



Telecom Public Notice CRTC 2006-1

Ottawa, 17 January 2006

Review of regulatory framework for Northwestel Inc.

Reference: 8663-C12-200600066

In this Public Notice, the Commission initiates a proceeding and invites comments on establishing a new regulatory framework for Northwestel Inc. that will go into effect in 2007. The proceeding will include a public hearing to be held in Whitehorse, Yukon in July 2006.

Background

1. In *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994 (Decision 94-19), the Commission developed a regulatory framework for the telecommunications industry intended to allow all Canadians, over time, ubiquitous and affordable access to an increasing range of competitively provided telecommunications services. The framework for rate regulation involved three key, interrelated initiatives:
 - the replacement of rate base/rate of return regulation with price regulation;
 - the splitting of the rate bases of the incumbent telephone companies into Competitive and Utility segments to facilitate the transition to price regulation; and
 - a significant reduction in the subsidy of local access services paid by users of long distance services.
2. In Decision 94-19, the Commission adopted a different regulatory regime for Northwestel Inc. (Northwestel). At that time, Northwestel had no major competitor in its long distance market, and there was limited competition in Northwestel's private line services and terminal equipment markets. The Commission considered, therefore, that there would be little benefit in splitting the company's rate base. Accordingly, the Commission decided that Northwestel would remain under rate base/rate of return regulation.
3. In *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, 19 October 1999 (Decision 99-16), the Commission noted that the territory of Northwestel presents unique and difficult challenges because it is large, sparsely populated and subject to severe climatic conditions. In light of these unique circumstances, the Commission considered that Northwestel might not have the means to achieve the Basic Service Objective (BSO)¹

¹ In Decision 99-16, the Commission established the following BSO for local exchange carriers: (i) individual line local service with touch-tone dialling, provided by a digital switch with capability to connect via low-speed data transmission to the Internet at local rates; (ii) enhanced calling features, including access to emergency services, Voice Message Relay service, and privacy protection features; (iii) access to operator and directory assistance services; (iv) access to the long distance network; and (v) a copy of a current local telephone directory.

without supplementary funding. In Decision 99-16, the Commission directed Northwestel to propose the amount of supplemental funding it would require to meet the BSO, to recover its contribution requirement and to provide the company with a reasonable opportunity to earn a fair return on common equity (ROE).

4. In Decision 99-16, the Commission stated that, to be eligible for any supplemental funding, Northwestel would have to demonstrate that it could not meet the BSO using the traditional funding mechanisms relied upon by companies in southern Canada. The Commission further stated that, if Northwestel was able to demonstrate that it needed supplementary funding, any such funding would come from the portable subsidy mechanism.
5. In *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000 (Decision 2000-745), the Commission introduced, effective 1 January 2001, a new regime to subsidize the high cost of local service in rural and remote areas. In that Decision, the Commission established a new national contribution mechanism based on revenues from telecommunications service providers that replaced the per-minute mechanism that was in existence. The Commission determined, however, that Northwestel would remain on a per-minute mechanism.
6. In *Long-distance competition and improved service for Northwestel customers*, Decision CRTC 2000-746, 30 November 2000 (Decision 2000-746), the Commission established, effective 1 January 2001, the terms and conditions for long distance competition in Northwestel's territory. The competitive framework for Northwestel included a bundled, subsidized carrier access tariff (CAT) rate of \$0.07 per minute. The Commission determined that it would continue regulating Northwestel on a rate base/rate of return basis and set the company's ROE at 10.5 percent. The Commission approved a four-year service improvement plan (SIP) for the years 2001 to 2004 to extend and improve service in the North. The Commission also approved supplemental funding from the National Contribution Fund (NCF) of \$15.1 million for 2001 and determined that it would conduct annual reviews of the supplemental funding required by Northwestel.
7. In *Northwestel Inc. – Initial annual review of supplemental funding*, Telecom Decision CRTC 2003-39, 20 June 2003, the Commission considered that the regulatory framework that was established in Decision 2000-746 continued to respond to the unique challenges of telecommunications services in the North. The Commission further considered that, given the significance of the company's SIP in the context of the regulatory framework established in Decision 2000-746, Northwestel's regulatory framework should remain in place at least until the completion of the SIP. The Commission stated that it would determine at that time whether the current form of regulation continued to be appropriate or needed to be replaced by either a transitional regime or a direct move to price regulation.
8. In *Northwestel Inc. - Supplemental funding requirement for 2003*, Telecom Decision CRTC 2004-64, 30 September 2004, as amended by Telecom Decision CRTC 2004-64-1, 18 October 2004, the Commission found that it would be appropriate to extend the current regulatory regime to the end of 2006 and the SIP to the end of 2005. In *Northwestel Inc. - Supplemental funding requirements for 2004 and 2005*, Telecom Decision CRTC 2005-54, 15 September 2005 (Decision 2005-54), the Commission announced that it would issue

a public notice shortly to initiate a proceeding to review Northwestel's regulatory framework. In addition, the Commission initiated a proceeding to finalize the appropriate amount of supplemental funding for 2006. The decision on the matter of supplemental funding for 2006 is expected to be released during the first quarter of 2006.

Scope of the proceeding

9. The Commission hereby initiates a proceeding to consider the appropriate regulatory framework for Northwestel that would be put into effect in 2007. Northwestel is requested to file its proposed regulatory framework, which should, among other matters, address the issues set out below in this Public Notice, and provide supporting evidence and rationale where appropriate.

Price regulation

10. The Commission wishes to examine whether Northwestel's current rate base/rate of return regulatory framework should be replaced with a price regulation framework. Under such a framework, the services that are subject to price regulation would be grouped into one or more service baskets, each of which would be subject to pricing constraints. Under such a framework, the rates for individual services within a basket could be changed as long as they conformed to the pricing constraints established for that basket.
11. In the context of establishing a price regulation framework for the small incumbent local exchange carriers, the Commission has previously identified the following objectives:²
 - provide companies with incentives to be more efficient and innovative;
 - ensure that companies' customers continue to have access to reliable and affordable services;
 - provide companies with a reasonable opportunity to earn a fair return; and
 - reduce the regulatory burden.
12. Northwestel is requested to provide its view on moving to a price regulation framework in 2007, as well as the appropriate objectives for such a framework in light of its operating circumstances.
13. Should Northwestel propose to implement a regulatory framework that focuses on prices rather than on earnings, the proposal should address, among other things, the appropriate parameters for a price regulation regime, including:

² *New regulatory framework for small independent telephone companies and related issues*, Public Notice CRTC 2001-61, 30 May 2001, and *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001.

- the tariffed services that would be subject to the price regulation regime and the associated pricing constraints, including the appropriate measure of inflation, the level and applicability of a productivity factor, and the treatment of any exogenous events;
 - the length of the initial price regulation period;
 - the appropriateness and type of self-correcting mechanism as a measure of protection for consumers against possible errors in setting price regulation parameters;
 - any proposed changes to Northwestel's current filing and reporting requirements; and
 - any ancillary reporting requirements that may be necessary to monitor the effectiveness of a price regulation regime in Northwestel's territory.
14. In the event that Northwestel proposes a transitional period, the company is to identify if and how this transition period could be implemented prior to or during the price regulation regime.

Funding for provision of service to high-cost serving areas

15. As noted earlier, Northwestel requires supplemental funding from the NCF to, among other things, meet the BSO and earn a fair ROE.
16. In Decision 99-16, the Commission found it appropriate that a portion of Northwestel's switching and aggregation facilities be considered an extension of its local network. This finding recognized that Northwestel faces unique circumstances in that it has unusually long toll connecting trunks throughout its territory, and its ability to maintain and upgrade these facilities affects whether customers will have access to quality toll service.
17. In Decision 2000-745, the Commission considered that it would be appropriate to calculate the annual total subsidy requirement for the high-cost serving areas (HCSAs) of the large incumbent local exchange carriers (ILECs) using a cost-based approach. The Commission determined that, in general, the subsidy requirement for HCSAs would consist of the following: annual primary exchange residential service revenue, plus an annual target implicit contribution amount from other local residential services, less the annual Phase II costs plus an appropriate mark-up.
18. Northwestel is to provide its view as to whether any changes are required to the methodology used to determine the level of funding required from the NCF. The company is further requested to provide its views as to whether a cost-based subsidy approach similar to that established in Decision 2000-745 would be appropriate for Northwestel. If the company considers that changes are required, its proposal should include the amount of funding required, the service elements to be eligible for funding, the methodology to be used, the supporting cost studies, and the rationale.

Financial review

19. The Commission intends to undertake a financial review to assess the company's financial position at the start of the new regulatory framework.
20. Northwestel is to provide its view as to whether it continues to be appropriate to assess the company's financial position on a total-company basis. Alternatively, given that long distance competition is present in Northwestel's operating territory, the company is to provide its view as to whether it would be appropriate to split the company's rate base between Utility and Competitive segments in assessing the company's financial position. If Northwestel considers that it is appropriate to split its rate base, the company is to provide its proposed methodology for splitting its rate base.
21. In Decision 2000-746, the Commission approved for Northwestel an ROE of 10.5 percent and a common equity ratio of 55 percent on a total-company basis. Northwestel is to provide its view as to whether it considers these financial parameters to be appropriate for assessing the financial position of the total company or alternatively the Utility segment of the company. If Northwestel considers that changes are required to these financial parameters, the company is to provide supporting evidence for its proposed changes.
22. The Commission notes that the level of funding required by Northwestel from the NCF could increase substantially depending on the company's proposal regarding its regulatory framework, its financial position and parameters, and the other issues raised in this Public Notice. Northwestel is to provide its view as to whether rate changes should be implemented to ensure that the company achieves an appropriate ROE at the start of the new regulatory regime in the event that the funding from the NCF increases substantially.
23. The Commission wishes to examine as part of this financial review, the sum of any incremental revenue requirement impacts arising from material changes that the company proposes. The changes could include, but would not be limited to:
 - any SIP proposals;
 - changes resulting from any proposed changes to the financial parameters;
 - any additional depreciation expense resulting from proposed changes to asset service lives; and
 - net annualized revenue impacts of planned and pending tariff items.

Long distance competition and CAT rate

24. In Decision 99-16, the Commission stated that, in order to permit long distance competition, the Commission would have to establish sustainable rates for the switching and aggregation component, as well as the toll contribution (subsidy) component, of the CAT. The Commission considered that Northwestel might not be able to propose a cost-based switching and aggregation rate that would be sustainable and might not be able to recover the associated costs

in a competitive long distance environment. Accordingly, in Decision 2000-746, the Commission approved a bundled, subsidized per minute CAT rate of \$0.07 per minute that includes switching and aggregation, contribution and equal access start-up rates applicable on all toll traffic originated and terminated by competitors in Northwestel's territory.

25. The Commission notes that in moving to the revenue-based contribution mechanism in Decision 2000-745, the contribution rate element was removed from the large ILECs' CATs. Further, the remaining elements of the CAT, namely the rates for switching and aggregation and for equal-access start-up costs, were based on Phase II costs.
26. The Commission seeks comments on the status of long distance competition in Northwestel's territory. Northwestel should address whether any changes are required to the level of the CAT rate and whether the CAT rate should be developed using an approach similar to that used for the large ILECs taking into account the company's market conditions and costs where equal access is available.

Other issues

Revenue deferral account

27. In Decision 2000-746, the Commission stated that, due to the substantial reduction in toll rates and the introduction of toll competition in 2001, there would be uncertainty with respect to Northwestel's long distance market share and revenues. The Commission further stated that this could result in large deviations between the actual and forecast toll, settlement, and CAT revenues, and consequently could affect the required amount of any supplemental funding. The Commission directed Northwestel to accumulate the differences between forecast and actual toll, settlement, and CAT revenues in a deferral account. Any amount accumulated in the revenue deferral account would be disposed of in the following year.
28. The Commission seeks Northwestel's view as to whether there is a continued need for the revenue deferral account mechanism in light of its proposed regulatory framework.

Local competition

29. In Decision 2000-746, the Commission stated that competition in local access services remained a matter for future consideration. The Commission seeks comments as to whether local competition should be permitted in Northwestel's operating territory and under what conditions.

Other

30. As part of its proposal, Northwestel is invited to submit comments on other relevant issues including, but not limited to, issues of quality of service, the requirement for further SIPs and the follow-up items identified in Decision 2005-54.

Procedure

31. Northwestel is made a party to this proceeding. Interested parties wishing to participate in this proceeding must notify the Commission of their intention to do so, by **27 February 2006**.

These parties should contact the Secretary General by mail at CRTC, Ottawa, Ontario, K1A 0N2, by fax at (819) 994-0218, or by email at procedure@crtc.gc.ca. They are to indicate in the notice their email address, where available. If interested parties do not have access to the Internet, they are to indicate in their notice whether they wish to receive disk versions of hard copy filings. The Commission will issue, as soon as possible after the registration date, a complete list of interested parties and their mailing address (including their email address, if available), identifying those interested parties who wish to receive disk versions.

32. Any person who wishes merely to file written comments in this proceeding, without receiving copies of the evidence filed, may do so by writing to the Commission, at the address noted in paragraph 31 by **30 June 2006**.
33. By **30 January 2006**, the Commission will address interrogatories to Northwestel regarding the issues set out in this Public Notice. Northwestel is directed to file responses to the interrogatories with the Commission and serve copies on all interested parties by **20 March 2006**.
34. Northwestel is to file with the Commission, serving copies on all interested parties, its proposal, along with its supporting evidence, on all matters within the scope of this proceeding. All such material is to be filed with the Commission and served on all interested parties by **20 March 2006**.
35. Interested parties may address interrogatories to Northwestel. Any such interrogatories must be filed with the Commission and served on Northwestel by **10 April 2006**. Responses to these interrogatories are to be filed with the Commission and served on all interested parties by **1 May 2006**.
36. Requests by interested parties for further responses to their interrogatories, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information for which confidentiality has been claimed, setting out in each case the reasons for disclosure, must be filed with the Commission and served on all interested parties by **8 May 2006**.
37. Written responses to requests for further responses to interrogatories and for public disclosure must be filed with the Commission and served on all interested parties by **15 May 2006**.
38. The Commission will issue a determination with respect to requests for further information and public disclosure as soon as possible, and intends to direct that any information to be provided pursuant to that determination will be filed with the Commission and served on all interested parties by **29 May 2006**.
39. Interested parties may, by **5 June 2006**, file submissions with the Commission, serving copies on Northwestel and all interested parties.
40. Northwestel and interested parties may address interrogatories to any party who files submissions. Any such interrogatories must be filed with the Commission and served on Northwestel and all interested parties by **16 June 2006**. Responses to interrogatories are to be filed with the Commission and served on Northwestel and all interested parties by **27 June 2006**.

41. Where a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date.
42. All parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered.
43. Where the submission is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document as an indication that the document has not been damaged during electronic transmission.
44. The Commission also encourages all parties to monitor the record of this proceeding (and/or the Commission's web site) for additional information that they may find useful when preparing their submissions.

Public hearing

45. The Commission will hold an oral hearing commencing on **10 July 2006** at the Convention Centre of the High Country Inn, 4051 - 4th Avenue, in Whitehorse, Yukon. It is expected that the first day will be reserved for comments from the general public, with the formal public hearing commencing thereafter. The Commission expects the hearing will last no longer than two weeks. The details of the hearing will be provided at a later date.
46. Interested parties wishing to appear at the oral hearing shall file notice of their intention to participate no later than **31 May 2006**. Prior to the commencement of the oral hearing, the Commission will issue further directions on procedure with respect to the oral hearing, including the scope of the issues to be examined during the oral hearing.
47. Persons requiring communications support such as assistive listening devices and sign language interpretation are requested to inform the Commission at least twenty (20) days before the commencement of the oral hearing so that necessary arrangements can be made.
48. In addition to, or instead of, presenting oral final argument, Northwestel and interested parties may file written final argument with the Commission with a copy served on Northwestel and interested parties by the later of **21 July 2006**, or the end of the oral hearing.
49. Northwestel may file reply argument with the Commission serving a copy on all interested parties by **4 August 2006**.

Notification of subscribers

50. Northwestel is to mail billing inserts notifying its subscribers that: (i) Northwestel has filed its proposal to establish a new regulatory framework in its operating territory (a summary of its proposal should be included); (ii) this proposal will be available for public inspection during normal business hours at the business offices of the telephone company, at the offices of the Commission and on the Commission's web site at www.crtc.gc.ca; (iii) subscribers may provide comments by writing to the Commission by **30 June 2006** and/or by making

representations at the hearing; and, (iv) persons wishing to participate at the hearing are to notify the Commission by **23 June 2006**, indicating in which official language they intend to participate. Billing inserts should be received by all subscribers no later than **1 June 2006**. Northwestel is directed to file its proposed billing insert for Commission approval by **20 March 2006**.

Important notice

51. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's web site at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's web site. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
52. Documents received electronically or otherwise will be put on the Commission's web site in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
53. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Location of CRTC offices

54. Submissions may be examined or will be made available promptly upon request at the Commission offices during normal business hours:

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Québec J8X 4B1
Tel: (819) 997-2429 - TDD: 994-0423
Fax: (819) 994-0218

580 Hornby Street, Suite 530
Vancouver, British Columbia V6C 3B6
Tel: (604) 666-2111 - TDD: 666-0778
Fax: (604) 666-8322

Secretary General

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