



Telecom Decision CRTC 2025-157

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Gatineau, 23 June 2025

Public records: 8662-J64-202404119 and 8622-J64-202305771

Iristel Inc. – Application to review and vary Telecom Decision 2024-141 regarding notices of disconnection of telecommunications services issued by Bell Canada and Northwestel Inc.

Summary

On 3 October 2023, the Commission received an application from Iristel Inc. (Iristel) requesting, among other things, that the Commission investigate whether Bell Canada and Northwestel Inc. (Northwestel) violated their tariffs related to providing local network interconnection (LNI) service to Iristel in Kuujuuaq, Quebec; Whitehorse, Yukon; and Yellowknife, Northwest Territories. LNI service ensures voice calls initiated on one provider's network can reach users on the network of another provider.

In Telecom Decision 2024-141, the Commission determined that Iristel had not provided sufficient evidence to support its claims. Accordingly, the Commission denied the application.

In July 2024, Iristel requested that the Commission review and vary Telecom Decision 2024-141, alleging that the Commission committed errors in law and in fact when it decided not to investigate Bell Canada and Northwestel.

In this decision, the Commission finds that the record does not establish substantial doubt as to the correctness of Telecom Decision 2024-141. Accordingly, the Commission denies Iristel's review and vary application.

The Commission reminds telecommunications service providers that although they may negotiate off-tariff agreements, they must provide services under the terms and conditions of their tariffs when requested to do so by another party. In instances where a tariff violation has occurred, the Commission can take enforcement action, including imposing administrative monetary penalties.

Dissenting opinions by Commissioners Claire Anderson and Bram Abramson are attached to this decision.

Background

1. On 3 October 2023, the Commission received an application from Iristel Inc. (Iristel) describing the company's ongoing disputes with Bell Canada and Northwestel Inc. (Northwestel) regarding local network interconnection (LNI) service.¹ These disputes are outlined in paragraphs 5 to 13 below.
2. In that application, Iristel requested, among other things, that the Commission appoint an inquiry officer under subsection 70(1) of the *Telecommunications Act* (the Act) to investigate the actions of Bell Canada and Northwestel. Specifically, this officer would investigate the alleged violation of tariffs, the pricing of Bell Canada's transport network, and other billing practices, which, in Iristel's view, could constitute violations of subsections 25(1) and 27(2) of the Act.
3. In Telecom Decision 2024-141, the Commission denied this request because Iristel did not provide sufficient evidence to support its allegations that Bell Canada's and Northwestel's actions had violated their respective tariffs or the Act. Specifically, the Commission determined there was insufficient evidence on the record to demonstrate that (i) Iristel had requested to be provided with LNI service from Bell Canada and Northwestel under their respective LNI tariffs, (ii) such a request was denied by Bell Canada and Northwestel, and (iii) Iristel had made an attempt to approach the Commission to resolve its disputes with Bell Canada and Northwestel prior to filing its application.
4. Furthermore, the Commission determined that it was outside the Commission's remit to improve Iristel's application by requesting additional information to support Iristel's claims.

Dispute with Bell Canada

5. Iristel claimed that it requested LNI service from Bell Canada for the local interconnection region (LIR)² in Kuujjuaq, Quebec, under the terms of Bell Canada's LNI service, contained within its Access Services Tariff (the Tariff).³
6. However, Iristel stated that Bell Canada was unable to provide LNI service to the entire Kuujjuaq LIR. Instead, Bell Canada provided Iristel access to the Kuujjuaq LIR under the exchange-based regime using an off-tariff agreement (OTA). Iristel

¹ LNI service enables a competitive local exchange carrier to access an incumbent local exchange carrier's (ILEC) telecommunications services and facilities in the ILEC's serving territory.

² A LIR is a specific area where telephone companies are allowed to connect their networks and share services with each other.

³ See Bell Canada's [Access Services Tariff for Interconnection with Carriers and Other Service Providers](#), CRTC 7516.

submitted that the interconnection method prescribed by the OTA limited Iristel's ability to provide capacity for its affiliate, Ice Wireless Inc. (Ice Wireless).

7. Per the terms of the OTA, the point of interconnection (POI)⁴ was in a different location than that specified in the Tariff. Iristel explained that it had agreed to connect under the exchange-based regime instead of the broader LIR regime introduced in Telecom Decision 2004-46 to avoid delaying the provision of its services in northern Quebec. Iristel submitted that under the OTA, it was not permitted to provide wholesale services, which limited its ability to provide capacity for its affiliate, Ice Wireless.
8. Iristel submitted that on 22 August 2022, it requested that Bell Canada provide an update on its progress toward ending the OTA and providing LNI service to Iristel in the Kuujjuaq LIR, in accordance with the Tariff. Iristel submitted that Bell Canada advised that it had no plan to modify its POI for the Kuujjuaq LIR, which Iristel alleged was in violation of the Tariff. Iristel submitted that Bell Canada's decision not to modify the POI in Kuujjuaq had the effect of delaying Iristel's deployment of its wireless network in northern Quebec. It added that as a result, it had suffered economic harm through loss of wholesale, customer, and roaming revenue.

Dispute with Northwestel

9. Iristel explained that its dispute with Northwestel resulted from Northwestel's October 2019 decision to change its POI from Yellowknife, Northwest Territories, to Toronto, Ontario.
10. In July 2020, Iristel requested that Northwestel provide it with a POI within its incumbent local exchange carrier (ILEC) service area, in accordance with Northwestel's LNI tariff.⁵
11. Iristel submitted that it needed a POI located within the Northwest Territories so that its customers could reach Northwestel's customers in the Far North in the event of a service outage outside this territory. Iristel explained that if the POI is located outside the Northwest Territories, it would not be possible to make local connections between different providers serving the Northwest Territories in the event of a service outage.
12. Iristel submitted that Northwestel refused to do so, and that it informed Iristel that the POI was only available in Toronto through its affiliate, Bell Canada. According to Iristel, Northwestel indicated that Iristel could interconnect in the Far North by subscribing to an interconnection service provided to wholesale customers via an interconnection point situated in Fort St. John, British Columbia. Iristel submitted that

⁴ A POI is the physical meeting point between the LNI customer's transmission facilities and the ILEC's facilities.

⁵ See Northwestel's [Local Network Interconnection Tariff](#), CRTC 21481.

its services would become economically non-viable if it were to adopt this arrangement.

13. Iristel submitted that in July 2023, after receiving approval from the Commission to modify its LNI tariff provisions, Northwestel began providing Iristel with local POIs in Whitehorse, Yukon, and in Yellowknife.

Application to review and vary Telecom Decision 2024-141

14. On 26 July 2024, the Commission received an application from Iristel requesting that the Commission review and vary Telecom Decision 2024-141. Iristel submitted that the Commission had committed the following errors when it denied certain of Iristel's requests for relief:

- The Commission erred in law when it determined that violations of a tariff, and of subsections 25(1) and 27(2) of the Act, can be excused by (i) a subsequent "curative" action, (ii) the lack of economic harm to the party complaining of a tariff violation, or (iii) the existence of an OTA.
- The Commission erred in fact when it determined that Iristel had provided insufficient evidence to support its allegations that Bell Canada and Northwestel had violated their respective tariffs and the Act.

15. For these reasons, Iristel requested that the Commission exercise its authority under section 62 of the Act to review and vary Telecom Decision 2024-141 and take the following actions:

- The Commission should issue a request for information (RFI) to Bell Canada to obtain additional evidence of Iristel's repeated requests to obtain tariffed LNI service from Bell Canada in Kuujuaq, as well as evidence of Bell Canada's refusal to do so. Iristel submitted that the RFI should include a requirement that Bell Canada provide statements from its current and former employees regarding the meetings that took place between Iristel and Bell Canada.
- The Commission should issue an RFI to Northwestel to obtain additional evidence of Iristel's repeated requests to obtain tariffed services, specifically, a POI in Whitehorse as well as evidence of Northwestel's refusal to do so. Iristel submitted that the RFI should include a requirement that Northwestel provide statements from its current and former employees regarding meetings that took place between Northwestel and Iristel.
- Under subsection 70(1) of the Act, the Commission should appoint an inquiry officer to investigate tariff violations committed by Bell Canada and Northwestel. The inquiry officer should take statements under oath from any current or former Bell Canada and Northwestel employee involved in the

matters that are the subject of Iristel's applications and should require them to produce any available document that is relevant to the inquiry.

16. Bell Canada and Northwestel filed separate responses. The Commission received interventions from Cloudwifi Inc., Ice Wireless, ISP Telecom Inc., and the Public Interest Advocacy Centre (PIAC) in support of Iristel's review and vary application.

Review and vary criteria

17. In Telecom Information Bulletin 2011-214, the Commission outlined the criteria it would use to assess review and vary applications filed pursuant to section 62 of the Act. Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, for example due to (i) an error in law or in fact, (ii) a fundamental change in circumstances or facts since the decision, (iii) a failure to consider a basic principle which had been raised in the original proceeding, or (iv) a new principle which has arisen as a result of the decision.

Issues

18. The Commission has identified the following issues to be addressed in this decision:

- Did the Commission commit an error in law in Telecom Decision 2024-141?
- Did the Commission commit an error in fact in Telecom Decision 2024-141?

Did the Commission commit an error in law in Telecom Decision 2024-141?

Positions of parties

Iristel

19. Iristel claimed that the non-evidentiary reasons the Commission cited in Telecom Decision 2024-141 constitute errors in law in that they provide defences to violations of subsections 25(1) and 27(2) that are not available in the Act.
20. Iristel submitted that the Commission erred in law when it concluded that the violations were resolved by curative actions on the part of Bell Canada and Northwestel. In Iristel's view, tariff violations may only be remedied by the Commission under subsection 25(4) of the Act. It added that Bell Canada's and Northwestel's violations of their respective tariffs did not occur because of an error or other circumstance that warranted ratification, as set out in paragraphs 25(4)(a) and 25(4)(b) of the Act. Instead, Iristel argued, the companies had willfully violated their tariffs for several years.
21. Iristel also submitted that the Commission erred in law by considering the existence of OTAs between Iristel and each of the companies. Iristel claimed that, because Bell Canada and Northwestel would not provide the tariffed service, it was compelled

to enter into OTAs that offered a level of service that was below what Iristel was entitled to receive under the companies' prescribed tariffs.

22. Iristel argued that, to remedy these errors in law, the Commission should launch the investigation requested by Iristel and, depending on the outcome, consider imposing administrative monetary penalties on Bell Canada and Northwestel. According to Iristel, this would deter the companies from violating their tariffs and the Act in the future.

Bell Canada and Northwestel

23. Bell Canada and Northwestel submitted that contrary to Iristel's claim, the Commission did not determine that either company had violated its tariff or the Act. Instead, they argued, the Commission determined that Iristel had not provided sufficient evidence to substantiate allegations of such violations or justify investigating Bell Canada's and Northwestel's actions.
24. Bell Canada submitted that no tariff violation had occurred, since Iristel had voluntarily signed the OTA. It noted that during the proceeding that led to Telecom Decision 2024-141, Iristel did not dispute that Bell Canada provided service in accordance with the terms of the OTA. Moreover, it indicated that in that decision, the Commission concluded that Iristel did not substantiate its claim that it was operating under duress when receiving service under the OTA. Specifically, the Commission noted that Iristel had operated under the OTA for eight years, including two renewals of the original agreement, before approaching the Commission.
25. Northwestel submitted that in Telecom Decision 2024-141, the Commission concluded that Iristel did not provide any supporting evidence to demonstrate that a tariff violation had occurred.

Intervenors

26. PIAC agreed with Iristel's view that the Commission erred in law when it determined that violations of a tariff and of subsections 25(1) and 27(1) of the Act can, as Iristel alleged, be excused by a subsequent curative action or the existence of an OTA. PIAC added that, if the Commission accepts OTAs as a curative measure, ILECs could simply wait out competitors until they are forced to conclude an OTA for economic reasons.

Iristel's reply

27. Iristel submitted that Bell Canada and Northwestel were incorrect in stating that the Commission dismissed Iristel's original application solely on the grounds that Iristel had provided insufficient evidence to support its claims. Iristel maintained that the Commission's determinations in Telecom Decision 2024-141 were also based on errors in law, including the determinations that violations of a tariff and of subsections 25(1) and 27(2) of the Act can be excused by (i) a subsequent curative

action, (ii) the lack of economic harm to the party complaining of a tariff violation, or (iii) the existence of an OTA.

Commission's analysis

28. The Commission did not find, in Telecom Decision 2024-141, that Bell Canada or Northwestel committed tariff violations. Instead, the Commission found that Iristel had not provided enough evidence to justify its allegations or to support a Commission investigation of Bell Canada and Northwestel's actions.
29. Additionally, even if the Commission had found that Bell Canada or Northwestel violated their tariffs, it has the discretion to decide what action it should take, if any. For example, it can decide to initiate a proceeding to potentially issue administrative monetary penalties, order a telecommunications service provider (TSP) to implement corrective measures, or take no further action, if doing so advances the policy objectives of the Act.
30. In addition to the insufficiency of evidence, the Commission also made several findings that did not support any further action:
 - (a) Bell Canada's and Northwestel's submissions, which included valid OTAs, written negotiations for alternative services, Commission-approved tariff modifications, and written communications between parties, appeared to contradict Iristel's allegations.
 - (b) The OTAs had been in place since 2015, and Iristel waited eight years to raise the issue with the Commission, which indicated that this was not a significant issue for Iristel.
 - (c) The record of the proceeding that led to Telecom Decision 2024-141, as well as that of the proceeding that led to Telecom Order 2023-409,⁶ demonstrated that Bell Canada had made several offers to accommodate Iristel.
 - (d) Regarding Iristel's allegation that Northwestel had migrated its POI in violation of its tariff, Iristel indicated that the issue had been resolved.
31. Therefore, the Commission did not conclude that a tariff violation had occurred and excuse it. Rather, the Commission found there was insufficient evidence to determine that any violation had occurred and concluded that no further action was required.
32. In light of the above, the Commission did not commit an error in law in Telecom Decision 2024-141.

⁶ In Telecom Order 2023-409, the Commission approved Bell Canada's Tariff Notice 7662 to combine the LIRs in Kuujuaq and Trois-Rivières, Quebec.

Did the Commission commit an error in fact in Telecom Decision 2024-141?

Positions of parties

Iristel

33. Iristel submitted that the Commission committed an error in fact when it determined, in Telecom Decision 2024-141, that Iristel had not provided sufficient evidence to substantiate its claims. Iristel added that it had provided ample evidence in its original application. It explained that it had described:

- the history of its negotiations with Bell Canada regarding the Kuujjuaq LIR;
- its demand in August 2022 for an update from Bell Canada on its progress toward complying with the Tariff in Kuujjuaq;
- that Bell Canada took eight years after it first signed the OTA with Iristel to file a tariff notice that merged the Kuujjuaq LIR with the Trois-Rivières, Quebec LIR, which demonstrated that Bell Canada had no real intention of offering a permanent solution that would allow it to comply with the Tariff by offering competitors unhindered access to the entire Kuujjuaq LIR;
- how Bell Canada's conduct had delayed Iristel's deployment of its wireless network in northern Quebec and caused economic harm to Iristel through the loss of wholesale, customer, and roaming revenue;
- Northwestel's action to inform Iristel in October 2019 that it was migrating its POI from Whitehorse to Toronto;
- its request for a POI in Northwestel's ILEC serving territory in accordance with Northwestel's tariff and that it was told that the POI had to be in Toronto, through Bell Canada;
- the importance of a POI located in Northwestel's ILEC serving territory to ensure local survivability;
- the importance of maintaining telecommunications services because Iristel provides services to the Government of Yukon and the potential impact a service disruption in Toronto would have on public safety;
- how Northwestel's proposal that Iristel obtain a Wholesale Connect breakout point in Fort St. John, to ensure local survivability was not economically viable; and
- that Northwestel did not offer LNI service in Whitehorse and Yellowknife until July 2023, nearly four years after Northwestel informed Iristel that it was relocating the POI.

34. Iristel also stated that in many instances, Bell Canada and Northwestel did not dispute the facts presented by Iristel. In Iristel's view, the evidence it filed was sufficient to warrant an investigation by the Commission, or at the very least, the issuance of RFIs on topics for which the Commission believed that more evidence was required.
35. As part of its review and vary application, Iristel provided minutes of LNI meetings held between Bell Canada and itself between 2015 and 2017. It submitted that the minutes demonstrate that although the restriction on Iristel's service in the Kuujjuaq LIR was intended to be temporary, Bell Canada undertook no efforts to comply with its tariff obligations in the Kuujjuaq LIR by developing a solution that would allow direct access to the entire Kuujjuaq LIR.
36. Iristel also provided copies of its email exchanges with Northwestel between October 2019 and January 2023. In Iristel's view, the emails demonstrate that Iristel repeatedly asked for a POI in Northwestel's ILEC serving territory, per Northwestel's tariff. Iristel submitted that Northwestel either ignored its requests or refused to provide Iristel with the requested tariffed service for four years, which in Iristel's view was a breach of both Northwestel's tariff and subsections 25(1) and 27(2) of the Act.

Bell Canada and Northwestel

37. Bell Canada and Northwestel submitted that the Commission correctly determined that Iristel did not provide sufficient evidence. They added that while alleging it had provided sufficient evidence, Iristel simultaneously attempted to compensate for the lack of evidence by providing additional information it failed to provide in its original application. The companies argued that this further proves Iristel provided insufficient evidence in its initial application, and therefore, the Commission did not commit an error in fact.
38. Bell Canada submitted that in its original application, Iristel failed to provide evidence to support its allegations that (i) Bell Canada never intended to upgrade its POI in Kuujjuaq, (ii) it had requested tariffed services from Bell Canada, and (iii) Bell Canada had refused Iristel's request. According to Bell Canada, the evidence demonstrates that (i) the parties voluntarily entered into an OTA and subsequent renewals, (ii) Iristel received services under the terms of this OTA, and (iii) Iristel neither requested tariffed services, nor was it denied them.
39. Bell Canada submitted that the additional evidence provided by Iristel was also insufficient to support its allegations. It added that the evidence demonstrates that parties engaged in extensive negotiations prior to entering into OTAs. Bell Canada submitted that if Iristel had truly sought, and been denied, tariffed services, there would be a record of this in Iristel's own files, meaning it would not need to seek relief from the Commission by requesting that it issue RFIs and appoint an inquiry officer.
40. Northwestel submitted that the evidence provided by Iristel does not demonstrate that it refused to provide Iristel with a POI in Whitehorse and in Yellowknife. Therefore,

Northwestel submitted that it did not violate any applicable tariffs or OTAs. According to Northwestel, it worked with Iristel to find a technical solution and received Commission approval to implement Tariff Notice 1176, effective 8 May 2023. Northwestel indicated that it had sent Iristel a draft version of Tariff Notice 1176 prior to filing it with the Commission, and that Iristel did not file any comments on the record of the related Commission proceeding.

Iristel's reply

41. Iristel submitted that by proposing the Commission issue RFIs and appoint an inquiry officer, it is responding to the Commission's concerns in Telecom Decision 2024-141. However, Iristel specified that this does not mean the evidence it has already provided is insufficient. Iristel explained that the evidence that would be obtained by way of RFIs is held by Bell Canada and Northwestel. Iristel added that it cannot be expected to respond to evidence that has yet to be made available because it first needs to be obtained from other parties.
42. Iristel submitted that it has provided substantial evidence demonstrating that it had repeatedly objected to the technical workarounds offered by Bell Canada and Northwestel and demanded services that fully complied with both companies' tariffs.

Commission's analysis

Iristel's allegations and evidence against Bell Canada and Northwestel – Original application

43. Iristel indicated that prior to filing its original application, it had received LNI service from Bell Canada under an OTA in the Kuujuuaq LIR for eight years. Iristel did not provide any evidence to suggest that it had at any time requested to terminate its OTA with Bell Canada to receive LNI service under the terms of Bell Canada's tariff. It also did not provide any evidence that service had been denied.
44. The Commission considers that if Iristel had requested or been denied LNI service, it should have been in possession of such evidence to demonstrate this, which it could have filed on the record. In addition, Iristel had ample opportunity to raise the matter with the Commission by filing an application earlier during the eight-year period that preceded the original application filing date.
45. The record of the proceeding that led to Telecom Decision 2024-141 did not support Iristel's claim that Northwestel had denied the provision of tariffed LNI service to Iristel.
46. More generally, Iristel's original application contained no supporting documentation, such as copies of emails, meeting minutes, or letters, to substantiate its claims against either Bell Canada or Northwestel. Given the lack of supporting evidence in the original proceeding, the Commission finds that it did not err in fact when it concluded that Iristel did not include sufficient supporting evidence to justify its claims.

Iristel's additional evidence against Bell Canada and Northwestel – Review and vary application

47. In Telecom Decision 2024-141, the Commission noted that it would have been inappropriate for it to try to improve the application before it by requesting additional information from Iristel. The Commission considers that it is an applicant's responsibility to supply evidence to support its claims.
48. As part of its review and vary application, Iristel provided additional evidence to support its allegations. The new evidence submitted by Iristel was available to Iristel at the time of its original application and should have been included in that application if it was deemed relevant.
49. Nevertheless, in reviewing the additional evidence provided, the Commission considers that it does not support the allegations against Bell Canada and Northwestel.
50. Specifically, the Commission finds that the additional evidence does not support the claim that Bell Canada had no plan to follow through with providing tariffed LNI service to Iristel in the Kuujjuaq LIR. Although Bell Canada specified conditions under which it would provide LNI service in Kuujjuaq, there is no evidence to suggest that Iristel had objected to those conditions, or that Bell Canada had refused to provide LNI service to Iristel under the Tariff.
51. The Commission considers that the additional evidence supplied by Iristel does not support its allegations that Northwestel either refused to provide LNI service to Iristel via a POI in Yellowknife or in Whitehorse, or that Northwestel disengaged from discussions with Iristel regarding the provision of the service. Rather, the additional evidence appears to demonstrate a request for tariffed services and discussions between Iristel and Northwestel relating to the proposed design for interconnection. The additional evidence did not indicate that Northwestel's proposed approach to interconnection was final nor that Northwestel was not open to an alternative interconnection design. Instead, the additional evidence indicates that Northwestel was still engaged in exploring methods by which it could provide LNI service to Iristel.
52. In light of the above, the Commission considers that the additional evidence provided by Iristel does not support the claims against Bell Canada and Northwestel. Even if Iristel had presented the evidence in the context of the proceeding that led to Telecom Decision 2024-141, the Commission's determinations regarding the sufficiency of evidence provided would have been the same.

Conclusion

53. In light of all of the above, the Commission did not commit an error in law or in fact in Telecom Decision 2024-141. The Commission did not find that there were tariff violations and excuse them. Rather, the evidence provided in the original application was not sufficient to support the claims that Bell Canada and Northwestel had

violated their tariffs and the Act by not providing LNI service. The additional evidence provided in the review and vary application does not support these claims either.

54. Therefore, the Commission finds, by majority, that there is no substantial doubt as to the correctness of Telecom Decision 2024-141 and, accordingly, denies Iristel's application.
55. The Commission reminds Bell Canada, Northwestel, and other TSPs that although they are allowed to negotiate OTAs, they are required to provide telecommunications services in accordance with the terms and conditions of their tariffs when requested to do so by another party. In instances where a tariff violation has occurred, the Commission can take enforcement action, including imposing administrative monetary penalties. This is simply not the case in the current matter.

Secretary General

Related documents

- *Iristel Inc. – Request for relief against Bell Canada and Northwestel Inc. with respect to notices of disconnection of telecommunications services*, Telecom Decision CRTC 2024-141, 27 June 2024
- *Bell Canada – Tariff Notice 7662 – Local network interconnection and component bundling*, Telecom Order CRTC 2023-409, 8 December 2023
- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011
- *Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, Telecom Decision CRTC 2004-46, 14 July 2004

Dissenting opinion of Commissioner Claire Anderson

1. A tariff violation is a serious offence, and allegations of such an offence must be taken very seriously by the Commission. In its application (the current application), Iristel Inc. (Iristel) seeks to have the Commission review and vary Telecom Decision 2024-141 because it submits the Commission erred in law and in fact when it decided not to investigate Bell Canada and Northwestel Inc. (Northwestel) for tariff violations related to providing local network interconnection (LNI) service to Iristel in Kuujjuaq, Quebec; Whitehorse, Yukon; and Yellowknife, Northwest Territories.
2. The Commission has erred in its finding that Iristel did not provide sufficient evidence that it had requested Bell Canada and Northwestel to be provided with interconnection services under their respective tariffs, and that such a request had been denied. Our error was compounded by our lack of exercising any regulatory powers, like the issuance of requests for information (RFIs), if we had evidentiary concerns that needed to be addressed.
3. Iristel submitted in both its current application and the application that led to Telecom Decision 2024-141 (the original application) that it had requested tariffed services from Bell Canada and Northwestel. Those submissions were not refuted by either company. It was incorrect to put uncontested statements of fact at issue without providing notice to Iristel and further investigating our concerns.
4. As an administrative tribunal, the Commission has repeatedly confirmed that it is the master of its own process and has the flexibility to modify its processes in response to requests or on its own initiative, while considering the public interest.¹ The Commission erred in finding there was insufficient evidence on the record to support Iristel's allegations or any further regulatory oversight. If the Commission had or has concerns about uncontested statements of fact, it ought to have exercised its regulatory powers and issued an RFI to all parties before determining that there was insufficient evidence of tariff violations in Telecom Decision 2024-141.

Dispute with Bell Canada

5. In Telecom Decision 2024-141, the Commission stated that in 2015, Iristel requested interconnection service from Bell Canada's Kuujjuaq local interconnection region (LIR), and Bell Canada provided access to that LIR in an off-tariff agreement (OTA) between the two parties.² Iristel claimed, both in its original application and in the

¹ See, for example, the Commission's [Telecom Procedural Letter addressed to Various Parties Interested, 5 December 2022](#).

² See paragraph 9 of Telecom Decision 2024-141: "In 2015, Iristel requested interconnection from Bell Canada for the Kuujjuaq LIR in northern Quebec. Bell Canada provided access to the Kuujjuaq LIR on an exchange-based interconnection basis as agreed to in an off-tariff agreement between the parties."

In the present decision, at paragraph 5, the majority now inexplicably qualifies that statement of fact to say, "Iristel *claimed* that it requested LNI service from Bell Canada for the [Kuujjuaq LIR]." (emphasis added)

current application, that the OTA was intended to provide *interim* relief, rather than broader LIR relief mandated under Telecom Decision 2004-6, and accepted this arrangement to avoid delaying the provision of emergency services in northern Quebec.

6. In Telecom Decision 2024-141, Iristel submitted, and we accepted as fact, that the OTA does not allow Iristel to use the interconnection to provide wholesale services.³ In its original application, Iristel noted that over 90% of its overall revenue comes from its Canada-wide wholesale voice business and the “restriction on wholesale traffic is therefore quite punitive for Iristel.”⁴
7. In its original application, Iristel submitted that on 22 August 2022, seven years after the establishment of the interim arrangement, during the regularly held Local Interconnection meetings between Iristel and Bell Canada, Iristel requested that Bell Canada provide an update of its progress toward regularization of LNI to end the interim arrangement and provide LNI service per its Access Services Tariff. Bell Canada stated that it had no plan to modify its interconnection for the Kuujuaq LIR, in contravention of its Access Services Tariff.
8. Iristel also requested the Commission investigate the activities of Bell Canada, Bell Aliant and Bell MTS (the Bell Entities) with regard to non-respect of their tariffs and consider applying substantial administrative monetary penalties (AMPs) on the Bell Entities where they have been found to violate their tariffs or unjustly discriminate against Iristel.

Dispute with Northwestel

9. Iristel stated in both its current and original applications that it had requested Northwestel provide it with a point of interconnection (POI) in its service area (Whitehorse and Yellowknife) on 22 July 2020, which Northwestel refused to do on the basis that the signalling POI was only available through its affiliate Bell Canada in Toronto, in violation of Northwestel’s Local Network Interconnection Tariff. Iristel claimed to have suffered economic and reputational disadvantages because of the alleged tariff violation.
10. Iristel requested that the Commission consider imposing substantial AMPs on Northwestel where it has been found to violate its tariffs or unjustly discriminate against Iristel.
11. Northwestel maintains the issue was resolved in July 2023.

³ See paragraph 9 of Telecom Decision 2024-141 “This agreement does not allow Iristel to use the interconnection to provide wholesale services”. In the present decision, the majority now indicates, at paragraph 6, that “Iristel *submitted* that the interconnection method prescribed by the OTA limited Iristel’s ability to provide capacity for its affiliate Ice Wireless [...]” (emphasis added)

⁴ Iristel’s original application at paragraph 9.

Telecom Decision 2024-141

12. In Telecom Decision 2024-141, the Commission found there was no evidence that Iristel had requested any changes to the OTA regime. The Commission's determinations relied heavily on the fact that the OTA had been in place and renewed twice since 2015 and that Iristel had not come to the Commission earlier to seek any remedy. The Commission similarly found that Iristel did not submit any evidence showing a tariff violation or a public safety issue with respect to the POIs in Whitehorse and in Yellowknife. We declined to launch an investigation of Bell Canada's and Northwestel's actions on the basis of insufficient evidence, while again placing a great deal of weight on the fact that the OTAs had been in place since 2015 without any issue having been raised with the Commission in the seven-year period that followed.

Application to review and vary Telecom Decision 2024-141

13. In the current application, Iristel reiterated its claim that it reluctantly accepted the OTA as an interim arrangement so that it could expedite the deployment of its services to provide emergency telephone service to certain public organizations in northern Quebec. Iristel pointed to instances it requested updates from Bell Canada on its implementation of LNI, per its Access Services Tariff, so it could cease relying on the OTA.

14. Iristel provided additional minutes of meetings held between it and Bell Canada between 2015 and 2017, further supporting its claim that it requested tariffed services to replace the OTA, and again referred to its 22 August 2022 request for regularization of LNI to replace the interim agreement, as mentioned in its original application.

15. Iristel further reminded the Commission of its 22 July 2020 request that Northwestel provide it with a signalling POI in its service area and provided additional correspondence between Northwestel and Iristel from 2019 to 2023, allegedly showing its requests for tariffed services in Whitehorse and Yellowknife.

16. Iristel now alleges that the Commission ought to have further investigated its allegations of tariff violations by either appointing an investigator or issuing RFIs to Bell Canada and Northwestel, and I agree with those submissions. Iristel also argues that the Commission erred in determining that Iristel did not provide sufficient evidence to support its allegations that Bell Canada and Northwestel had violated their tariffs, and I agree. The Commission erred in its finding that Iristel did not provide sufficient evidence that it had requested service from Bell Canada and Northwestel under their respective tariffs and that such a request was denied. The Commission further erred by not issuing any RFIs if it deemed that further proof was necessary.

17. As submitted in its current application, Iristel consistently maintained its intention and request to move away from the interim OTA and adopt a regularized solution

pursuant to the companies' tariffs. Iristel backed its position by sound reasoning, namely that the OTA restricted Iristel from using the interconnections for any wholesale traffic and that such a restriction would be quite punitive for Iristel.⁵ Iristel submitted in both its current and original applications that it had requested that Bell Canada provide an update on its progress toward ending the OTA and providing LNI service in accordance with its tariff.⁶

18. Bell Canada did not refute Iristel's claim in its answer to the original application. Instead, it maintained that it had been providing service under an OTA for seven years, and in any event, it claimed to have subsequently offered Iristel options to address its concerns.⁷ Because Bell Canada did not refute this statement of fact, it was unreasonable and incorrect for the Commission to find that Iristel did not provide evidence that it had requested service under Bell Canada's tariff and that such a request had been denied by Bell Canada. That statement of fact was simply not disputed by Bell Canada.
19. The Commission erred when it concluded that "it would have been inappropriate for the Commission to try to improve the application before it by requesting additional information from Iristel to support the claims that Iristel brought forward."⁸ Iristel had no reason to believe that its unrefuted statement of fact would subsequently be disputed by the Commission. To the extent that the Commission had concerns about this undisputed statement of fact, it ought to have issued an RFI to both parties before dismissing it. As mentioned earlier, the Commission has the flexibility to modify its processes in response to requests or on its own initiative. It was therefore incorrect and unreasonable to deny taking further investigative measures, like issuing an RFI, before rejecting Iristel's undisputed statement of fact about its August 2022 query on the progress toward obtaining tariffed services from Bell Canada.
20. I do not believe Iristel needed to file additional evidence in support of its requests for tariffed services in lieu of the interim OTA. However, Iristel has filed such evidence and requested further regulatory investigation into its allegations against Bell Canada, through the issuance of RFIs.
21. It is reasonable for Iristel to file this evidence because we dismissed an undisputed statement of fact. Iristel's request that the Commission issue further RFIs seeking the disclosure of relevant documents in Bell Canada's control (or that of their current or former employees) is a perfectly reasonable request both as Part 1 and review and vary applications. To the extent that Iristel's request for tariffed services and

⁵ See Iristel's original application at paragraph 9.

⁶ See Iristel's original application at paragraph 10.

⁷ See Bell Canada's answer to Iristel's original application at paragraph 6.

⁸ See Telecom Decision 2024-141 at paragraph 40, reiterated in the present decision at paragraph 47.

Bell Canada's response are disputed (which neither party did), both parties should be required to provide any relevant evidence in their possession.

22. In this decision, the majority notes that Iristel should have been in possession of any evidence demonstrating that it had requested or been denied LNI service.⁹ However, given that Bell Canada has not refuted the statement of fact about Iristel's August 2022 request for an update on moving away from the OTA and being provided with tariffed services, it is reasonable to assume that Bell Canada might be in possession of materials supporting Iristel's allegations, particularly in light of the additional evidence of meetings held between the parties, which Iristel included in its current application.¹⁰
23. Similarly, I agree with Iristel's submission that the Commission erred when it determined that Iristel had provided insufficient evidence to support its allegations that Northwestel had violated its tariff. Again, Iristel stated it had requested Northwestel provide it with a signalling POI in its service area on 22 July 2020. Northwestel does not dispute this statement of fact in its answer to Iristel's original application. In fact, Northwestel submitted that the substance of its response is contained in its Statement of Defence and Counterclaim, filed in a related Yukon Supreme Court proceeding.¹¹
24. In Iristel's Statement of Claim for that proceeding (which Northwestel submitted on the record of the original application), Iristel maintains that it did not agree to the signalling transfer point being moved to Toronto, and went on to discuss "several requests to [Northwestel] to provide a local signalling POI in Whitehorse and in Yellowknife, in accordance with [Northwestel]'s obligations under the Local Network [Interconnection] Tariff."¹² Iristel explained its concerns with moving the signalling POI out of its service territory, as any outage to infrastructure in Ontario would result in a loss of connection for customers in that province and Iristel's customers in the Yukon.
25. In paragraph 15 of Iristel's Statement of Claim, it submitted that on or around 22 July 2020, it again requested a POI in Whitehorse and made additional requests that were allegedly refused. In response to that statement of fact, Northwestel acknowledged the July 2020 proposal, arguing that it was not possible to implement it, and proposed different solutions, which Iristel deemed insufficient.¹³

⁹ Paragraph 44 of the present decision.

¹⁰ Paragraph 35 of the present decision.

¹¹ Statement of Defence and Counterclaim, Appendix 2 to Northwestel's answer to the original application.

¹² Statement of Claim, Appendix 1 to Northwestel's answer to the original application.

¹³ Statement of Defence and Counterclaim, Appendix 2 to Northwestel's answer to the original application.

26. Despite the evidence on the record and Northwestel's acknowledgement of the 22 July 2020 proposal, the Commission found that "...Iristel did not submit any supporting evidence that would demonstrate a tariff violation or public safety issues. Further, Iristel indicated that the issues have been resolved."¹⁴
27. Again, it was incorrect and unreasonable for the Commission to find that Iristel did not provide sufficient evidence to support the claim that Northwestel had violated its tariff and the *Telecommunications Act* by not providing LNI service. However, if the Commission took issue with an agreed-upon statement of fact, it ought to have exercised its regulatory powers to examine the veracity of that agreed-upon fact.
28. In my view, the Commission committed errors both in fact and in law in Telecom Decision 2024-141, which raises substantial doubt as to the correctness and the reasonableness of that decision. I would approve Iristel's application to review and vary the decision and conclude there is sufficient evidence on the record to warrant further investigation by the Commission, through RFIs at a minimum, into the allegations of tariff violations and unfair discrimination.

¹⁴ Paragraph 36 of Telecom Decision 2024-141.

Concurring opinion of Commissioner Bram Abramson

1. I concur in the result reached by the majority but write separately to express concern, both with the original decision's approach and how we have disposed of Iristel Inc.'s (Iristel) application to review and vary that decision. The threshold to be met for us to review and vary Telecom Decision 2024-141 has not, I agree, been reached. But our approach lays bare systemic issues in how we enforce tariffs, approach evidence, and resolve complex regulated disputes. These systemic issues weaken our ability to serve as a trusted steward of Canadian telecommunications markets in a competitive environment. In failing to address these systemic issues, we only burrow further into the breach.
2. In Telecom Decision 2024-141, the full Commission determined that Iristel had not evidenced its claimed inability to obtain, within Canada's North, two in-region services that Bell Canada's and its affiliate Northwestel Inc.'s (Northwestel) tariffs obliged them to provide to Iristel:
 - (a) local network interconnection (LNI) across the northern Quebec local interconnection region to Bell Canada between 2015 and 2023, as an input into Iristel's wholesale service offering; and
 - (b) interconnection to a signalling point of interconnection (SPOI) in the 867 NPA region to Northwestel, the incumbent local exchange carrier, between 2020 and 2023, as a means to improve network resiliency by avoiding having to trombone North-to-North traffic through southern Canada.
3. Our colleagues say there was no error of law in declining to act against the impugned tariff violations, as we had not concluded any in the first place. They say there was no error of fact to find Iristel's evidence wanting, particularly as its weighing is at our discretion. They say there was no lack of diligence on our part in stopping there, as the additional evidence filed did not show enough smoke to trigger a fire investigation. Along the way they place particular weight on:
 - the long-standing off-tariff agreement for retail exchange-only LNI in northern Quebec, which they say shows Iristel sought nothing more, or at least failed to seek it floridly; and
 - the long-running discussions regarding how to go about providing in-region SPOI interconnection. These were eventually carried forward through a formal tariff revision application to codify a relatively straightforward technical implementation requirement: that partners interconnecting at two locations ought to be addressable by a different point code at each location, so as not to muddle routing tables.
4. I agree that the review and vary process ought not become an opportunity to shine a brighter light on smoke the parties may have failed to illuminate the first time around. To further compromise the certainty and finality of administrative decisions, whose

sticking force is already undermined by routinization of resort to the various routes, e.g., internal review and vary,¹ judicial review, statutory appeal,² Cabinet variance or rescission³—available for kicking the can forward, or at least kicking it differently, would be inappropriate and inconsistent with the principles of administrative justice.

5. For this reason, I would not have come to a different conclusion than our colleagues. I accept that our determinations in Telecom Decision 2024-141 lay appropriately within our discretion. Overturning it for substantial doubt as to its original correctness at the time the decision was made, on the basis that there was more evidence to be had, is not the better approach. Nor would it be entirely consistent with our guidelines for review and vary applications, last revised in 2011, on which parties have a legitimate expectation to be able to rely.⁴
6. At the same time, I am persuaded by much of Commissioner Anderson’s reasoning as to weaknesses and gaps in our disposition of Iristel’s 2023 complaint in Telecom Decision 2024-141. Our disposition, through that decision and this one, of a complex dispute steeped in regulatory and technical context, is wanting in three ways that intersect with broader gaps in our regulatory stewardship of Canadian telecommunications markets: tariff enforcement, evidentiary tools, and dispute resolution.
7. First, as paragraph 55 of the majority’s decision alludes to and as Commissioner Anderson’s dissent underlines more forcefully, tariffs are not optional. They are, for better or worse, the primary instrument placed by the *Telecommunications Act* in our telecom regulatory toolkit. They are binding contracts between the carrier that publishes them, and the non-Canadian and Canadian telecommunications providers that operate in Canada.
8. Regulated carriers frequently have both the incentive and opportunity to resist their own tariffs’ prompt performance. When the tariff in question is a competitor tariff whose effect is to undercut the offering carrier’s own market power, the incentive is particularly evident. Opportunities to act on this incentive—whether through gamesmanship, delay, drawn-out or overly formal negotiations, tariff drafting that holds back critical elements for unregulated contractual negotiation—mushroom, as interveners on this proceeding suggested, when the Commission fails to install light-touch, market-friendly guardrails to ensure timely compliance and accountability.

¹ See *Telecommunications Act*, S.C. 1993, c. 38, section 62, and Telecom Information Bulletin 2011-214.

² See *Telecommunications Act*, section 64, and with respect to matters falling outside its scope, *Federal Courts Act*, R.S.C. 1985, c. F-7, sections 18.1 and 18.5.

³ See *Telecommunications Act*, section 12.

⁴ See Telecom Information Bulletin 2011-214.

9. Without clear timelines and timed enforcement, competitor tariffs become shorn of their intended pro-competitive effects, and the regulatory burden is shifted onto the very market participants whose lack of bargaining power is why the tariff is deemed necessary in the first place. In Telecom Decision 2024-141, we appeared less than interested in getting to the bottom of whether Bell Canada or Northwestel had breached their tariffs, what the consequences might be, or how to improve things next time around. The majority's decision does not improve on this record. Neither does it make for a predictable marketplace.
10. Second, it is notable that both the evidentiary bar to be met, which as a trite matter is the balance of probabilities, and the tools to meet it with, have been so central to this dispute. As an administrative tribunal, and in keeping with the general thrust of administrative justice, our approach to evidence is broader, less formal, and more reliant on specialized expertise than that of a court.⁵ The availability of discovery tools is correspondingly narrower, in order to promote the efficiency, accessibility, and lower level of formality administrative tribunals strive to achieve.
11. But less available should not mean unpredictably available. Nor does reduced availability serve efficiency, accessibility, or even informality when its result is to drag out those complex business disputes, dripping in technical and regulatory jargon and considerations, which we should excel at resolving. As Iristel argued convincingly, informational asymmetry is a hole that Commission procedure can, and ought to, plug when it threatens the rendering of administrative justice or leaves a party to a dispute at an undue disadvantage in resolving it.
12. Requests for Information (RFIs), formerly known as interrogatories, are the instruments by which discovery is effected in our own procedural setting. But— notwithstanding a tradition in which even interveners on rate cases could put written interrogatories to applicants—parties do not generally have an automatic right to issue RFIs in order to perfect the evidence by then filed.⁶ In a high-volume setting, Commission staff's role in gatekeeping this recourse will inevitably tend towards the parsimonious.
13. We must be more wary of that tendency. If timely performance of tariffs matters, as it must if our supervisory framework is to inspire confidence; and if, as a corollary, getting to the bottom of breaches in performance must matter, too, as I have argued

⁵ “The Board is not bound by the ordinary rules of evidence. In deciding upon questions of fact, it must inevitably draw upon its experience in respect of the matters in the vast number of cases which come before it as well as upon the experience of its technical advisers. Thus, the Board may be in a position in passing upon questions of fact in the course of dealing with, for example, an administrative matter, to act with a sure judgment on facts and circumstances which to a tribunal not possessing the Board's equipment and advantages might yield only a vague or ambiguous impression.” *Canadian National Ry. Co. v. Bell Telephone Co. of Canada*, [1939] SCR 308, page 317.

⁶ Michael H. Ryan, *Canadian Telecommunications Law and Regulation* (Toronto: Thomson Reuters, 2001+), § 804 and § 811.

above; then good-faith RFIs that do not abuse process but do help get to the bottom of things are fundamental. Indeed, to the extent that it is helpful in resolving the complex disputes that stakeholders expect us to be able to wrangle effectively, some reflection on how to innovate on the process, such as the possibility of transcribed oral RFIs, may be warranted.

14. Finally, relatedly, and perhaps most importantly, we must continue to chase continuous improvement in our ability to resolve the complex disputes steeped in regulatory and technical context that I have referred to above by putting clocks on performance, addressing evidentiary gaps, and so on. We have made significant strides. The Commission's staff charged with such matters work hard, work smart, and work well. But parties are still able to drag out informal and formal dispute resolution matters before us for too long. Stakeholders continue to despair at the possibility of obtaining quick enforcement of contractual or regulatory rights thought to have been already resolved. Disputants continue to flail away at informational asymmetries, when better use of the very informality available to us might bring the factual matrix to a head.
15. The Commission has worked, in line with the policy objectives and directions binding it, to increase competitive choice in the telecommunications sector. A corollary of increased competitive choice is a higher volume of competitive disputes, particularly in the shadow of market power. Accordingly, our role as a chamber for receiving the kinds of disputes I have described above, and as Iristel, Bell Canada, and Northwestel have illustrated eloquently, will only grow. So must our effectiveness and acumen for resolving them.
16. We must inspire trust that when we oblige a regulated party to do a thing, we will also see to it that the thing is done timely and properly. Neither Telecom Decision 2024-141 nor the present decision inspires such confidence. Coupling either decision with a commitment to the procedural innovations I have called for in this concurring opinion would have moved us in the right direction.