



Telecom Order CRTC 2005-112

Ottawa, 23 March 2005

Northwestel Inc.

Reference: Tariff Notice 804

Extended area service between Marsh Lake and Whitehorse

*In this Order, the Commission **approves** Northwestel's proposal to introduce Extended Area Service between Marsh Lake and Whitehorse.*

1. The Commission received an application by Northwestel Inc. (Northwestel), dated 12 February 2004, proposing amendments to General Tariff item 202, Primary Exchange Service, in order to introduce Extended Area Service (EAS) between the communities of Marsh Lake and Whitehorse.

Process

2. The Commission received comments from the Marsh Lake Local Advisory Council (MLLAC), the Utilities Consumer Group (UCG), and the Yukon Government, and reply comments from Northwestel. While a number of these comments were filed outside the public process, they were included on the public record to ensure that the concerns of all interveners were fully addressed.

The Application

3. Northwestel proposed rate increases of \$6.50 per month per network access service (NAS) for Marsh Lake and \$0.48 per month per NAS for Whitehorse. The company proposed that these increases would apply to both residential and business NAS to recover the revenue losses it would incur as a result of the elimination of long distance rates between the two centres.
4. Northwestel noted that in *Framework for the expansion of local calling areas*, Telecom Decision CRTC 2002-56, 12 September 2002 (Decision 2002-56), the Commission had set out the process for Northwestel to follow when introducing EAS. Northwestel also noted that the specific terms and conditions for Northwestel's EAS tariff were approved in *Northwestel Inc. – Extended area service*, Telecom Order CRTC 2003-456, 10 November 2003 (Order 2003-456).
5. Northwestel stated that it had begun the process of investigating EAS between Marsh Lake and Whitehorse as a result of a petition submitted to the company by Marsh Lake, which had identified that it was interested in EAS. Northwestel stated that, in addition, the MLLAC had approached it on several occasions with a view to the introduction of local calling to Whitehorse.
6. Northwestel submitted that its proposal complied with its EAS tariff. Specifically, Northwestel indicated that the distance between the two communities' rate centres was 33 miles and that 84 percent of Marsh Lake customers called Whitehorse at least once per month. Northwestel

also stated that, since the proposed EAS rate for Marsh Lake exceeded \$1.00, it had conducted a poll of Marsh Lake customers between 17 November 2003 and 12 January 2004. Northwestel stated that the overall response rate was 67 percent, with 78 percent of respondents agreeing to pay an EAS rate of \$6.50 per month per NAS. Northwestel submitted that, since the proposed EAS rate for Whitehorse customers was below \$1.00, no vote was held for these customers.

7. Northwestel filed a cost study in support of its proposal.
8. Northwestel submitted that its proposal was fair and had reached an equitable balance of cost-sharing between the residents of Marsh Lake and Whitehorse. Northwestel noted that if its proposal was approved, Marsh Lake residents would pay a much larger share of the costs per customer, since they would derive a greater proportion of the benefit from the establishment of EAS between Marsh Lake and Whitehorse. Northwestel submitted that since the residents of Whitehorse would also benefit from free local calling to Marsh Lake, they should therefore pay some of the costs.

Position of parties

Utilities Consumers Group

9. UCG submitted that the process that set out EAS guidelines was flawed. UCG claimed that neither Northwestel nor the Commission had sent it any information regarding the proceedings that led to this decision, and that it therefore had no opportunity for input into this decision.
10. UCG supported bringing outlying communities such as Tagish and Carcross into the process and argued that these communities should all be absorbed simultaneously under a process that was fair and based on principles of natural justice.
11. UCG submitted that by taking the EAS consumers out of the long distance market for the EAS route in question, Northwestel would not be concerned with long distance competition.
12. UCG submitted that the proposal was not balanced between subscribers in Marsh Lake and Whitehorse. UCG questioned Northwestel's claim that Whitehorse residents would also receive benefits from the establishment of EAS between the two communities. UCG argued that the total cost of this proposal would be in the order of \$12.00 per Marsh Lake resident and that, therefore, Northwestel was asking Whitehorse residents to pay half the cost.

Marsh Lake Local Advisory Council

13. MLLAC supported Northwestel's application and argued that the public process had been fair and reasonable. MLLAC submitted that Marsh Lake was commercially dependent on Whitehorse and stated that it had lobbied Northwestel for several years to introduce EAS between Whitehorse and Marsh Lake. MLLAC noted that EAS between Whitehorse and Marsh Lake had very strong public support, even with the proposed increase in Marsh Lake local rates of \$6.50 per month per NAS.

Yukon Government

14. The Yukon Government supported Northwestel's application and submitted that the process had been conducted in a fair and reasonable manner. It also submitted that the proposal would provide benefits to residents of both Marsh Lake and Whitehorse.

Northwestel's reply

15. Northwestel noted that Decision 2002-56 was the result of the public proceeding set out in *Framework for the expansion of local calling areas and related issues*, Public Notice CRTC 2001-47, 21 April 2001 (Public Notice 2001-47), which was open to all interested parties. The company submitted that the procedures established in its EAS tariff provided a fair and progressive process for investigating requests for EAS service in northern communities.
16. Northwestel noted that, in the proceeding initiated by Public Notice 2001-47, it had identified that there might be two other communities (i.e. Tagish and Carcross) with a community of interest to Whitehorse that might be interested in establishing EAS. The company noted that to apply for this service, a legitimate organization representing the community, such as the town council, must approach Northwestel. The company stated that neither Tagish nor Carcross had officially requested EAS to Whitehorse at that time.
17. Northwestel noted that the MLLAC had approached it on several occasions to discuss EAS between Marsh Lake and Whitehorse, and had initiated the EAS study by submitting a petition to the company.
18. Northwestel submitted that all stakeholders had had an opportunity to participate in the Marsh Lake EAS process. The company noted that, in order to ensure that stakeholders had an opportunity to understand how the process worked and how they could participate, it had used a number of methods to inform stakeholders – including public meetings, a press release notifying the public of the Marsh Lake vote results and the process to follow, and articles published in both major local papers.
19. Northwestel submitted that its proposal was revenue neutral and that the proposed rates struck an appropriate balance between the subscribers of Marsh Lake and Whitehorse. The company submitted that although Marsh Lake residents would derive the greatest benefit on a per-subscriber basis, Whitehorse residents would also benefit from the introduction of EAS, since a number of Whitehorse residents made calls to Marsh Lake. Northwestel expected that Whitehorse residents would significantly increase their volume of calls should EAS become a reality.
20. In response to UCG's concern regarding long distance competition, Northwestel submitted that it did not expect an equal access provider to offer toll services in the area in question.

The Commission's analysis and determinations

EAS guidelines

21. The Commission notes UCG's complaint that it was never notified of the guidelines that the Commission had approved for introducing EAS between Marsh Lake and Whitehorse.
22. The Commission notes that the public process initiated by Public Notice 2001-47 allowed interveners to participate in the development of the EAS guidelines. The Commission also notes that UCG had another opportunity to intervene when Northwestel filed a tariff notice to implement these guidelines. The Commission notes that UCG is a sophisticated entity and that it was UCG's responsibility to monitor and participate in the regulatory proceedings. The Commission further notes that UCG's complaint was received more than one year after Decision 2002-56 was issued and one month after Order 2003-456 was issued. Accordingly, the Commission finds that UCG's complaint concerning the public process under which the Northwestel EAS criteria were approved is without merit.

The public process to evaluate the EAS proposal

23. The Commission notes UCG's allegation that the Marsh Lake EAS public process was flawed. Contrary to UCG's allegation, the Commission notes that all of UCG's letters received by the Commission between 18 December 2003 and 3 August 2004 regarding Northwestel's proposal to introduce EAS between Marsh Lake and Whitehorse were included on the public record, even though these letters were filed outside of process.
24. Furthermore, the Commission notes that:
 - parties responding to UCG's submissions, including MLLAC and the MLA for Marsh Lake, Patrick Rouble, rejected UCG's position and supported Northwestel's application;
 - Northwestel met with UCG on 27 April 2004 to review the upcoming tariff proposal process and address UCG's concerns;
 - Northwestel issued a press release regarding its EAS proposal to inform the general public; and
 - Northwestel followed the EAS public process as set out in its tariffs.

25. Based on the evidence before it, the Commission finds that the EAS public process was fair, reasonable, and met the requirements of natural justice.

UCG's concern regarding the addition of one EAS route at a time

26. The Commission notes UCG's suggestion that all potential EAS communities should be examined in a single regulatory proceeding and that, therefore, Tagish and Carcross should be added to the public process. Northwestel identified in the public process initiated by Public Notice 2001-47 that Tagish and Carcross might be interested in establishing EAS routes. However, the Commission notes that neither community officially applied to Northwestel for EAS to Whitehorse. Accordingly, the Commission finds that it would have been inappropriate to have included Tagish and Carcross in this proceeding.

The merits of the EAS application

27. The Commission notes that EAS has traditionally been implemented in other incumbent local exchange carriers' territories such that rate increases were limited to communities moving into higher rate groups, where applicable. In Decision 2002-56, the Commission stated that, for Northwestel, it was prepared to consider variations on a case-by-case basis, in light of the unique circumstances in Northwestel's operating territory.
28. The Commission notes that Northwestel has four rate groups, but that the same rates apply across all four rate groups. Therefore, the company cannot generate additional revenues to recover costs by moving Marsh Lake to different rate groups. The Commission finds that, in light of the unique circumstances in Northwestel's operating territory, it is appropriate to vary its traditional EAS criteria in this case in order to allow for the recovery of costs, including toll revenue losses.
29. The Commission notes that Northwestel provided the methodology used and a five-year cost study showing revenue, demand, and cost information in support of its proposal, as well as a copy of the Marsh Lake letter and ballot. The Commission notes that Northwestel's proposed rate increases allow the company to recover foregone toll revenues on an ongoing basis as well as the expenses incurred in the first year, such as engineering and data input. The Commission considers that Northwestel's proposed rate increases for Marsh Lake and Whitehorse are reasonable.
30. The Commission notes that UCG raised concerns with respect to the appropriateness of establishing EAS between Marsh Lake and Whitehorse. The Commission also notes UCG's concern regarding the impact of the introduction of EAS between Marsh Lake and Whitehorse on long distance competition. However, the Commission is of the view that it is unlikely that an equal access toll provider would become established in the area because of low demand and high costs. The Commission notes that UCG did not provide any evidence in support of its claim that the total cost of this proposal would be around \$12.00 per Marsh Lake resident.
31. The Commission notes that Northwestel has complied with the EAS criteria set out in its tariff. The Commission notes, furthermore, that the majority of Marsh Lake customers, as well as the Yukon Government, supported the \$6.50 per month per NAS rate increase.
32. In light of the foregoing, the Commission **approves** Northwestel's EAS application, including the rate increases of \$6.50 in Marsh Lake and \$0.48 in Whitehorse. The Commission directs Northwestel to implement the service as soon as possible.
33. The Commission does not intend that this order set a precedent for future EAS applications from other telephone companies. Accordingly, the Commission limits the finding regarding recovery of toll and start-up costs to Northwestel's EAS application because of the special circumstances related to its operating territory and regulatory framework.

Secretary General

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