



Telecom Decision CRTC 2020-260

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Broadband Fund – Project funding approval for Northwestel Inc.’s Yukon fibre project

*The Commission **approves** Northwestel’s funding application for \$38.6 million to improve local access infrastructure in 19 communities in Yukon and transport infrastructure in 3 of those communities.*

Application

1. In response to the Commission’s first call for applications for funding from the Broadband Fund set out in Telecom Notice of Consultation 2019-191 (hereafter, Call 1), Northwestel Inc. (Northwestel) filed an application, dated 3 October 2019, in which it requested \$38.6 million from the Broadband Fund to implement a project that will provide a significant improvement in broadband service to 19 communities in Yukon.¹ Northwestel indicated that it will build fibre transport to Faro, Mayo, and Ross River. The project will serve three anchor institutions located in these communities: campuses of Yukon University. It will also provide fibre-to-the-home access upgrades in these communities, along with 16 other communities.² Northwestel will offer fixed broadband Internet access service at speeds of 50 megabits per second (Mbps) download and 10 Mbps upload (50/10 Mbps) and with unlimited capacity, consistent with the universal service objective defined by the Commission in Telecom Regulatory Policy 2016-496.

Commission’s analysis and determinations

2. In Telecom Regulatory Policy 2018-377, the Commission established the eligibility and assessment criteria for the Broadband Fund. In the introductory decision for Call 1, Telecom Decision 2020-255, the Commission provided background information and described the eligibility and assessment process and selection considerations used to assess and select projects to be funded. It should be read in conjunction with this decision.

¹ The content of the application was designated confidential pursuant to section 39 of the *Telecommunications Act*, but certain details are being disclosed in this decision, consistent with section 11 – *Confidentiality* of the Application Guide, set out in the Appendix to Telecom Notice of Consultation 2019-191, and as agreed to by the applicant. Other elements of the application remain confidential but were considered when the Commission evaluated the application.

² Those communities are Beaver Creek, Burwash Landing, Carcross, Carmacks, Champagne, Dawson City, Destruction Bay, Haines Junction, Judas Creek/Marsh Lake, Pelly Crossing, Stewart Crossing, Tagish, Teslin, Upper Liard, Watson Lake, and underserved areas surrounding Whitehorse.

3. Northwestel's application met each of the eligibility criteria applicable to transport and access projects.³ Specifically, Northwestel, as a Canadian carrier with more than three years' experience deploying and operating broadband infrastructure in Canada, met each of the criteria for eligible applicants. Northwestel demonstrated that the project would not be financially viable without funding from the Broadband Fund and that the company will invest more than a nominal amount in the project. Northwestel provided evidence that it has consulted or attempted to consult with communities affected by the project, either directly or through community representatives. Finally, the project will serve eligible geographic areas and will meet the requirements for service speeds, pricing, and minimum transport capacity for broadband Internet access, and wholesale and retail open access services.
4. On the basis of its evaluation of the project against the assessment criteria for transport and access projects,⁴ the Commission finds that Northwestel's project is of high quality and will achieve the goals of the Broadband Fund.
5. With regard to the assessment criteria, the Commission considers that the project is technically sound and capable of delivering speeds and capacity consistent with the universal service objective. The proposed equipment is sufficient to deliver the proposed services. The project will implement widely adopted and supported technologies with good long-term sustainability. The network design includes redundant fibre paths and redundant network hardware and software to ensure the network is resilient.
6. Northwestel committed to offering a variety of fixed broadband Internet service packages with speeds from 10/2 Mbps up to the universal service objective speeds of 50/10 Mbps, and a package with unlimited capacity. The rates are equivalent to those Northwestel offered in the comparator city of Whitehorse, Yukon, at the time the application was filed, with better speeds than those offered in Whitehorse.
7. Northwestel will provide wholesale and retail open access to the transport infrastructure with service offerings equivalent to those in existing Commission-approved tariffs.
8. The Commission considers the project financially sound and the proposed costs reasonable. On the basis of its analysis of the business plan and financial information submitted, the Commission finds that, with the Broadband Fund contribution to the project, Northwestel has demonstrated a viable and sustainable business case for serving small, remote communities. The Commission finds that the cost per household to the Broadband Fund is reasonable for the project.
9. The Commission considers that Northwestel has made a significant commitment of its own funds to the project. The Government of Yukon has also committed to contribute to the

³ Specifically, the Commission used the eligibility criteria set out in sections 6.1.1(a) to (d) of the Application Guide, applicable to all applicants; in sections 6.1.2(a) to (c), applicable to all project types; in sections 6.1.3(a) to (c), applicable to transport projects; and in sections 6.1.3(d) to (f), applicable to access projects. Because the applicant did not comprise a partnership, joint venture, or consortium, criterion 6.1.1(e) did not apply.

⁴ Specifically, the assessment criteria set out in the Application Guide in sections 6.2.1(a) to (d), in sections 6.2.2(a) to (e) for transport projects, and in sections 6.2.2(f) to (j) for access projects.

project if its application for funding from the Investing in Canada Infrastructure Program is approved.⁵

10. Northwestel provided evidence of support for the project from the Association of Yukon Communities, the Council for Yukon First Nations, the Government of Yukon, and the Kluane Community Development Limited Partnership. In addition, Northwestel provided a detailed plan for direct engagement with the communities affected by the project.
11. The Commission notes in particular Northwestel's commitment to, within three months of project selection, communicate with representatives from First Nations⁶ and from communities and hamlets⁷ to reconfirm the project scope and extend an invitation to meet. It also committed to meeting with the First Nation of Na-Cho Nyak Dun and the Ross River Dena Council during that time frame to consult regarding the cultural, heritage, and environmental considerations for the transport project and to explore procurement and contracting opportunities. Northwestel further committed to meetings, within six months of project selection, to provide presentations to representatives from the First Nations, communities, and hamlets in order to provide details regarding the project and its implementation and timelines in the respective communities.
12. The Commission considers that meaningful engagement with affected communities is an important element in its evaluation of whether an application is of high quality. Although the Commission concludes that Northwestel's application is of high quality based on a balanced application of all the relevant assessment criteria, the Commission considers it necessary to impose, as a condition of approval, a requirement that Northwestel further report on the community engagement it has committed to undertake. This condition is set out in paragraph 14 below. The Commission has provided 120 days for fulfillment of the condition in order to align with the current deadline to file the statement of work. It will review the report prior to approving the statement of work.
13. In selecting the project for funding, the Commission considers that by building new transport points of presence (PoPs) in Faro, the First Nation of Na-Cho Nyak Dun (Mayo), and Ross River, as well as upgrading access services to 77 eligible hexagons (encompassing approximately 4,680 households)⁸ with speeds of 50/10 Mbps and unlimited capacity, the project is consistent with the universal service objective, and concludes that the project will have a significant positive impact on the 19 communities and three anchor institutions to be served. In addition, the Commission concludes that allocating \$38.6 million toward the

⁵ Infrastructure Canada's Investing in Canada infrastructure funding program targets broad-based gaps in infrastructure that, if not addressed, will create long-term economic, social, and environmental challenges for Canadians.

⁶ Northwestel committed to meeting with the chiefs and councils of the following First Nations: Champagne and Aishihik, Carcross/Tagish, Kluane, Kwanlin Dün, Liard, Little Salmon Carmacks, Na-Cho Nyak Dun, Ross River Dena Council, Selkirk, Ta'an Kwäch'an Council, Teslin Tlingit Council, Tr'ondëk Hwëch'in, and White River.

⁷ Northwestel committed to meeting with the mayors and councils of the following communities and hamlets: Carmacks, Dawson, Faro, Haines Junction, Marsh Lake, Mayo, Mount Lorne, Tagish, Teslin, and Watson Lake.

⁸ Household counts are calculated by the Commission based on proposed coverage information and [Pseudo-Household Demographic Distribution](#) data, which uses statistical models and census data to predict where households are located within eligible areas. Some households in an eligible hexagon may not receive improved services as a result of the project.

project represents an efficient use of the funding available from the main component of the Broadband Fund.

14. In light of all of the above, the Commission **approves**, to the extent and subject to the terms and conditions set out below, up to a maximum of \$38,547,915 from the Broadband Fund to be distributed to Northwestel for the purposes of the access and transport project described above and as set out in the approved statement of work. This approval is subject to the conditions that Northwestel
 - a) confirm in writing, within **10 days** of the date of this decision, its intent to submit a statement of work package to the Commission and to proceed with the project;
 - b) file for Commission approval, within **120 days** of the date of this decision, a completed statement of work package in the format provided by the Commission, which includes an accompanying workbook that sets out the project budget, key project dates and schedules, and detailed project information, such as logical network diagrams, network descriptions, service designs, project sites, equipment details, maps, specific costs, and milestones; and
 - c) file, within **120 days** of the date of this decision, a report detailing the results of the community engagement, namely the meetings with the representatives of the communities that were committed to in the application. Specifically, the report must indicate with whom Northwestel met and when, any feedback that was received regarding the project, and demonstration of meaningful consideration of feedback received and the response provided.
15. As established in Telecom Regulatory Policy 2018-377, project construction must not have begun prior to the date of this decision and should be completed within three years. As set out in the Application Guide, Northwestel may not apply for reimbursement of its costs until its statement of work has been approved by the Commission. Any eligible costs incurred prior to Commission approval of Northwestel's statement of work but following the issuance of this decision are at Northwestel's risk and will not be reimbursed if the statement of work is not approved.
16. If it receives any additional funding for the project from any source, Northwestel must notify the Commission in writing as soon as possible and no later than **10 days** after receiving the funding. The Commission may proportionately reduce the amount of funding it has approved.
17. In order to receive funding, Northwestel must obtain Commission approval for (i) any material changes to the project, as set out in the approved statement of work; and (ii) any changes to Northwestel that would materially affect the legal or financial documents it provided during the application process.
18. The Commission will hold back 10% of the claimed amounts of funding until after construction of the network is complete. Holdback funds will be released only once the Commission is satisfied that Northwestel has been operating the network for one year according to the conditions of service set out below.

Funding conditions

19. In Telecom Regulatory Policy 2018-377, the Commission determined that it would impose a series of conditions (i) that must be met before it will release funding, and (ii) that ensure that the service to be provided using the funded infrastructure meets the promised service levels. The Commission indicated that funding conditions would be set based on project timelines, reporting, auditing, and material changes. Conditions imposed under section 24 of the *Telecommunications Act* (the Act) would be used to set the requirements for the ongoing operation of the network, including the speeds and capacity of services to be provided, pricing, and any reporting or measurement requirements. In addition, all existing regulatory obligations will continue to apply to the provision of services using funded infrastructure.⁹
20. Following Commission approval of the statement of work, the Commission will direct the Canadian Telecommunications Contribution Consortium to release funds to Northwestel, provided that the company is in compliance with the following conditions:
- a) Northwestel must file a progress report, in the format provided by the Commission, outlining the progress made in the implementation of the project and any variances in the project schedule included in the statement of work. This report is to be filed every **three months** beginning on the date established in the statement of work and continuing until the project completion report is submitted.
 - b) Northwestel must file with the Commission every **three months** a Broadband Fund claim form certified by its chief financial officer, or by an equivalent authorized official of Northwestel, along with supporting documentation demonstrating to the Commission's satisfaction that all costs claimed were actually incurred and are eligible costs related to the activities described in the statement of work. A claim form must be accompanied by a progress report.
 - c) With respect to eligible and ineligible costs, as described in Telecom Regulatory Policy 2018-377, Northwestel must
 - i. include eligible costs in a claim form submitted within **120 days** of the costs being incurred, unless the costs were incurred after the date of this decision but prior to the approval of the statement of work, in which case the costs must be claimed on the first claim form submitted after the approval of the statement of work.
 - ii. ensure that all goods and services are claimed for reimbursement at amounts not greater than fair market value after deducting all trade discounts and similar items. Only the fair market value of the goods and services acquired is eligible for reimbursement.
 - iii. measure and claim all goods and services received from related parties, as defined under [International Financial Reporting Standards](#), at cost, with no profits or markups from the supplier.

⁹ Examples of existing regulatory obligations are set out in section 10.1 of the Application Guide.

- d) Northwestel must not claim in excess of 25% of the approved amount for costs incurred after the date of this decision but prior to the approval of the statement of work.
- e) Northwestel must ensure that its travel costs, such as meal per diems, comply with the [National Joint Council Travel Directive](#).
- f) Northwestel must publicize, including by publishing on its website, the wholesale and retail open access service packages to be offered as a result of the project at least **90 days** prior to the planned date on which wholesale and retail open access service will be available as detailed in the statement of work. This shall include the proposed location of PoPs, capacity available for open access, service plans, prices, and terms and conditions.
- g) Where a risk of adverse impact on an Aboriginal or treaty right becomes known following the approval of the statement of work and a duty to consult exists, Northwestel must advise the Commission within **20 days** and submit a plan detailing the form and process for fulfilment of the duty. Release of any additional funding will be contingent on demonstration that any necessary consultations were held to the Crown's satisfaction.
- h) Northwestel must notify the Commission in writing as soon as possible and within no more than **five days** of becoming insolvent.
- i) Northwestel must file its annual financial statements with the Broadband Fund if requested by the Commission. The financial statements would accompany the next progress report filed after the annual financial statements are completed and approved.
- j) Northwestel must ensure compliance with the Government of Canada's national security requirements to address any potential risks related to the overall integrity of network security.
- k) Northwestel must file for Commission approval a project completion report within **90 days** of completion of the final milestone in the statement of work. In the report, Northwestel must confirm that project construction is complete and that broadband services are being offered. The date on which construction is complete and broadband services are being offered will be considered the project completion date. Northwestel must also demonstrate in the report that the project has met the requirements set out in all related decisions. The report is to be in a format to be specified by the Commission.
- l) Northwestel must file a project holdback report **one year** after the project completion date demonstrating to the Commission's satisfaction that Northwestel has been operating the network for one year in accordance with the conditions of service established in this decision and described in the approved statement of work.

Section 24 conditions

21. In Telecom Regulatory Policy 2018-377, the Commission determined that it would impose, pursuant to section 24 of the Act, certain conditions regarding the offering and provision of broadband services using facilities funded through the Broadband Fund that would apply once the infrastructure is built. These conditions relate to the speeds and capacity of broadband services provided and the level of retail pricing, reporting, and associated open access service offerings. The conditions imposed on the offering and provision of broadband services will apply to Northwestel and to any other Canadian carrier operating the funded infrastructure.
22. The Commission may conduct periodic audits and require measurements of the project's performance to verify compliance with the conditions of funding and the conditions imposed pursuant to section 24 of the Act on the provision of services using the funded infrastructure. To that end, as a condition of offering and providing telecommunications services using the funded infrastructure, the Commission requires, pursuant to section 24 of the Act, that Northwestel, or any Canadian carrier operating the funded infrastructure, (i) retain all books, accounts, and records of the project, including administrative, financial, and claim processes and procedures, and any other information necessary to ensure compliance with the terms and conditions of this decision, for a period of **eight years** from the project start date; and (ii) provide the Commission with measurements of the performance of Northwestel's implemented project within **five years** of the project's completion date using methodology that the Commission may determine. The Commission may request that external auditors or a Commission-approved auditor certify any related report, form, or documentation, or that a third-party professional engineer certify any required measurements.
23. In addition, pursuant to section 24 of the Act, as a condition of offering and providing telecommunications services using the funded infrastructure, Northwestel, or any Canadian carrier operating the funded infrastructure, must
 - a) provide transport capacity at each eligible PoP funded by the Broadband Fund with total capacity no lower than that proposed in the application and described in the approved statement of work;
 - b) offer and provide, in a fair, transparent, timely, and non-discriminatory manner, wholesale and retail open access to the transport infrastructure at each eligible PoP funded by the Broadband Fund. Terms and conditions that are the same as or better than those applied to the services of subsidiaries, affiliates, or partners must be applied to other service providers requesting access to project sites. Such wholesale and retail open access services must be offered at rates no higher, and a capacity no lower, than those proposed in the application and detailed in the approved statement of work.
 - c) offer and provide fixed broadband Internet access service packages to customers served by the funded infrastructure at a rate no higher, and at speeds and with a capacity no lower, than the ones proposed in its application and described in the approved statement of work. The packages must be provided for a minimum of

five years following the date of the project completion report. It must publicize, including by publishing on its website, the packages offered to subscribers as a result of the project, including the service speed, capacity, prices, and terms and conditions.

Policy Directions

24. The 2006 Policy Direction¹⁰ and the 2019 Policy Direction¹¹ (collectively, the Policy Directions) state that the Commission, in exercising its powers and performing its duties under the Act, shall implement the telecommunications policy objectives set out in section 7 of the Act, in accordance with the considerations set out therein,¹² and should specify how its decisions can, as applicable, promote competition, affordability, consumer interests, and innovation.
25. The Commission considers that its decision to approve funding from the Broadband Fund for the project described in detail in this decision is consistent with the Policy Directions.
26. This decision to approve funding to upgrade broadband Internet services in 19 communities in Yukon will help to close the gap in connectivity in underserved areas. There would be no business case for the project without funding from the Broadband Fund. Funding the project will enable approximately 4,680 households to access significantly improved Internet services, and thus respond to the social and economic needs of consumers. In doing so, this decision will implement the telecommunications policy objectives, including those set out in paragraphs 7(a), (b), and (h) of the Act.¹³

Secretary General

¹⁰ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

¹¹ *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

¹² The relevant considerations are subparagraph 1(a)(i) of the 2006 Policy Direction, which states that the Commission should rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and paragraph 1(a) of the 2019 Policy Direction, which states that the Commission should consider how its decisions can promote competition, affordability, consumer interests and innovation.

¹³ The cited policy objectives of the Act are 7(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; and (h) to respond to the economic and social requirements of users of telecommunications services.

Related documents

- *Broadband Fund – First call for applications – Introductory decision regarding project funding approvals*, Telecom Decision CRTC 2020-255, 12 August 2020
- *Broadband Fund – Call for applications*, Telecom Notice of Consultation CRTC 2019-191, 3 June 2019
- *Development of the Commission’s Broadband Fund*, Telecom Regulatory Policy CRTC 2018-377, 27 September 2018
- *Modern telecommunications services – The path forward for Canada’s digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016