



The Broadcasting and Telecommunications Legislative Review Panel
C/O Innovation, Science, and Economic Development Canada
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OTTAWA ON K1A0H5

Written Submission of the GNWT Regarding the *Telecommunications Act*

1. The Government of the Northwest Territories (GNWT) has been an active participant in telecommunications proceedings at the CRTC for more than two decades. The GNWT has also been active in other forums impacting telecommunications regulation, including its submission to the 2005 Telecommunications Review Panel. For the most part, the GNWT believes that the *Telecommunications Act* is not in need of major revisions, and does not intend to submit detailed recommendations as to possible legislative changes. Rather, it will confine itself to comments applicable to the policy objectives set out in section 7 of the *Telecommunications Act*.
2. A constant theme of the GNWT's participation in CRTC telecommunications proceedings has been to ensure, that to whatever extent possible, Northerners have access to the same range of services as those residing in Southern Canada and at comparable prices. In that context, the GNWT has actively promoted the introduction of competition in the provision of all telecommunications services, and has even funded the provision of telecommunications infrastructure. The Mackenzie Valley Fiber Link (MVFL) project is a GNWT initiative to provide state-of-the-art fiber optic telecommunications to communities in the Mackenzie Valley and Beaufort Delta Regions. The MVFL project involves the installation of 1,154 kilometers (717 miles) of high-speed fiber optic telecommunications cable, running from McGill Lake in the South to Inuvik in the North, at a cost of \$90 million. The GNWT has also advocated for provision through the CRTC of subsidies to service providers required to allow services to be offered at rates below the high levels that would otherwise be necessary due to the high costs of providing services in the North.
3. These high costs are at the root of many issues involved in providing telecommunications services in the NWT and arise from the North having a very small population scattered over a very large land mass characterized by both a harsh climate and often difficult terrain¹. Together, the Northwest Territories, Nunavut, and Yukon occupy approximately 40 percent of Canada's land mass, but

¹ In Telecom Decision CRTC 99-16, **Telephone Service to High-Cost Serving Areas**, at para 59 the CRTC stated that "*NWTEL has the lowest telephone line density in the country. This low density, combined with the size and severe climatic conditions of its territory, requires NWTEL to operate and maintain a network without the efficiencies available to companies in southern Canada.*"

represent just over three tenths of one percent of its population. The majority of communities have populations of less than 500 people, and many do not have year-round road access. The terrain includes tundra, forest, and prairie and ranges from coastal plains to alpine mountains. The climate is harsh with short cool summers and long winters where temperatures frequently reach below minus 50 degrees Celsius. The North differs too in its history and in its culture. For example, just over one half of the peoples of the Northwest Territories are aboriginal: ten percent (10%) are Inuit; eight percent (8%) are Metis and; thirty two percent (32%) are First Nations.² Eleven official languages are recognised in the Northwest Territories' *Official Languages Act*. Selected statistics for Northwestel communities are contained in Table 1.

4. Many of the above referenced factors not only significantly raise the costs of providing telecommunications services in the North, but also increase the reliance of the population on such services. Where there are few all-weather-roads, where communities are small and consequently limited in available resources and services, and where distances between communities are immense, the importance of telecommunications for ordinary social and economic activities, not to mention health, education, and safety, is greatly magnified. For many people, at many times of the year, the telephone or internet constitutes the only daily link available to permit communications with the outside world.
5. For many years, the CRTC has recognized the requirement to subsidize telecommunications services in the North to allow for prices similar to those levied in Southern Canada.

² 2016 Statistics Canada Census Data, Aboriginal Population Profile for Canada, Provinces and Territories.

TABLE 1: NORTHWEST TERRITORIES COMMUNITIES

Community	Backbone Technology	Population	Road Access
AKLAVIK	Terrestrial	657	WINTER ICE ROAD
BEHCHOKO	Terrestrial	2,066	YEAR ROUND
COLVILLE LAKE	Satellite	156	WINTER ICE ROAD
DELINE	Terrestrial	553	WINTER ICE ROAD
DETTAH	Terrestrial	262	YEAR ROUND
ENTERPRISE	Terrestrial	103	YEAR ROUND
FORT GOOD HOPE	Terrestrial	589	WINTER ICE ROAD
FORT LIARD	Terrestrial	597	YEAR ROUND
FORT MCPHERSON	Terrestrial	788	YEAR ROUND
FORT PROVIDENCE	Terrestrial	773	YEAR ROUND
FORT RESOLUTION	Terrestrial	485	YEAR ROUND
FORT SIMPSON	Terrestrial	1,267	YEAR ROUND
FORT SMITH	Terrestrial	2,492	YEAR ROUND
GAMETI	Satellite	315	WINTER ICE ROAD
HAY RIVER	Terrestrial	4,025	WINTER ICE ROAD
INUVIK	Terrestrial	3,524	YEAR ROUND
JEAN MARIE RIVER	Terrestrial	71	YEAR ROUND
KAKISA	Terrestrial	58	YEAR ROUND
LUTSELK'E	Satellite	307	NONE
NAHANNI BUTTE	Terrestrial	116	WINTER ICE ROAD
NORMAN WELLS	Terrestrial	847	WINTER ICE ROAD
PAULATUK	Satellite	351	NONE
SACHS HARBOUR	Satellite	133	NONE
TROUT LAKE	Satellite	110	WINTER ICE ROAD
TSIIGEHTCHIC	Terrestrial	125	YEAR ROUND
TUKTOYAKTUK	Terrestrial	929	YEAR ROUND
TULITA	Terrestrial	556	WINTER ICE ROAD
ULUKHAKTOK	Satellite	489	NONE
WEKWETI	Satellite	147	WINTER ICE ROAD
WHA TI	Terrestrial	509	WINTER ICE ROAD
WRIGLEY	Terrestrial	113	YEAR ROUND
YELLOWKNIFE	Terrestrial	20,188	YEAR ROUND

6. For example, in 1999, the CRTC directed Northwestel to develop a Service Improvement Program (SIP)³ that would allow it to meet the basic service objective that was established at the same time,⁴ and indicated that, if required, it would provide special subsidy funding to assist Northwestel in so doing.⁵ Northwestel's SIP proposal was considered by the Commission in 2000⁶ and implemented over the 2001 to 2005 time period. The initial approved SIP aimed to extend individual line service to unserved and underserved customers, and to upgrade Northwestel's toll network.⁷ This plan was subsequently reviewed on an annual basis with adjustments being made to include some costs of extending toll free internet access.⁸ Funding for the capital related and ongoing costs associated with the SIP have been provided for through a subsidy paid from the CRTC's Central Fund. Initially, the subsidy received was not separately identified, but was instead included in a general subsidy from the CRTC fund intended to ensure that Northwestel was able to earn a reasonable return on investment.⁹ Since 2007, the SIP subsidy has been separately identified and was then calculated, remaining today at \$10.1 million annually.^{10 11}

7. Northwestel and its subscribers have also received substantial subsidy assistance with respect to local rates. When Northwestel moved to a price cap regulation regime in 2007, an explicit local service subsidy that was funded from the CRTC central fund was established to defray the high costs of providing local service in most Northern communities, and to keep residential rates at affordable levels.^{12 13} The Commission noted that Northwestel's residential phone rates, which were then \$31.33 per month, were among the highest in the country.¹⁴ The level of the subsidy, which pertains to residential subscribers other than in Yellowknife and Whitehorse,

³ Telecom Decision CRTC 99-16, **Telephone Service to High-Cost Serving Areas**, Paras 23-25.

⁴ Ibid, Paras 63.

⁵ Ibid, Paras 65 and 69.

⁶ Telecom Decision CRTC 2000-746, **Long-distance competition and improved service for Northwestel customers**.

⁷ Ibid, Para 16.

⁸ Telecom Decision CRTC 2003- 39, **Northwestel Inc. – Initial annual review of supplemental funding**.

⁹ Telecom Decision CRTC 2000-746, **Long-distance competition and improved service for Northwestel customers**, Paras 125-26.

¹⁰ Telecom Decision CRTC 2007-5, **Price cap regulation for Northwestel Inc.**, Para 237.

¹¹ Telecom Decision CRTC 2017-438, **Final 2017 revenue-percent charge and related matters**, Paras 18 and 30.

¹² Telecom Decision CRTC 2007-5, **Price cap regulation for Northwestel Inc**

¹³ The CRTC has never explicitly defined what constitutes an affordable local rate. It has however established a \$30 price ceiling in forborne exchanges and used subsidies to hold local rates to a \$30 maximum (with an inflation adjustment) except where such rates were already above this level. See for example Telecom Decision CRTC 2007-27, **Price cap framework for large incumbent local exchange carriers**, and Telecom Regulatory Policy CRTC 2011-291, **Obligation to serve and other matters**.

¹⁴ Telecom Decision CRTC 2007-5, **Price cap regulation for Northwestel Inc**, Para 128.

was established at \$8.8 million a year.¹⁵ In 2017, and on an interim basis for 2018, the per residential subscriber subsidy in Northwestel territory outside of Yellowknife and Whitehorse was established at \$45.49 per line.¹⁶ Based on 15,200 subsidised residential lines, this entailed a local subsidy payment in 2017 of \$8.3 million to Northwestel.¹⁷

8. Together, these subsidies have played a major role in ensuring the provision of basic services to Northerners at affordable prices in furtherance of the *Telecommunications Act* objectives, set out in section 7 of the Act, and in particular the first two objectives which provide that:

7. It is hereby affirmed that telecommunications performs an essential role in the maintenance of Canada's identity and sovereignty and that the Canadian telecommunications policy has as its objectives

(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

9. While these objectives have not changed, the GNWT is concerned that in recent decisions the CRTC appears to either be giving them far less weight or interpreting them in a manner not consistent with its historical practises.

10. In the case of Northern Canada, this has meant that in the last two years, the CRTC has, to the surprise of many, determined that the local service subsidy in the North and other high cost locations will be phased out by the end of 2021¹⁸ ¹⁹ and that, albeit with Northwestel's concurrence, its SIP subsidy will be terminated at the end of 2020.²⁰ Together these two subsidies comprise approximately 9% of Northwestel's revenues.²¹

¹⁵ Ibid, Para 216.

¹⁶ Telecom Decision CRTC 2017-438, **Final 2017 revenue-percent charge and related matters**, Para 29.

¹⁷ Ibid, Para 17.

¹⁸ Telecom Regulatory Policy CRTC 2016-496, **Modern telecommunications services – The path forward for Canada's digital economy**, Paras 164-89.

¹⁹ Telecom Regulatory Policy CRTC 2018-213, **Phase-out of the local service subsidy regime**.

²⁰ Ibid, Para 57.

²¹ As noted above in 2017 Northwestel received a SIP subsidy of \$10.1 million and a local service subsidy of \$8.3 million, totaling \$18.4 million. Per Appendix 13 of Northwestel's March 29 submission to the CRTC re **2018 Progress Report for the Modernization Plan**, 2017 operating revenues are listed as \$239 million. These two subsidies combined thus account for nearly 8% of Northwestel's revenues.

11. At the same time, the CRTC, while finding that internet service is now a basic service, has simply declined to address the affordability of internet services arguing that outside of the North there is significant competition and that in any event:
*A comprehensive solution to affordability issues will require a multi-faceted approach, including the participation of other stakeholders. In this regard, the record of this proceeding demonstrates that various stakeholders, including ISPs and community organizations, have begun to implement innovative solutions to meet the wide-ranging needs of lower-income consumers. The Commission is mindful that its regulatory frameworks should be sufficiently flexible to allow for such solutions and does not want to take regulatory action that would inadvertently hinder the development of further private and public sector initiatives.*²²

12. In the North, however, the rates for terrestrial internet services are regulated due to the lack of competition in the market²³ and such rates are significantly higher in the North than in Southern Canada.²⁴ For this reason, the GNWT had argued that high speed internet subsidy modelled along the same lines as the current local voice subsidy was required for internet services. This position was not even referenced in the CRTC decision cited above.

13. It is not the GNWTs intention to seek to revisit these decisions. We do, however, feel that such abrupt shifts in CRTC policies and programs indicates that the objectives set out in the *Telecommunications Act* may lack adequate precision and inadequately reflect the needs of Northern Canada and other regions labouring under the burden of unusually high costs.

14. RECOMMENDATION

To address this concern, we propose that a new objective be added to section 7 of the Telecommunications Act as follows:

- To ensure that all Canadians in all regions of the country have access to Telecommunications services of similar quality and at similar rates;**
- In addition section 7(b) should be amended to include a specific reference to remote as well as urban and rural communities as follows:**

²² Telecom Regulatory Policy CRTC 2016-496, **Modern telecommunications services – The path forward for Canada’s digital economy**, Para 203.

²³ Telecom Regulatory Policy CRTC 2013-711, **Northwestel Inc. – Regulatory Framework, Modernization Plan, and related matters**, Paras 219-223.

²⁴ Compilations of recent price information for internet services is somewhat limited. Some 2016 data is provided at pages 263-67 of the CRTC’s Communications Monitoring Report. This data shows that rates in the Northern territories are in general far below the lowest rates available in the South for similar speed services. A comparison of different Charts suggests that the higher rates shown in a few instances for Atlantic Canada may result from the rates for higher speed services in the Atlantic being used in the comparison of lower speed service rates. Northwestel’s website indicates that current rates in Yellowknife are \$41.95 a month for service with download/upload speeds of 5/1Mbps and a 20Gb monthly usage cap. Rates are \$110.95 a month for service with download/upload speeds of 50/4Mbps and a 200Gb monthly usage cap.

- **To render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban, rural and remote areas in all regions of Canada;**

15. With regard to the last recommendation, we would note that the CRTC itself included a specific reference to remote communities when it established the new universal service objective as follows:

*Pursuant to the Commission's legislative mandate, a new objective now needs to be established to recognize the current state of modern telecommunications services in Canada and to enable Canadians to become even greater participants in the digital economy. Accordingly, the Commission hereby establishes a universal service objective: Canadians, in urban areas as well as in rural and **remote** areas, have access to voice services and broadband Internet access services, on both fixed and mobile wireless networks. (emphasis added)²⁵*

We would like to note as well that the terms of reference of the review panel include the statement that "Improving access to these [telecommunications] services for Canadians in rural and remote areas, including for Indigenous communities, is a key priority. In and of itself, this would support the medication proposed to objective 7 (b) above to include a reference to remote communities.

16. Finally, though we are not proposing specific language at this time, we would strongly support (pursuant to the terms of reference) either amending objectives 7 (a) and (b) to include references to Indigenous peoples and/or communities, or adding a new objective specifically for this purpose.

Sincerely,



Dave Heffernan
Chief Information Officer, Finance

²⁵ Telecom Regulatory Policy CRTC 2016-496, **Modern telecommunications services – The path forward for Canada's digital economy**, Para 37.