 2009-657, 21 October 2009
- *Price cap framework for local incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007
- *Long-distance competition and improved service for Northwestel customers*, Decision CRTC 2000-746, 30 November 2000
- *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000
- *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, 19 October 1999
- *Northwestel Inc. – Interconnection of interexchange carriers and related resale and sharing issues*, Telecom Decision CRTC 98-1, 11 February 1998

## Appendix to Telecom Regulatory Policy 2025-9

### Should the Commission apply the Wholesale Analysis in the Far North?

1. Outside of the Far North, as set out in Telecom Regulatory Policy 2015-326, the Commission typically relies on the essential services test (the Essentiality Test) to determine whether wholesale measures are appropriate to address retail market concerns. The Commission then considers whether there may be policy considerations that justify a different outcome than the economic considerations of the Essentiality Test. Taken together, the Essentiality Test and the policy considerations are referred to as the Wholesale Analysis.
2. The Essentiality Test proceeds by first defining relevant markets, and then assessing three components: the input component, the competition component, and the duplicability component. A wholesale service must meet all three components to be considered essential for competition:
  - Input component: Is a service or facility required as an input by competitors to provide telecommunications services in a relevant downstream (retail) market?
  - Competition component: Is a service or facility controlled by a firm (or firms) that has upstream (wholesale) market power such that withdrawing access to the service or facility would likely result in a substantial lessening or prevention of downstream competition?
  - Duplicability component: Is it practical or feasible for competitors to duplicate the functionality of the service or facility?
3. The Commission may use a policy consideration to justify a decision to mandate the provision of a wholesale service that does not meet the Essentiality Test. Conversely, the Commission may use a policy consideration to justify a decision not to mandate the provision of a wholesale service that meets the Essentiality Test. The policy considerations that the Commission has historically considered are as follows:
  - Public good: Is there a need to mandate the service for reasons of social or consumer welfare, public safety, or public convenience?
  - Interconnection: Will the service promote the efficient deployment of networks and facilitate network interconnection agreements?
  - Innovation and investment: Will mandating the facility or wholesale service positively affect the level of innovation and investment in advanced or emerging networks or services for incumbents or competitors, or impact the associated level of adoption of advanced or emerging services by telecommunications users?

4. In Telecom Notice of Consultation 2022-147, the Commission asked if the Wholesale Analysis can be applied in the Far North, and whether it should be modified given the unique circumstances of the region. The Commission expressed a preliminary view that the Essentiality Test should apply in the Far North because it is based on economic principles that apply to Northwestel Inc.'s (Northwestel) serving territory.
5. Additionally, while Phase I of that proceeding was ongoing, SSi Canada (SSi) filed a Part 1 application requesting that the Commission direct Northwestel to provide a wholesale third-party Internet access service, or wholesale high-speed access (HSA) service. The Commission has considered the record of SSi's Part 1 application as part of its evaluation of whether to mandate a wholesale HSA service in the Far North.

#### **Positions of parties**

6. Most parties, including Champagne and Aishihik First Nations; Competitive Network Operators of Canada (CNOc); the Council of Yukon First Nations (CYFN); the First Nation of Na-Cho Nyäk Dun; the Government of the Northwest Territories (GNWT); Iristel Inc., on its own behalf and on behalf of Ice Wireless Inc. (collectively, Iristel/Ice Wireless); the Public Interest Advocacy Centre (PIAC), SSi, TELUS Communications Inc. (TELUS), TekSavvy Solutions Inc. (TekSavvy), and an individual intervener submitted that the Wholesale Analysis and/or the Essentiality Test should apply in the Far North.
7. Northwestel submitted that the Wholesale Analysis should not be applied in the Far North given the challenging economics of building and maintaining networks there.
8. Parties addressed policy considerations that they thought the Commission should take into account as part of the Wholesale Analysis. The CYFN, the GNWT, and PIAC submitted that the existing policy considerations were appropriate, while others proposed new policy considerations, including:
  - the urgent need for affordable and reliable telecommunications services in rural, remote, and Indigenous communities; and
  - furthering reconciliation and meeting the distinct needs of Indigenous peoples in the Far North.
9. SSi and TELUS submitted that none of the proposed policy considerations should be adopted because they are already captured by the existing policy considerations and the Essentiality Test, they are already required to be considered under the Act, or they are outside the proper scope of the Wholesale Analysis. Northwestel also submitted that it does not support adding more non-economic considerations to the Wholesale Analysis.

### **Commission's analysis**

10. Many parties supported the application of the Wholesale Analysis in the Far North, including the Essentiality Test, citing its foundation on sound economic principles and longstanding industry support. The Commission acknowledges Northwestel's concerns and the specific circumstances of the region. However, the current Wholesale Analysis framework can accommodate the consideration of these particular conditions. For instance, the challenging economics of building and maintaining networks in the Far North can be addressed through the competition component of the Essentiality Test as well as the innovation and investment policy consideration.
11. As for the new policy considerations proposed by parties, they can already be considered within the existing framework and policy objectives. Specifically, the urgent need for affordable and reliable services can be considered under the existing innovation and investment consideration. For instance, requiring wholesale access could affect the business case for investment, influencing both the affordability and reliability of services. Moreover, advancing reconciliation is a broad, overarching principle that should guide the policy development process and be considered at each step of the process, rather than as a discrete component of the Wholesale Analysis.
12. Based on the above, the Commission will apply the Wholesale Analysis, without modification, in the Far North.

### **Should the Commission mandate a wholesale HSA service in the Far North?**

#### **Preliminary matter – Relevant infrastructure**

13. Before the Commission can consider whether to mandate a wholesale HSA service in the Far North, it must first define certain parameters of the service. In particular, it must determine which infrastructure the proposed service would be provided over, to help define the relevant product and geographic markets as part of the Essentially Test.
14. Parties proposed that a potential wholesale HSA service be mandated over all of Northwestel's terrestrial infrastructure, including copper facilities. Northwestel has cable or fibre-to-the-premises (FTTP) facilities in almost every community it serves in the Yukon and the Northwest Territories. The potential retail subscriber base for services over copper facilities is low and declining, with Northwestel planning to decommission copper in communities with access to FTTP over the next five years.
15. Promoting a framework that creates incentives to subscribe to copper-based services may undermine elements of the 2023 Policy Direction<sup>1</sup> (the Policy Direction) that seek to support innovation, high-quality networks, and the modernization of

---

<sup>1</sup> *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023

networks. Accordingly, it would not be appropriate for a wholesale HSA service in the Far North to be mandated over copper facilities.

16. Therefore, in the remainder of this section, the Commission examines whether a potential wholesale HSA service should be mandated over the following infrastructure: terrestrial transport facilities, and cable and FTTP access facilities, in all communities where those facilities exist.

### **Essentiality Test**

#### ***Product and geographic markets***

17. The first step in applying the Essentiality Test is to define the relevant markets for the wholesale service, including product and geographic components. These are typically the smallest group of services and geographic area over which a firm could profitably impose a significant and sustainable price increase.
18. In Telecom Regulatory Policy 2015-326, the relevant product market was determined to be wholesale HSA services, including aggregated and disaggregated wholesale HSA services over various technologies, such as copper, cable, and FTTP. The relevant geographic market was determined to be the incumbent carrier's operating territory. In this proceeding, no party submitted that these definitions are not appropriate in the context of defining product and geographic markets in the Far North.
19. Although not raised by parties in the specific context of defining the relevant product market for wholesale HSA services in the Essentiality Test, many parties raised the entry of low Earth orbit (LEO) satellite-based Internet services in the retail Internet service market in the Far North. SpaceX Canada Corp. (SpaceX) indicated on the record of this proceeding its interest in offering wholesale services in the future, and its retail services appear to be comparable to Northwestel's terrestrial Internet services. However, as indicated above, based on data provided by Northwestel and SpaceX on the record of this proceeding, it is too early to assess the potential impact of these new market entrants and whether consumers in the Far North view LEO satellite-based Internet services as substitutes for terrestrial Internet services.
20. Accordingly, the relevant product and geographic markets should remain unchanged from Telecom Regulatory Policy 2015-326 and should not include wholesale HSA services provided over satellite technologies.

#### ***Input component***

21. The second step in applying the Essentiality Test is to determine whether the facility associated with the wholesale service is required as an input by another firm to provide downstream retail services. In this case, the Commission must determine whether the wholesale HSA service is required to provide retail Internet services. As part of its analysis, the Commission takes into consideration demand for the wholesale service.

22. Given the challenging business case for building telecommunications facilities in the Far North, a wholesale HSA service would be required as an input to provide retail Internet services comparable to Northwestel's. Northwestel also acknowledged that it is possible that the input component of the test would be met.
23. There is also demonstrated demand, since Iristel, SSi, and TekSavvy expressed interest in using such a service in at least some parts of the Far North.
24. In light of the above, the Commission determines that the input component of the Essentiality Test is met.

***Competition component***

25. The third step in applying the Essentiality Test is to examine two sub-elements: (i) the upstream market conditions, specifically, whether a firm or a group of firms has market power; and (ii) the impact that any upstream market power might have on competition levels in the associated downstream retail market(s). In this case, the upstream market is a wholesale HSA service and the downstream market is retail Internet services.
26. Regarding the first sub-element, Northwestel submitted that it will soon not have upstream market power for wholesale HSA services, since SpaceX's current retail offering already demonstrates that comparable competitive services can arise without regulatory intervention. SpaceX has indicated its interest in offering wholesale services in the future. Conversely, CNOC submitted that telecommunications services delivered through LEO satellite technology do not constitute a substitute for terrestrial services.
27. As noted above, based on data submitted on the public record, the Commission finds that it is too early to assess whether consumers in the Far North view LEO satellite-based Internet services as substitutes for terrestrial Internet services. Therefore, as the only potential provider of terrestrial-based wholesale HSA services in the Far North, Northwestel has upstream market power, and the Commission finds that the first sub-element is met.
28. Regarding the second sub-element, Northwestel submitted that this element is not met because mandating a wholesale HSA service will not substantially improve retail Internet competition. In particular, Northwestel questioned whether a wholesale-based Internet service provider (ISP) reliant on a cost-based wholesale HSA service would be able to offer a better retail price to customers.
29. Existing wholesale HSA services mandated elsewhere in Canada have had limited success in rural and remote areas. In areas with low population density like the Far North, it is likely not possible to set rates that are both:
  - high enough to ensure it is profitable for facilities-based competitors to continue to invest in modern telecommunications infrastructure; and

- low enough to ensure that wholesale-based competitors can profitably enter the market and provide their own retail services.
30. Implementing and providing a wholesale HSA service is costly. To maintain investment in networks, these costs are generally recovered through the rates charged to wholesale-based competitors. In the Far North, these costs, when added to the high cost of providing service, result in wholesale rates that are too high for competitors to enter the market. This was confirmed by costing information submitted by Northwestel.
  31. Northwestel submitted in confidence the costs of providing two wholesale HSA services – one over its cable network and one over its FTTP network. The Commission has reviewed the costing information submitted by Northwestel and finds it reasonable. The customer base in the Far North is too small to support these costs given the current retail rates for Internet services. Were a wholesale HSA service to be mandated, rates would either be (i) too low and significantly harm investment, or (ii) too high for wholesale customers.
  32. The only way to set a rate that would incentivize entry from wholesale-based competitors would be to significantly increase the retail rates that Northwestel currently charges for Internet services, which would exacerbate affordability challenges. The Commission therefore finds that it is not possible to set a rate for a wholesale HSA service that satisfies the Commission’s objectives of lowering prices through increased competition and encouraging investment.
  33. The Commission therefore finds that the second sub-element is not met. Mandating a wholesale HSA service will likely not improve competition for retail Internet services in the Far North. Using the language of the Essentiality Test, the Commission finds that not mandating the service is not likely to substantially lessen or prevent that competition.
  34. In light of the above, the Commission determines that the competition component is not met.

***Duplicability component***

35. As noted in Telecom Regulatory Policy 2015-326, the fourth step in applying the Essentiality Test is to determine whether it is practical or feasible for competitors to duplicate the functionality of a facility. In this case, the Commission must determine whether competitors can duplicate the functionality of Northwestel’s terrestrial network.
36. Parties provided evidence of barriers to duplicating Northwestel’s infrastructure, including the remote nature of the region, construction challenges, low population density, challenges in securing capital, and challenges in securing rights-of-way. In the Commission’s view, duplicating the infrastructure required in the Far North to provide the functionality of a wholesale HSA service at scale is not practical or feasible for a reasonably efficient competitor.

37. Northwestel indicated that the duplicability component of the test is not met since LEO satellite-based ISPs can invest in facilities that can provide substantially similar Internet services to terrestrial ones. While LEO satellite-based ISPs could be considered to have duplicated the functionality of Northwestel's infrastructure to some extent, this is not indicative of what can be expected of a reasonably efficient competitor. The cost of duplication for any competitor would be very high and would require significant subsidies given the scale of Northwestel's terrestrial infrastructure, as well as the region's remoteness and low population density.
38. In light of the above, the Commission determines that the duplicability component is met.

#### **Policy considerations**

39. As set out in Telecom Regulatory Policy 2015-326, after application of the Essentiality Test, relevant policy considerations are considered to determine whether a wholesale service should be mandated despite the outcome of the Essentiality Test.
40. As noted in Telecom Decision 2023-23, the public good policy consideration is to be applied in a specific, technical sense to refer to considerations of social welfare, public safety, and public convenience. This is distinct from the broader public interest, which the Commission evaluates holistically.
41. Interconnection generally refers to the linking of at least two telecommunications network segments at a common physical point, where each interconnected network segment is managed by a separate party to allow the mutual exchange of traffic between each party's network segments. In the case of an aggregated wholesale HSA service, there is no mutual exchange of traffic; its purpose is to allow one party to route its traffic over the other party's network.
42. Therefore, the only policy consideration that should be assessed with respect to the present analysis is the innovation and investment policy consideration.

#### **Positions of parties**

43. Northwestel indicated that it operates in a very high-cost area, that its ability to invest in and modernize its networks is precarious, and that mandating a wholesale HSA service would undermine its incentive to invest. In addition, given that its retail terrestrial Internet service rates remain tariffed, its ability to generate revenue to fund capital initiatives is limited.
44. Northwestel noted that while CNOC submitted that wholesale competition could lead to wholesale service customers investing in their own networks, CNOC also indicated that the transport and access components of Northwestel's network are not duplicable. Northwestel submitted that this raises the question of what investments those customers would make.



45. CNOc, Iristel/Ice Wireless, SSi, and TekSavvy generally submitted that mandating a wholesale HSA service would encourage competitors to innovate and invest, and that Northwestel's incentives to invest could be preserved by properly setting wholesale rates.
46. The GNWT submitted that the potential benefits of introducing a wholesale HSA service should be weighed against any negative effects on Northwestel's ability to invest.

***Commission's analysis***

47. It is unlikely that wholesale-based competitors will significantly invest in facilities in the Far North if a wholesale HSA service is mandated. According to the Commission's [Annual highlights of the telecommunications sector reports](#), wholesale-based competitors across Canada have very low capital expenditures in the broadband market relative to facilities-based telecommunications service providers (TSPs). In addition, when asked if its members expressed interest in entering the market in the Far North if a wholesale HSA service were available, CNOc submitted that its members are focused on surviving in the markets where they already carry on business.
48. There is likely to be a negative effect on investment by Northwestel if a wholesale HSA service is mandated. While there is some evidence that a wholesale HSA service could bring potential benefits to users in terms of innovation (mostly rebundling of existing services), these benefits are modest and are outweighed by the potential for significant reductions in investment by Northwestel.
49. In light of the above, the investment and innovation policy consideration does not support mandating a wholesale HSA service in the Far North.

**Reconciliation and opportunities for Indigenous communities**

50. In Telecom Notice of Consultation 2022-147, the Commission underscored its commitment to engage with Indigenous peoples to ensure that their needs are considered in its policy development process. It asked how a mandated HSA service would advance reconciliation and offer opportunities for Indigenous communities.

***Positions of parties***

51. The CYFN, the First Nation of Na-Cho Nyäk Dun, the GNWT, IRP Consulting, PIAC, SSi, the Tr'ondëk Hwëch'in Government, and the Yukon Government (YG) submitted that a wholesale HSA service could support the creation of Indigenous-owned ISPs, which would advance economic reconciliation.
52. SSi submitted that a wholesale HSA service could offer Indigenous communities the opportunity to develop services tailored to the needs of their own communities. PIAC submitted that a wholesale HSA service in the Far North would contribute to

reconciliation by seeking to promote consumer choice and affordability of Internet services in Indigenous communities.

### ***Commission's analysis***

53. While the Commission acknowledges the importance of advancing reconciliation, it is concerned that mandating a wholesale HSA service could have negative consequences for Indigenous communities in the Far North. As discussed above, there is no rate that would be attractive to wholesale-based competitors, such as Indigenous-owned ISPs, while also allowing Northwestel to recover its costs. Mandating the service at rates that are high enough to allow Northwestel to recover its costs would not allow Indigenous-owned wholesale-based competitors to enter the market profitably. Conversely, mandating the service at rates that are too low would result in decreases in network investment that would be felt most acutely in underserved rural and remote communities, many of which are Indigenous.

### **Other issues**

54. Parties raised two other issues on the public record:

- whether the Policy Direction requires that a wholesale HSA service be mandated; and
- whether a mandated wholesale HSA service could be subsidized.

### **Policy Direction**

#### ***Positions of parties***

55. CNOG, the First Nation of Na-Cho Nyäk Dun, the GNWT, and PIAC submitted that the Policy Direction, and especially section 10, requires the Commission to mandate – or at least foster – a wholesale HSA service in the Far North.<sup>2</sup>

#### ***Commission's analysis***

56. The Policy Direction is a direction of general application on broad policy matters and provides the Commission with the discretion to decide whether to mandate an aggregated wholesale HSA service in the Far North. While section 10 speaks to mandating an aggregated wholesale HSA service, details such as the geographic scope of the service are left up to the Commission to decide. This is also made clear by the Regulatory Impact Analysis Statement that accompanies the Policy Direction. The document discusses the positive impact of competition that depends on wholesale services. However, this discussion is focused on markets outside the Far

---

<sup>2</sup> Section 10 of the Policy Direction states that the Commission must mandate the provision of an aggregated wholesale HSA service – that is additional to any other types of wholesale HSA services that are mandated – until it determines that broad, sustainable, and meaningful competition will persist even if the provision of an aggregated service is no longer mandated.

North and does not contemplate the different and particular circumstances in the Far North.

57. Therefore, sections 9 to 12 of the Policy Direction do not require the Commission to take any particular course of action in this proceeding.

### **Subsidizing a mandated wholesale HSA service**

#### ***Positions of parties***

58. The CYFN, First Mile Connectivity Consortium, the GNWT, and SSi proposed providing subsidies to support competitors or subsidizing wholesale HSA service rates.
59. CNOG and TELUS opposed a subsidy to encourage competition in the Far North. CNOG submitted that it would introduce economic distortions and administrative costs. TELUS submitted that it would unduly chill other potential forms of competition and investment, and require the Commission to manage entrants' market shares and profits.
60. SpaceX cautioned against a wholesale regime that subsidizes terrestrial wholesale-based competitors. It submitted that it would be administratively complex, benefit only a small class of competitors, and bring negligible benefits to consumers.
61. In response to a specific question to all parties, none submitted that providing subsidies to support competitors or wholesale competition was within the scope of subsection 46.5(1) of the Act. Meanwhile, Northwestel and PIAC stated that the Commission has no authority to provide subsidies to support competitors under the Act.

#### ***Commission's analysis***

62. Parties expressed significant concern about the Commission's jurisdiction to use subsection 46.5(1) of the Act to provide a subsidy for a wholesale aggregated HSA service. This is in addition to policy concerns about whether a subsidy for such a service could be efficiently implemented and whether it would advance the policy objectives set out in section 7 of the Act.
63. Subsidizing a wholesale HSA service in the Far North is not the best way to achieve the policy objectives. Measures that promote competition but are inefficient would not satisfy the objective to enhance the efficiency and competitiveness of Canadian telecommunications, as required under paragraph 7(c) of the Act. For example, it could be inefficient to support competition that is unsustainable without subsidy, particularly where that competition is unlikely to improve affordability. Furthermore, under paragraph 7(f) of the Act, consideration must be given to when efficient and effective direct regulation through the other measures set out in this regulatory policy, rather than reliance on market forces, is required to better achieve the objectives of the Act.

64. Therefore, it would not be appropriate in this proceeding to subsidize wholesale HSA service rates pursuant to subsection 46.5(1) of the Act.

**Conclusion**

65. In light of all the above, the Commission will not mandate the provision of a wholesale HSA service in the Far North.

66. The Commission's determination not to mandate a wholesale HSA service disposes of SSi's Part 1 application.

## **Dissenting opinion of Commissioner Claire Anderson**

1. I fundamentally disagree with the majority decision in Telecom Regulatory Policy 2025-9 (the Decision) that the most meaningful and effective means of achieving affordable and accessible telecommunications services in the North is to provide a uniform subsidy to all telecommunications service providers, including international players. Throughout the proceeding, minimal support was expressed for a universal subsidy. Instead, the strong view expressed by northerners was that the introduction of competition was the preferred path for achieving the region's important social, economic and consumer objectives. Competition was viewed as the better approach to facilitating community-based and Indigenous-owned economic opportunities, which in turn would lead to greater local job creation, better service packages, and improved customer service and affordability.
2. I disagree with the majority's finding that it has exhausted all avenues to find a fair wholesale price that would incent competition while maintaining investment incentives, because i) the evidence presented by Northwestel on the price of delivering a high-speed access (HSA) service was insufficient to make a reasonable determination on the costs for wholesale implementation; ii) no consideration of subsidizing a wholesale framework was made, despite instances of subsidizing the development and implementation of competitive frameworks in the past; iii) the Phase II costing method isolates Northwestel Inc.'s (Northwestel) retail internet revenues in a manner that ignores the totality of its financial situation as the dominant service provider in the region; iv) no consideration was given to other rate-setting methods, like retail-minus or an efficient operator model; and v) no consideration of the role of the Commission's Broadband Fund or other government subsidies in incenting innovation and further investment was made.
3. All intervenors except Northwestel supported a wholesale framework. Specifically, both existing competitors in the North and Indigenous groups spoke about economic opportunities that would become available to communities, and Indigenous communities in particular, with the implementation of a wholesale HSA network. The resounding theme expressed by both Indigenous and local intervenors was that in order for reconciliation to occur, the Commission needs to seriously contemplate Indigenous people as owners of telecommunications networks, and not simply as users of those networks. We heard, again and again, that Indigenous people must be given a seat at the table. That if the Commission wants to actually contribute to advancing reconciliation, that this was an opportunity to move beyond the performative acts of "hanging art on the walls" and implement transformative regulatory changes. Unfortunately, the Decision has seriously stifled that possibility.

### **Competition was the preferred means to address overall consumer concerns, including affordability**

4. Very few intervenors on the record supported a universal retail subsidy.<sup>17</sup>

---

<sup>17</sup> Citations in this document can be found in volumes [1](#), [2](#), [3](#), [4](#) and [5](#) of the public hearing transcripts.

5. Many Indigenous intervenors expressed reservations against the utility of a subsidy.<sup>18</sup> Anita Hill, on behalf of the First Nation of Na-Cho Nyäk Dun, in direct response to a question about subsidies, pointed out positive aspects, but with heavy caveats against relying only on subsidies instead of an income-based solution. She also spoke plentifully about solutions that put equity into Indigenous communities:

814 ...we are currently in active negotiations surrounding residency-based regimes, citizen-based regimes, user-type regimes, and **it results in a revenue-sharing mechanism that allows for broader participation and more autonomy in terms of how those funds get used. To me, that's a more important conversation than just a subsidy...** (emphasis added)

6. When pressed further on the issue of subsidies and whether they ought to apply to satellite-dependent communities, Ms. Hill responded:

816 ...So I think to me, again, that's a more important conversation for the short term perhaps, and then examining how investment opportunities can exist or co-exist, either with private enterprise or with sub-departments of a federal initiative. That to me ought to be more a priority at this point than suggesting that one mechanism or another ought to be considered -- sorry. The question is too isolated.

7. When the Commission asked Ms. Hill how we can ensure subsidies support reconciliation, including, specifically economic reconciliation, Ms. Hill responded:

819 ...Well, again, **I think reconciliation is more than just a subsidy-driven idea.** I do believe that -- and we bring these ideas forward once every 30 years. **I did talk about a treaty agreement that was signed 30 years ago, a portion of which allowed for 25 percent equity ownership in major infrastructure projects within our traditional territory** and only recently will we actually be allowed to implement that one specific provision. Now, that agreement was built around the 1990s. We still have to consider what do these relationships mean within a 21<sup>st</sup> century context? And if we look at a number of treaties, the way they're written, I think an argument could be made that a lot of those professions could be carried forward and modernized.

819 ...**again the idea is not reconciliation through subsidies, in my mind reconciliation is centered around, how do we get to be partners in delivering this type of regime within the Canadian nation state as sovereign nations, as we are, and each of our First Nations,** not through AFN or otherwise. And I mean no disrespect to

---

<sup>18</sup> Many intervenors, like the Council of Yukon First Nations, deferred to First Nations as the proper intervenors to speak about the utility of subsidies: "I would like to actually ask you to pose that question [on subsidies] to the representatives of the individual First Nations who will participate later this week because I think that they will have more immediate and specific ideas on that front" (transcript, volume 1, line 70). See also line 102: "I think on [how an internet subsidy would support economic reconciliation], I'm thinking about the people who will be speaking on behalf of individual First Nations during the testimony this week, and I think I would like to defer the response to that question to them. I'm non-Indigenous and I think that the insights and perspective that could be offered by some of my colleagues who are First Nations descent and who will be speaking later this week might be better qualified to speak to that subject."

registered societies who help advance certain interests, what I mean is every sovereign nation will interact with the Canadian nation state as they make those realizations for their community.

819 So it really is -- it's a whole-of-government approach that needs to be either regionally, or language-based, or tribal council-based from the perspective that each region is going to be unique in how they approach this. So you may hear from a different region who may have a different response to this. On behalf of Na-Cho Nyäk Dun, though, **I think that having a reconciliatory relationship would be centered around having some participation with the CRTC in the development of these programs and these ideas, without it being just sort of a short-term subsidy that really targets one thing and one thing only. I don't see that being particularly educational or culturally interactive in our ongoing relationship** (emphasis added).

8. When asked about solutions beyond a subsidy-based mechanism, Ms. Hill replied:

839 ...I can think of more, although I don't know the whole mandate of the CRTC's scope in how that would all unfold, but **more competition -- I think if we could be a part of a conversation that creates the environment for competition, then a lot of these objectives begin to present themselves** throughout its either piloting something unique, or through what's already been tried and tested.

...

867 **So economic reconciliation, by definition, isn't just a subsidy** or, yes, we're going to give somebody something for free or what have you. What we talk about in terms of economic reconciliation is founded in both our customary laws and, again, the documents our elders tabled to initiate a land claim **process as well as a treaty agreement to this day, which needs an opportunity to be examined in today's context.**

868 **Having a 25 percent ownership in a particular infrastructure project was an idea that was built around the 1990s. These types of things need to be examined in a more equitable way based on our 21st century living** (emphasis added).

9. Tosh Southwick, on behalf of IRP Consulting, spoke about some of the challenges Indigenous communities face due to the digital divide and went on to speak about possible solutions:

3261 So what are some solutions? I mean from our experience as a small Indigenous-owned company that supports First Nations both here and down in the south and works hard, I think, for supporting self determination, **we need to level the playing field. We need to cause -- and I'm going to use the word "disruption". We're not talking about little shifts here, and I say the subsidy to me is a little shift. I'm talking about moving mountains. We need to disrupt the status quo. I think we've gotten to the point where everybody says, yes, we agree, competition is important, it needs to happen.** It's not happening. So we need to disrupt it. We need to move mountains.

3262 We need to make sure -- and I think the CRTC has a huge role in this -- that partnership is authentic. **That we are prioritizing Indigenous initiatives that are led or partnered with Indigenous communities but authentically.** And I'm sure you've seen at Northwestel, they often will hold up a project that they're working with 14 First Nations, and I said this in our submission, that should not be confused with the distinction of having any type of power around that table in decision-making because that's not what that deal's about. And that deal is with First Nation Development Corps, who are not responsible for nation-building activity. So there is no Indigenous control in that deal. Is it a good deal for certain reasons? Sure. Is it better than what we had 15 years ago? Sure. It's art on the walls. It's not what we're talking about with disruption.

...

3265 We need to dramatically increase Indigenous decision-making and participation across the board in telecommunications. We're talking about co-development, co-design of programs, initiatives, legislation. **We're talking about sovereignty over connectivity.** We haven't even started those conversations on a grand scale, and I think we have lots to work through. **We should be concerned that we're making more progress in this country in child welfare and restitution and resolution -- and reconciliation on that file, than telecommunications. That's amazing to me.**

3265 I think we -- and I go back to disruption -- we need to disrupt the monopoly. Like, I just don't know any other way through it. It's not working here. Across the board, whether that means First Nations internet service providers, whether that means disconnecting the infrastructure ownership from the retail. However, those things -- all those brilliant minds of tech people, we need to try something. We need innovative solutions to try something because it's been status quo for so long.

3265 I think I'll just end by saying in this work of trying to launch a First Nation internet service provider, we've seen a number of barriers, and I think capacity and dedicated resources and funding for Indigenous-led projects like that need to be on the horizon and we needed them yesterday. We need to start trying something new and drastic. The divide is getting bigger, not smaller -- (emphasis added)

10. When asked about subsidies, Ms. Southwick said:

3341 **My opinion on subsidies is that if we disrupt the system and actually empower Indigenous communities to own their own internet service provider, subsidies don't become the same importance that they were.** If we can think of connectivity as a human right, as a nation-building crucial exercise, then we don't need to talk about subsidies.

3341 I think, you know, subsidies are at that far end of reconciliation spectrum that I talked about. I would much prefer to put our energy towards solving the huge issues in the system rather than a program or initiative.



3341 I want to move mountains. And so my preference would be -- and **I think subsidies are fluffy** (emphasis added).

11. Many intervenors spoke about subsidies as a short-term solution, but advanced competition as the long-term solution.<sup>19</sup> When asked about whether a subsidy or a wholesale framework ought to be prioritized, Heather Hudson, on behalf of First Mile Connectivity Consortium, stated:

637 ...these are all strategies to get more affordable service and we're saying speed and affordability, quality of service, competition has to be part of the solution somehow. You know, if we have more competition, maybe eventually you reassess the subsidy and there's less need for a subsidy.

638 I mean, nobody is trying to say a subsidy should be the only -- a long-term solution. But at the moment because it's hard to get more innovative pricing in the market, that's fine. But if you're going to introduce the wholesale access, which I think we are saying you should, then it has to be regulated according to price.

12. The Commission has long determined the benefits of competition and consumer choice are benefits that must be provided to all Canadians, including those in rural and remote communities. In Telecom Regulatory Policy 2011-291, we noted:

Competition provides consumers with a choice of service providers and service characteristics, and the Commission considers that customers who reside in small ILEC [incumbent local exchange carrier] territories should not be denied these benefits.

13. More specific to the North, the Commission determined that same year that

**[t]he Commission considers that Canadians who reside in the North should be able to enjoy the full benefits of competition.** Accordingly, the Commission has decided to introduce local competition in Northwestel's territory to provide a choice of service providers and different service options (emphasis added).<sup>[20]</sup>

14. In both those decisions, we noted that implementation of local competition costs could disproportionately affect small wholesale providers, and we made certain allowances and adjustments, some supported by subsidy, in recognition of our objective to ensure that all Canadians have access to consumer choice. This was not considered by the majority in the Decision (and which will be discussed further below).

---

<sup>19</sup> See lines 248 and 249 of volume 1 of the transcript, where William MacKay, on behalf of the Government of the Northwest Territories, said "[w]e believe that wholesale services competition will provide not only greater choice in the far north, but also lower prices, better quality, greater innovation and investment and new opportunities for local and Indigenous entrepreneurs."

<sup>20</sup> Summary of Telecom Regulatory Policy 2011-771; see also para. 61 to 65 of SSi Canada's intervention in the current proceeding, dated 6 October 2022.

## Flaws in the Decision’s wholesale analysis

15. There were several shortcomings in the Decision’s analysis on a wholesale HSA framework. First, there was not enough information on the record for the Commission to make a reasonable assessment on the costs of wholesale HSA implementation. No consideration was given to the Commission’s use of subsidies to implement competitive services; the overall financial health of the incumbent to support an HSA framework; the use of other wholesale costing methods; and the role of government subsidies, like the Broadband Fund, in supporting innovation and investment, particularly in the North. I will examine each of these flaws in the sections below.

### **The evidence presented by Northwestel on the cost of delivering an HSA service was too limited to make a reasonable determination on costs for wholesale implementation**

16. When the Commission determines appropriate wholesale rates, we often direct wholesale providers to file proposed wholesale and retail tariffs, supported by cost studies that reflect the costs of adding a new service to the network.<sup>21</sup> These applications are filed with supporting documentation and we often ask applicants for additional supporting information through individual requests for information (RFIs). RFI questions may require applicants to demonstrate all formulae demonstrating the calculations and equations are provided, along with all supporting documentation, attachments and appendices, as applicable.<sup>22</sup>
17. Northwestel provided an estimate of the cost of providing a wholesale HSA service and then doubled its estimate in contemplation of providing wholesale HSA services over both cable and fibre-to-the-premises (FTTP).<sup>23</sup> Northwestel did not provide a cost study in support of the estimate, nor did it file any formulae, supporting information or documentation in support of its estimate.
18. To gain a better understanding of the cost estimate, Commission staff requested, through RFIs, methodologies and assumptions used to estimate the investment of designing the wholesale services over both the cable and FTTP infrastructure, as well as any Phase II cost studies, methodologies and assumptions.<sup>24</sup>
19. Northwestel provided a two-and-a-half-page response, which – again – did not include any cost study, supporting documentation or formulae. Instead, it produced a table with five line items, showing cost categories (Hardware and technical equipment, IS/IT: Service address qualification, Development of a new web portal for ISPs, etc.) with an associated cost

---

<sup>21</sup> See, for example, Commission staff [letter](#) dated 18 July 2022.

<sup>22</sup> See RFI questions listed to specific providers in Commission staff [letter](#) dated 22 November 2022.

<sup>23</sup> Para. 494 of Northwestel’s 6 October 2022 intervention

<sup>24</sup> See the Commission staff letter referenced in footnote 5. See also Telecom Order 2013-96, in which the Commission rejected many of Northwestel’s proposed work time estimates because they “were not supported by empirical evidence, such as measured data or time and motion studies. Rather, they were based on Northwestel’s experience with similar types of wholesale services” (at para. 53).

estimate. The associated cost estimate was neither supported by any evidence nor broken down by costs within each category.<sup>25</sup> There was no further inquiry into this information.

20. We also did not consider what a reasonable markup would be and whether markups ought to reflect any governmental subsidies that supported the development of any underlying broadband infrastructure used by the incumbent. And there was no specific consideration about whether there ought to be any adjustments made for Indigenous service providers.<sup>26</sup>
21. There was, quite simply, not enough information to make a reasonable determination about the costs of providing wholesale HSA services to competitors.

**No consideration of subsidizing a wholesale framework was made, despite past instances of subsidizing the development and implementation of wholesale frameworks**

22. The majority has spoken about the dangers of using a subsidy applied pursuant to section 46.5 of the *Telecommunications Act* to implement competition, but they've ignored the fact that we have used subsidies to promote competition in several previous instances.
23. As discussed earlier, the Commission has long been of the view that all Canadians are entitled to the benefits of competition and consumer choice. Recognizing that there can be obstacles to introducing consumer choice in rural and remote areas, the Commission has historically relied on regulatory intervention to address these challenges when they arise. In Telecom Regulatory Policy 2011-291, the Commission considered introducing local competition and wireless number portability (WNP) in small ILEC territories:

Competition provides consumers with a choice of service providers and service characteristics, and the Commission considers that customers who reside in small ILEC territories should not be denied these benefits.

Accordingly, the Commission determines that WNP and local competition, including local number portability (LNP), will continue to be introduced in the territories of the small ILECs.

**The Commission recognizes, however, that the recovery of local competition implementation costs, combined with potentially reduced revenues due to the loss of customers, might affect the small ILECs' ability to meet their service obligations. The Commission is therefore of the view that the small ILECs should be subject to special considerations.**

**The Commission considers that local competition implementation costs represent a disproportionate burden on very small ILECs, given the small number of network access services (NAS) they serve. Consequently, the Commission determines that small ILECs serving 3,000 NAS or fewer will have their local competition**

---

<sup>25</sup> Northwestel's RFI response dated 12 December 2022

<sup>26</sup> Para. 51 of the Appendix to the Decision

**implementation costs reimbursed, over a period of three years, by the new entrant(s)** (emphasis added).<sup>[27]</sup>

24. In that instance, the entrants to the market who bore the local competition implementation costs were “well-established, generally large telecommunications service providers with networks already in place in the small ILECs’ territories.”<sup>28</sup> The Commission noted that competition start up costs “represent a disproportionate burden on the very small ILECs given the small number of NAS they service. In the Commission’s view, special considerations regarding the recovery of these costs must be given to the smallest ILECs.”<sup>29</sup>
25. Cable carriers, in that case, argued that “only the smallest and most financially vulnerable small ILECs should be able to recover their local competition implementation costs from the National Contribution Fund [and not competitors]...since competitors have to absorb their own costs when entering new exchanges.”<sup>30</sup> However, the Commission determined that local competition start-up costs were to be borne the new entrants, generally large service providers, presumably with the means to pay for the costs.
26. Small ILECs also received a subsidy for the remaining residential NAS they serve in their exchanges and a 50% subsidy for each NAS they lost due to the financial impact of local competition and the new regulatory framework for up to three years from the date of the decision.<sup>31</sup>
27. As early as 1998, in Telecom Decision 98-1, the Commission recognized the importance of competitive services in the North:

The Commission notes that there was general support for the introduction of competition, both in the written comments received and at the regional consultations. The Commission considers that the advantages of competition outweigh the disadvantages and that the disadvantages can be addressed through the establishment of appropriate terms and conditions for toll competition. Among the advantages, competition would reduce toll rates to the benefit of the majority of Northwestel subscribers given the importance of toll calling in the North. Competition would also increase the competitiveness of business in the North, as well as bring about increased customer choice and responsiveness to the requirements of users.

Based on the record of this proceeding, the Commission finds that toll competition, subject to appropriate terms and conditions, is in the public interest.

28. Also in Telecom Decision 98-1, the Commission noted Northwestel’s submissions on its unique operating environment, including the extreme climate, long distances between

---

<sup>27</sup> Summary of Telecom Regulatory Policy 2011-291

<sup>28</sup> Para. 163 of Telecom Regulatory Policy 2011-291

<sup>29</sup> Para. 166 of Telecom Regulatory Policy 2011-291

<sup>30</sup> Para. 160 of Telecom Regulatory Policy 2011-291

<sup>31</sup> Para. 175 to 177 of Telecom Regulatory Policy 2011-291

communities and its vast and high-cost serving areas, and found that competition should not be implemented before 1 July 2000:

The Commission considers that, as far as possible, the terms and conditions of competition should be the same throughout Canada. In the case of Northwestel, the Commission is of the view that modifications may be required to reflect the uniqueness of Northwestel's operating environment. The Commission considers that the need, if any, for such modifications will likely be affected by the findings in the High-Cost Areas Proceeding [Telecom Decision 99-16].

29. In its Telecom Decision 99-16 on high-cost serving areas, which are areas where the cost of providing a service exceeds revenue generated from the service itself, the Commission required Northwestel to propose a Carrier Access Tariff that would encourage long distance competition. In that decision, the Commission had concerns about a toll bypass mechanism, but moreover recognized that Northwestel may not be able to propose a cost-based switching and aggregation (S&A) rate that was sustainable and recoverable, given the unique characteristics of the Far North. So, the Commission decided that the company's S&A facilities would be considered an extension of the local network, potentially subject to subsidized funding within the former Stentor companies' operating territories, if costs were not recoverable.
30. In the follow-up decision, Decision 2000-746, the Commission determined that "[b]oth the S&A and contribution rates will be subsidized for Northwestel. With the movement of the S&A costs to the Access category, the differentiation between the non-cost-based component rates becomes arbitrary."
31. In the proceeding that led to Decision 2000-746, Northwestel provided estimates for loss of market share, which were revised by the Commission in its decision. The Commission determined that Northwestel's market share loss would be compensated by the supplemental funding (or, a subsidy), the amount of which was to be reviewed annually.<sup>32</sup> There was also a financial adjustment relating to lower cash flows for the incumbent, amongst other adjustments, to be made up by supplemental or subsidized funding.
32. While the subsidized funding initially came from portable subsidy revenues collected in each of the existing central funds, beginning in 2002, any supplemental funding for Northwestel came from a national subsidy fund based on eligible telecommunications service revenue from telecommunication service providers who meet a \$10 million annual revenue threshold.<sup>33</sup> This subsidy for reduced switch connect rates from the National Contribution Fund lasted until 2007.<sup>34</sup>

---

<sup>32</sup> Para. 127 of Decision 2000-746

<sup>33</sup> Para. 126 of Decision 2000-746 and para. 124 of Decision 2000-745

<sup>34</sup> Para. 228 of Telecom Decision 2007-5

33. Despite two intervening Policy Directions from Cabinet stressing the importance of competition and reducing barriers for smaller carriers,<sup>35</sup> the Commission in its Decision takes a strong position **against** providing similar flexible approaches to regulatory intervention to encourage market competition in the North. The Decision makes no allowances for subsidies or subsidized aspects of a competitive network, nor does it consider whether the outcome of subsidy denial (i.e. no competition in the North) might lead us to reconsider our regulatory approach in this matter. There is no weighing of consumer choice and competition benefits in the Decision’s analysis. This represents a marked and unwarranted departure from our previous decisions.

**Phase II costing, as it exists, might be too limiting in methodology as it leaves no room to consider the totality of Northwestel’s financial situation**

34. At the time of rate of return regulation, it was recognized that Northwestel’s unique operating environment justified an exception in regulatory approach. The Commission noted in para. 11 of Decision 2000-746 that Northwestel “proposed a regulatory framework that would continue to see it regulated on a total company rate of return basis as opposed to the regulatory framework used in the rest of Canada.” With certain modifications, the Commission agreed to Northwestel’s proposed approach. Those exceptional operating circumstances continue to exist. These unique attributes should give us pause when considering whether any modifications to the Commission’s costing approach – Phase II or otherwise – may be warranted.
35. For example, Northwestel often uses special facilities tariffs or off-tariff agreements for many of its services that it (and we) deem are on a one-off basis. There are no price cap regulations on special services tariffs, so these services are uncapped services, services that can be set at **any** amount, in accordance with our regulatory framework. Uncapped services under our Phase II framework are excluded from our financial analysis into the determination of wholesale HSA cost implementation, which does not reflect the reality of Northwestel’s ability to implement an effective HSA system.<sup>36</sup>
36. SSi Canada (SSi), Iristel Inc. (Iristel) and other intervenors pointed out some shortcomings with the Phase II costing approach, and suggested checks and balances with a Phase II costing analysis (or choosing a new costing approach altogether, which I will review next).

---

<sup>35</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; and *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023

<sup>36</sup> On a similar note, Cabinet recently issued a [Cabinet Order](#) to the Commission to reconsider aspects of our Telecom Decision 2023-358 on a wholesale access framework with specific points in mind, like how mobile wireless services are frequently bundled with Internet services. See also para. 13 of Telecom Decision 2015-78: “Northwestel stated that certain residential Internet services rates do not pass the price floor test. The company submitted that in its specific circumstances, it would be appropriate for the Commission to consider the overall profitability of the company’s Internet services versus requiring each of the services to be profitable on its own...”

37. Iristel, for instance, proposed regular reviews of rates and doing a “sanity check” to review the reasonableness of a Phase II costing study:

1620 think it’s important when you look at rates that are set that these rates need to be reviewed regularly, especially -- I mean, we’re in telecom. It’s a technology industry. The industry moves very fast, and so -- what I mean is technological advancements move very fast and that reduces your cost per gigabit. And we’ve seen the cost per gigabit come down for 20 years now on internet network.

1621 So when you have rates that were set, I don’t know, I think Wholesale Connect eight years ago, and the other thing which was...with regards to the combined access tariff that you did not want to review, but that one was set in 2000, so, you know, I was just coming out of college when that rate was set. I’m pretty sure it’s probably time to review it.

1622 So reviewing those rates more quickly and coming up with, I guess, a more transparent way or a more fair way or a sanity check on those rates. You know, if you get a Phase 2 cost study that somehow gets you a rate, a wholesale rate that is about the same or more than retail, something’s gone wrong somewhere. You know, is there a sanity check there that we can do on that?

38. Generally, the Commission expects service providers to meet the basic service objective using the existing regulatory framework, “such as reducing costs, raising rates, using existing explicit subsidies from long distance services, and generating additional profits from the sale of special calling features.”<sup>37</sup> There is an onus on the service provider to set a reasonable rate for services that would allow for a rate of return that results in investment opportunity for further network improvement.
39. There is reason to question whether Northwestel is attempting to use existing funding mechanisms, like raising rates, as it has proposed a new standalone Residential Internet Services basket without any price floor test requirement.<sup>38</sup> Similarly, Northwestel has previously asked for (and been granted) additional pricing flexibility in Telecom Decision 2022-343, in light of new international low Earth orbit (LEO) satellite services being deployed.<sup>39</sup>
40. The Commission has previously noted that price floors are an effective mechanism to ensure that an incumbent provider exercising market power won’t operate at a loss in certain markets to reduce competition in that market. In recent decisions, the Commission has made certain allowances to address the prospect of competition from foreign providers. This flexibility, however, should not come at the cost of reducing or inhibiting competition from Canadian service providers, particularly those who have invested millions of dollars to

---

<sup>37</sup> Para. 38 of Telecom Decision 99-16. In para. 69 of that decision, Northwestel was granted supplementary funding from the national contribution funding mechanism if it could demonstrate that it was unable to meet that service objective following traditional funding mechanisms.

<sup>38</sup> Para. 104 of the Decision

<sup>39</sup> Para. 110 to 116 of the Decision

provide services in the North.<sup>40</sup> Prior to contemplating lowering or removing price floor tests in place to prevent anti-competitive practices, the Commission should already have an established and workable wholesale framework in place and should question whether a service provider is utilizing regular funding mechanisms, such as increased rates, to ensure effective and sustainable network implementation. In the event that retail rates cannot be set at reasonable or affordable rates, the Commission ought then to consider supplementary funding, particularly for competitive service implementation, as done previously.

41. While the Commission has attempted to implement an effective wholesale network through various regulatory mechanisms, including the implementation of Wholesale Connect, in practice these attempts have fallen short. Long, drawn-out cost proceedings have resulted in prices that competitors have characterized as unusable, thereby defeating the very purpose of the process in the first place.<sup>41</sup> Accordingly, one must question if using the same costing methodology for Northwestel makes sense.
42. I cannot but agree with those intervenors who emphasized the importance of having checks and balances on wholesale HSA rates. If the wholesale rate proposed by an incumbent meets or exceeds its own retail rate, one must ask what is going on and whether the regulatory mechanism employed is achieving its intended purpose. As it has in the past, the Commission must seriously contemplate the role of supplementary funding to offset any implementation (and perhaps development) costs, much like we did in Decision 2000-746 and Telecom Regulatory Policy 2011-291.

**No consideration was given to other rate-setting methods, like retail-minus or an efficient operator model**

43. In Telecom Decision 2023-196, the Commission determined that it would continue to use Phase II as the primary costing approach for wholesale telecommunications services; however, we also committed to being open to other approaches where appropriate. In that decision, alternative rate-setting methods were explored, such as a retail-minus approach, which was supported by Iristel and SSi in the current proceeding, and a reasonably efficient operator model.<sup>42</sup>
44. SSi proposed a retail-minus approach that fluctuates depending on the retail rates of the wholesale HSA provider:

1152 SSi has been advocating and continues to advocate for retail minus rate setting for the full range of Northwestel wholesale services. Retail minus.

---

<sup>40</sup> SSi's and Iristel's interventions in the current proceeding

<sup>41</sup> SSi's intervention in the current proceeding

<sup>42</sup> In Telecom Decision 2023-196, the Commission referred to the "most efficient operator model", which appears to be premised on the *reasonably* efficient operator model, which is used in several jurisdictions, including Germany and France, as a benchmark to review proposed wholesale offerings (see para. 56 of SSi's intervention in the Telecom Notice of Consultation 2020-131 proceeding).



1153 CNOC, as an example, one intervenor, has requested that the Commission set rates using traditional costing processes, but this is a problem. Third parties cannot participate knowledgeably in such processes. Northwestel as well actually criticizes the output from the Commission rate-setting processes as rates that may not reflect actual costs, the consumer market or consumer needs. Competitive market, rather.

1154 Telus has proposed negotiating with Northwestel, but -- and many intervenors have spoken to this -- leaving rates to bilateral negotiation is a non-starter, as is clear from Northwestel's hostility to any wholesale-based competition.

1155 Northwestel's assertion that CRTC set rates do not reflect actual costs raises questions about its willingness to cooperate with the regulator. Given all this, it's clear that a retail minus rate setting remains most objectively valued and extremely expeditious way to set rates for Northwestel's wholesale services.

1156 Commissioners, the issues of principle are well established. Competition is the best way to deliver service improvements, to deliver new investments, innovation, choice and affordable pricing, and a regulatory framework that supports competition is the best way to involve Indigenous communities in developing solutions to their own telecommunications needs.

45. When asked about whether the wholesale price could be responsive to a dynamic market environment, Dean Proctor, CEO of SSi, noted:

1268 ...It moves in lockstep. Again, if Northwestel goes from \$100 to \$80 on the retail level, our wholesale price drops correspondingly by whatever percentage that works out to. It's the same day.

46. A reasonably efficient operator model would consider whether a reasonably efficient telecommunications provider would propose the same service at the same rates, an approach which was supported by SSi in its 13 August 2020 intervention to Telecom Notice of Consultation 2020-131.<sup>43</sup> In para. 38 of that intervention, SSi supported a reasonably efficient operator model using a retail-minus price assessment as a comparator.
47. I discussed some of the drawbacks to using a Phase II approach for costing. However, I note other issues that SSi has highlighted in para. 4 of its intervention to Telecom Notice of Consultation 2020-131 include a lack of transparency in the rate-setting method, as only the incumbent and the Commission have the necessary information to assess whether any proposed rates are "just and reasonable". SSi also pointed out that competitors ought to be able to provide unique and relevant insights about new technologies and alternative business models as an integral part of the rate-making business model. Given that SSi and Iristel are both strong and successful competitors in parts of the North, I believe their input on costing would have been enormously beneficial.

---

<sup>43</sup> As cited in footnote 4 of its 20 January 2021 intervention

48. I would have explored whether either of these models would produce a different result in a wholesale analysis. Instead, within the span of a few mere paragraphs in the Decision (i.e. 30 to 34 of the appendix), the Commission has walked away from the competition-friendly trajectory it has been on since the 1990s. I also disagree with the determination that it is unlikely that wholesale-based competitors will invest in facilities in the North. This stands in direct contrast with what we heard on the record from competitors operating in the region.<sup>44</sup>

**No consideration of the role of the Broadband Fund and other government subsidies play in incenting innovation and further investment was made**

49. In the Decision's brief competition analysis in the appendix, it notes in para. 47 that introducing a wholesale HSA framework would harm investment by Northwestel in the North. Given that Northwestel has raised concerns about the impact of international LEO satellite-based competitors, I find it hard to believe that Northwestel would cease investing in its facilities in the North. This seems especially true given that so much of the investment that has been made to Northwestel's facilities in the past five years has been funded through governmental subsidies or government funding programs.
50. The Commission's Broadband Fund currently requires funding recipients to offer wholesale and retail open access to funded transport infrastructure and does not impose new wholesale access obligations on a proponent. The Fund is open to review and may be revised in a manner that encourages competition in rural, remote and Indigenous areas.

**Benefits of competition**

51. Going back to the Commission's concern that introducing a wholesale HSA framework would harm investment, we need to consider how the introduction of a competitive framework could **encourage** innovation and investment, as well as Indigenous-focused solutions. Jeff Phillip, on behalf of SSi, reminded the Commission that SSi deployed broadband systems into 31 communities in the Northwest Territories in 2006:

1119 Unfortunately, in large part because competitor access to transport was not then mandated, Northwestel was able to slowly squeeze us out and every other provider out of all but one of those 31 markets, Yellowknife.

1120 And I want to make a note here that this is not entirely correct, and I note that New North Tom Zubko is here as well as his son, Cameron Zubko, as well as Samer from Iristel, which do offer services in the north as well as in Nunavut and in some places in the Yukon. So it's not true to say that everybody's been chased out, but I think if you look at the record of the number of ISPs there were in the Yukon and there were in the Northwest Territories and there were in Nunavut 15 years ago, you'll see that something has happened to make those businesses not sustainable.

---

<sup>44</sup> SSi's and Iristel's submissions in volume 2 of the transcript

1121 Despite the challenges in areas where Northwestel controls bottleneck facilities, we've continued to innovate, invest and grow elsewhere in the north. In fact, our innovations and investments in remote area connectivity extend across northern Canada. We invest alongside our Indigenous partners and we leverage our systems and expertise to deliver early and successful wins, launches of services.

52. SSI spoke at length about partnerships it has established with Indigenous communities throughout the North, and ways it has contributed back to Indigenous communities, including through partnerships with Cree Nations in James Bay, intern programs with Indigenous communities and its network of community service providers.<sup>45</sup>
53. SSI further spoke about open access infrastructure leading to opportunities for Indigenous and community service providers and noted:

1241 So it should be owned by the community. It should be built and maintained by the community because they can maintain it without flying in and out. And then we should encourage training, right.

54. Iristel, too, spoke about its approach working with Indigenous communities as partners:

1522 So we've had various different types of partnerships with First Nations communities in the North. I would say there's no standard agreement that we have with anyone. It's really negotiated on a community-by-community basis. In general, most communities that we've been to we can make some arrangement with having to do with infrastructure, whereby the community perhaps will provide some of the funding to build the infrastructure and then the infrastructure, we'll put it up using our expertise and then the infrastructure will belong to the community at the end of the day and it will be shared infrastructure that the community can use for whatever purpose that it wants.

1523 We've tried that in a couple of different communities. We've also used that formula in funding applications to the federal government and we're quite happy with that. We're very much in favour of the shared infrastructure model. **I think it's consistent with what a lot of other speakers have said, in that we don't need to own the infrastructure, we don't need to own the towers, we don't need to own the data centres. Really we just -- as a last-mile provider, we're quite happy to plugin and sell internet and telephone, and the infrastructure can be owned by the community, absolutely** (emphasis added).

55. Some intervenors also noted that increased competition could provide other benefits, like lowering costs. Lyle Fabian, on behalf of First Mile Connectivity Consortium, noted the utility of local technicians and local operators, using the Jean Marie First Nation as an example:

---

<sup>45</sup> Lines 1123 to 1135 in volume 2 of the transcript. See also lines 1210, 1211, 1354 and 1355 for examples of proposals SSI put forward to partner with Indigenous communities for Indigenous-owned infrastructure.

483 When the community...flooded, the internet and electrical power was out for three days, and during that time, leadership was trying to get their systems going and I had to come back into the community and their solution...

484 Since the community owned and maintained their own network, we were not dependent on Northwestel's technicians who can take days to arrive...

485 Such local services in the community may have may have helped in two ways, through both lowering the cost of capital costs and lower ongoing operational costs compared to Northwestel services. For the PBX system, I purchased and refurbished equipment on behalf of the First Nation to save money. Our equipment costs were just \$100 per phone line compared to \$200 and \$300 phone line PBX phone system handsets.

486 I also used existing low-cost VPN switching technology to connect the phones over a wireless network. Katlotech was the -- you know, our charges for Jean Marie per month is \$398 per month for a full system, which is unlimited long distance calling anywhere in Canada. And the total cost of the system that we installed was approximately about \$2,000 for the entire First Nation band office, office phone system compared to \$10,000 from Northwestel.

487 The band can also maintain and operate its Katlotech's support to avoid Northwestel technician charges...

...

492 I can provide other examples where Katlotech can obtain equipment and install and operate networks at lower costs than those charged by Northwestel and their contractors and we operate as a profitable business. Northwestel has demonstrated that they simply are not feasible for a monopoly incumbent to meet all the demands of remote communities and urban businesses for high-speed and affordable broadband. The result is that many northern residences and businesses are left out. The Commission should support competition and remove any barriers that small and Indigenous providers who live and work in the north can meet these needs.

56. Bill Murdoch, also on behalf of First Mile Connectivity Consortium, reiterated the importance of local business opportunities:

538 Having local ISPs to operate and support that infrastructure, then they could provide the training to do that, provide local business opportunities. And when there is an outage, a fibre break or other technical outage, if there's local boots on the ground to actually do that work, the time to intervene, to do that fix, is much shorter than having to do a truck roll from 100 miles away if you have somebody local. And if there's problems with the service, then the local community could look at the ISP. Well, if the ISP is the local community, then they're looking at their Chief and Council. They're looking at locally, so they know exactly who to complain to.

57. However, it is imperative to note that all Indigenous intervenors (and most non-Indigenous intervenors) saw the implementation of a wholesale framework as essential to laying the

foundation for reconciliation with Indigenous peoples. This cannot be understated. We invited Indigenous people to invest their time and efforts into making submissions on the record with the promise that we would be listening, under the premise that we would be responsive.

58. We heard that Indigenous people want a seat at the table when it comes to decision making and ownership of telecommunications. We heard that decision making and ownership is inextricably tied to modern land claims agreements, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and our obligations under section 35 of the *Telecommunications Act*. We heard how our regulatory mechanisms could be used to advance these important goals.
59. Northerners, Indigenous people and non-Indigenous people alike consistently expressed that they wanted the opportunity to choose their service providers. Existing competitors spoke about ongoing and future opportunities with Indigenous partners. Indigenous people and Indigenous-owned entities unequivocally affirmed that they were eager to participate and that they just needed the Commission to lay the groundwork for the opportunities. All parties, save Northwestel, spoke heavily in favour of implementing a wholesale HSA framework in the North.
60. Participants put their best foot forward to meaningfully engage in this proceeding. As Ms. Southwick said, on behalf of IRP Consulting:
 

3320 The only thing about engagement is authenticity and meaningfulness are incredibly important. And when you're meaningfully engaging with somebody, it's not only readily apparent, it produces an outcome that by miles is more important and better. So I would often say engagement -- and the same for consultation. It has to be done meaningfully.
61. Unfortunately, with all respect, the regulatory outcomes provided for in the Decision suggest that this meaningful engagement did not go both ways.
62. Instead, we declined to request adequate costing information from Northwestel about wholesale costs. We failed to properly consider subsidies or regulatory flexibility to facilitate implementation of competition in the region, despite past precedents for doing just that. We did not consider the reality of Northwestel's financial situation and its overall ability to implement a framework, and the role that government subsidies play in broadband investment and deployment to the last remaining underserved regions. Instead, we wiped our hands clean and said competition will not work in this region, singlehandedly undoing almost three decades of decisions that said otherwise and despite policy directions changing from a free market angle to explicit directions to reduce barriers for smaller telecommunication players. In so doing, with this Decision, we have failed Indigenous people.
63. We cannot say that we are advancing reconciliation or that we considered what Indigenous people had to say about UNDRIP and modern treaties. Indigenous intervenors, like Ms. Southwick, wanted to "move mountains" and asked us to create a more level playing

field in which Indigenous people could participate more fulsomely in the economy. This was an opportunity for transformative regulatory change. Instead, the Commission responded by putting art on the walls.