



Telecom Order CRTC 2025-126

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Gatineau, 29 May 2025

Public record: Tariff Notice 1235

Northwestel Inc. – Tariff Notice 1235 – Changes to 1000 Mbps and Beyond Enterprise Internet Service Special Assembly

Summary

Northwestel Inc. (Northwestel) services a particular customer in the Far North using a dedicated fibre Internet link. Northwestel now proposes to add an optional secondary link that would be used in the event of a failure of the primary link. Because this service is provided in the Far North, where telecommunications services remain regulated, Northwestel requires the Commission's approval of rates charged, as well as the terms and conditions for use of this secondary link.

The affected customer agrees with Northwestel's proposal, and the Commission did not receive any interventions for this application. Accordingly, the Commission approves the application.

A dissenting opinion by Commissioner Claire Anderson is attached to this order.

Application

1. On 27 November 2024, the Commission received an application from Northwestel Inc. (Northwestel) in which the company proposed changes to item 767 of its Special Services Tariff, 1000 Mbps and Beyond Enterprise Internet Service Special Assembly. The service provides a symmetrical high-speed Internet access service at transmission speeds of 3,000 megabits per second (Mbps), 4,000 Mbps, 5,000 Mbps, or 10,000 Mbps, with future opportunities for larger bandwidth, to a single customer in one location in the Northwest Territories.
2. In its application, Northwestel proposed to add an optional secondary link from the customer's premises to the Central Office for use in the event of a failure of the primary link. Northwestel proposed a one-time installation charge of \$7,500 and a monthly rate of \$2,000 for this secondary link.
3. Northwestel noted that the option of a secondary link is being offered at the customer's request, and that the customer agrees with the proposed rates, terms, and conditions for this new rate element.
4. While Northwestel currently only has a single customer for this service, it indicated that the service, including the option of a secondary link, would be available to other

customers in similar circumstances, and has forecasted that the demand for the service will continue to be very low. It also indicated that the proposed service has elements that are unique to this arrangement and are not available under its General Tariff, including custom speeds that are not generally available in its serving territory. For these reasons, Northwestel submitted that it would be appropriate to offer the proposed service under its Special Services Tariff, and not its General Tariff.

5. As the service is a customer-specific arrangement (CSA), Northwestel indicated that it is categorized as an uncapped service and that, therefore, the proposal would have no impact on its price cap indices.
6. Northwestel filed a price floor test, which demonstrated that the proposed rates for the optional secondary link meet the requirements of that test.
7. Northwestel requested an effective date of 12 December 2024.
8. The Commission did not receive any interventions with regard to the application.

Commission's analysis

9. Based on the results of Northwestel's cost study, which was filed in confidence, the Commission considers that the proposed rates and charges for this service, which have been agreed to by the customer, meet the requirements for Type 1 CSAs set out in Telecom Decision 2005-27. They also meet the revised price floor test guidelines for Type 1 and Type 2 CSAs set out in a Commission letter dated 13 June 2005.¹
10. The secondary link will provide the customer with the telecommunications services it requires to reliably provide services to northern Canadians. The Commission therefore considers that Northwestel's proposed changes to its 1000 Mbps and Beyond Enterprise Internet Service Special Assembly tariff are reasonable and comply with regulatory policies.
11. The Commission considers that approval of this application would advance the policy objective set out in paragraph 7(a) of the *Telecommunications Act*.²

Conclusion

12. In light of all of the above, the Commission approves on a final basis, by majority decision, Northwestel's application.

¹ *Revised Imputation test Guidelines for Type 1 and 2 CSAs*, 13 June 2005

² The cited policy objective is the following: 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.

13. Revised tariff pages are to be issued within 10 calendar days of the date of this order. Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

Secretary General

Related Documents

- *Review of price floor safeguards for retail tariffed services and related issues*, Telecom Decision CRTC 2005-27, 29 April 2005
- *Telecommunications in the Far North*, Telecom Regulatory Policy CRTC 2025-9, 16 January 2025
- *Bell Canada – Disaggregated Broadband Service – new central office*, Telecom Order CRTC 2024-123, 7 June 2024
- *Bell Canada – Disaggregated Broadband Service*, Telecom Order CRTC 2022-184, 7 July 2022
- *Northwestel Inc. – Review of regulatory framework*, Telecom Regulatory Policy CRTC 2011-771, 14 December 2011
- *Tariff filings related to the installation of optical fibres*, Telecom Decision CRTC 97-7, 23 April 1997
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

Dissenting opinion of Commissioner Claire Anderson

1. As the majority has noted in this decision, Northwestel Inc. (Northwestel) is proposing changes to Item 767 of its Special Services Tariff - 1000 Mbps and Beyond Enterprise Internet Service Special Assembly.
2. Northwestel currently has only a single customer for the service of providing a symmetrical high-speed Internet access service at transmission speeds of 3, 4, 5, or 10 gigabits per second in one unspecified location in the Northwest Territories, under its Special Services Tariff CRTC 3010 (the Services).
3. While we have already approved the provisioning of the Services in Northwestel's Special Services Tariff, I wanted to point out a concern about the potential overuse of one-off customer service agreements in regulated areas, under which incumbent local exchange carriers list customer-specific arrangements under their Special Services Tariff and not their General Tariff. Because of how we have applied price caps to Northwestel, this lets them categorize the service as an uncapped service, free from any form of upper price regulation, although subject to a price floor.
4. The price floor requirement ensures that telecommunications service providers are not offering services below cost and creating opportunistic barriers for competitors in a region. However, our framework leaves Special Services Tariffs uncapped, meaning that there is no ceiling associated with the price of such a service—including, since we allow their categorization as Special Services Tariff items, the Services at issue.³
5. So, why wouldn't Northwestel simply categorize new services as unique, "one-off" customer-specific arrangements, to be listed under its Special Services Tariff in order to circumnavigate any form of price regulation (other than meeting the price floor requirement)?
6. Well, because the Commission has repeatedly expressed a preference for the use of General Tariffs whenever feasible, since the use of the General Tariff would result in customers of comparable services being treated uniformly and would eliminate any potential unjust discrimination in pricing and availability of services.⁴ The Commission previously noted in Telecom Decision 94-19 that the customer-specific tariffs

may impede access by customers, and in particular by resellers, to similar tariffs, thereby curtailing the extent to which resale would limit the potential for unjust discrimination. The Commission notes that tariffs that are not customer-specific but rather provide for the

³ Telecom Decision 2011-771

⁴ Telecom Decision 1997-7, paragraphs 10 and 19

general availability of services, by making explicit the conditions necessary to qualify for the service, avoid this problem, even in the case of services that relatively few customers would qualify for or find attractive.⁵

7. In that decision, the Commission provided for the allowance of customer-specific arrangements, but outlined when the circumstances warrant such an arrangement, which often requires those services to be available to other customers and that resale be permitted.
8. I take notice that certain telecommunications service providers have relied quite extensively on the use of one-off customer-specific arrangements—one simply could peruse the Commission’s website to see the number of [ongoing](#) and [past](#) tariff applications relating to Special Assembly or Special Services Tariffs in regulated regions, i.e., regions where we’ve determined no competition to exist.
9. It is not the time to revisit whether the Services at issue are properly categorized as customer-specific arrangements and properly listed under the company’s Special Services Tariff. However, I wanted to highlight my concern with the practice of introducing or expanding services in Northwestel’s serving area as uncapped Special Services or Special Assembly Tariff items, which generally deprives resellers of opportunities to purchase and benefit from the use of those services, because Northwestel claims confidentiality over the name of the customer, the location of the special services and the markup of special services, and because special services items are omitted from the General Tariff, which lists services available to the public.
10. The issue underlying the potentially problematic practice of incumbent service providers relying on Special Services or Special Assembly Tariffs to avoid price regulation is our refusal to ensure that the markup on those tariffed services is constrained to a reasonable and fair markup, which flies in the face of our mandatory obligation under subsection 27(1) of the *Telecommunications Act* (the Act) to ensure that “[e]very rate charged by a Canadian carrier for a telecommunications service shall be just and reasonable”.⁶
11. The Commission has relied on a legislated forbearance regime, which allows the Commission to refrain from the exercise of any powers relating to section 27 of the Act (and other forms of regulatory action, including price regulation) in relation to a telecommunications service or class of services, if the Commission finds that refraining from regulation would be consistent with the Canadian

⁵ Telecom Decision 94-19

⁶ The only price regulation that we perform under Special Services Tariffs is a price floor test, which establishes a minimum price threshold to address unjust discrimination and anti-competition concerns. We have no upwards price constraints for Special Services Tariffs.

telecommunications policy objectives.⁷ The predominant reason the Commission has decided to forbear from regulation is when there is competition sufficient to protect the interest of users.⁸ However, we are prohibited from relying on our forbearance regime if the Commission finds that the use of regulatory forbearance “would be likely to impair unduly the establishment of or continuance of a competitive market for that service or class of services”.⁹

12. While moving telecommunications services into a Special Services Tariff does not fall under the forbearance regime (i.e., we are not forbearing from regulating those services; we are simply placing them outside of the General Tariff), the practical result of relying on uncapped Special Services Tariffs is similar: there is no upward price constraint associated with a particular service or class of services.
13. The Commission has repeatedly found a lack of competition in the Far North that would sufficiently protect the interests of users (Telecom Regulatory Policy 2025-9). The majority in that recent decision found that “the record of this proceeding indicates that Northwestel’s terrestrial retail business services face affordability challenges” and prohibited Northwestel from doubling the maximum annual rate increase for its Business Internet Services basket found in its General Tariff. By consistently using Special Services Tariffs instead of relying on the General Tariff, Northwestel is circumnavigating price cap protections put in place to ensure that prices are, in fact, just and reasonable, which does not address the issue of affordability challenges retail business service customers face.
14. By maintaining confidentiality over not only the name of the customer but also the location and cost of the Services, competitors and the public are prohibited from considering whether the rates of the Special Services Tariff items are just and reasonable, and whether there is a risk of unjust discrimination in contravention of subsection 27(2) of the Act,¹⁰ while competitors are prevented from knowing what communication services exist in those regions. As Commissioner Bram Abramson and I noted in our dissenting opinion to Telecom Order 2024-123, information about where communications services are available is most certainly in the public interest, both for existing competitors as well as

⁷ *Telecommunications Act*, subsection 34(1)

⁸ *Telecommunications Act*, subsection 34(2)

⁹ *Telecommunications Act*, subsection 34(3)

¹⁰ Subsection 27(2) of the Act reads: “No Canadian carrier shall, in relation to the provision of a telecommunications service or the charging of a rate for it, unjustly discriminate or give an undue or unreasonable preference toward any person, including itself, or subject any person to an undue or unreasonable disadvantage.”

potential competitors who may change their business plans depending on the availability of telecommunications services in a particular region.¹¹

15. In that dissenting opinion, we further noted that wholesale telecommunications providers are frequently now routine wholesale customers and determined that the Commission ought to have sought and subsequently disclosed information about whether the competitor applying for a service was the affiliate of an arm's length competitor or an incumbent.¹² Similarly, I believe that the public, including competitors, ought to know whether a customer relying on a customer-specific arrangement is an entity related to the incumbent or not. Surely, the nature of the relationship between the customer and telecommunications service provider may inform whether there may be concerns relating to unjust discrimination, as noted above.
16. In a time when we have been plainly directed to “encourage all forms of competition and investment” and “reduce barriers to entry into the market and to competition for telecommunications services providers that are new, regional or smaller than the incumbent national service providers”,¹³ we ought to consider whether this broad reliance on Special Services or Special Assembly Tariffs perpetuates competitive barriers and risks potential overpricing in a region with insufficient competition to protect the interests of consumers.
17. I finally note that revenue from uncapped Special Services Tariff items was not considered in the analysis of whether a wholesale high-speed access framework is viable in our Telecom Regulatory Policy 2025-9 proceeding regarding telecommunications in the Far North.

¹¹ Dissenting opinion of Commissioners Bram Abramson and Claire Anderson, Telecom Order 2024-123, paragraph 15:

15. Information relating to availability, withdrawal, or changes in the communications services available in a community is fundamentally in the public interest. Already-existing competitors do, certainly, have an interest in such information, as Telecom Order 2022-184 acknowledged. But so do competitors without current HSA plans for the relevant serving area but that are engaged in other activity there and might revise their plans based on new information. So do potential competitors considering market entry or building business cases. So do local community residents anticipating better or different broadband service.

¹² Commissioner Bram Abramson and Claire Anderson's dissenting opinion to Telecom Order 2024-123, paragraph 21

¹³ *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023