



Telecom Decision CRTC 2015-254

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Northwestel Inc. – Application to remove regulatory constraints applicable to basic toll schedules

*In light of the level of competition and the choices available to northern Canadians for long distance service, the Commission **approves** Northwestel’s application to remove regulatory constraints applicable to the company’s basic toll schedules.*

Background

1. In Telecom Decision 2007-5, the Commission found that the market for the toll (i.e. long distance) services offered by Northwestel Inc. (Northwestel) was sufficiently competitive to protect the interests of users and forbore from regulating the rates for these services. However, the Commission made the company’s basic toll services¹ subject to the following constraints:
 - Northwestel shall provide to the Commission, and make publicly available, rate schedules setting out the rates for basic toll schedule² service. These schedules are to include the 50% discount currently applicable to calls that originate from, and are billed to, the residence service of a registered certified hearing- or speech-impaired user of a Telecommunications Device for the Deaf (TDD user);
 - Northwestel shall provide reasonable direct notice in writing to subscribers in advance of any increases to basic toll rates;
 - Northwestel shall not route de-average basic toll rates;³
 - Changes within any of the North American basic toll schedules will be permissible, provided any rate increases within a schedule are offset by corresponding decreases within the same schedule such that there is no change to that schedule’s weighted-average rate (i.e. price constraint); and

¹ “Basic toll service” refers to long distance calls not covered by the company’s long distance plans.

² The basic toll schedule outlines rates for basic toll service.

³ Route de-averaging means that a consumer would be charged different rates for calls of similar distances originating from two different locations.

- Northwestel shall ensure that all toll customers can choose basic toll service at the rates set out in the rate schedules noted above.
2. The constraints were put in place to protect consumers using basic toll services, which were not subject to as intense a level of price competition as the other sectors of the toll market.

Application

3. The Commission received an application from Northwestel, dated 15 December 2014, in which the company requested that the Commission discontinue applying the constraints set out in Telecom Decision 2007-5, with the exception of the 50% discount applicable to TDD users.
4. The Commission received an intervention regarding Northwestel's application from the Public Interest Advocacy Centre (PIAC) and the Consumer's Association of Canada (CAC) [collectively, PIAC/CAC]. The public record of this proceeding, which closed on 13 February 2015, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Should the Commission approve Northwestel's application?

5. Northwestel submitted that the original rationale for requiring constraints on basic toll services is no longer valid, given that
 - the company's share of the market for toll services, of which basic toll services represent a relatively small portion, is declining;
 - substitute calling through mobile wireless, toll plans, and voice over Internet Protocol (VoIP) is available; and
 - prepaid calling cards are ubiquitously available.
6. Northwestel indicated that equal access⁴ minutes make up less than 1% of the toll market, and that alternative forms of competition have made equal access unnecessary. The company further indicated that because most service providers bundle low-priced toll services in their local calling packages, it is no longer necessary for most people to consider a stand-alone toll service provider.
7. Finally, Northwestel noted that it is the only incumbent local exchange carrier (ILEC) that is still subject to the constraints,⁵ and indicated that they pose an unfair burden on the company.

⁴ Equal access enables a customer to make a call through a different long distance service provider without dialing extra digits.

⁵ In Telecom Decision 2007-56, the Commission removed the constraints on basic toll services, except for the 50% discount applicable to TDD users, for the following ILECs: Bell Aliant Regional Communications,

8. PIAC/CAC submitted that Northwestel's request should be denied, arguing that the application was based on unfounded assertions regarding Northwestel's customers and the marketplace in which the company operates, and did not address concerns for low-usage customers, whom the basic toll schedules are likely to protect.
9. In particular, PIAC/CAC argued that there is insufficient competition in the mobile wireless and VoIP markets, which undermines these services' viability as alternatives. PIAC/CAC further argued that subscriptions to mobile wireless and/or Internet services would pose additional costs to consumers.
10. Also, PIAC/CAC submitted that prepaid calling cards are not alternatives due to their upfront costs and lack of billing information related to their use.
11. Northwestel replied that each of the alternatives was significant for consumers in the North. Specifically, Northwestel submitted the following:
 - there are at least 31 different VoIP platforms being used by consumers in the North;
 - mobile wireless plans offered in the North are largely national in nature, and prepaid service without long-term contracts is available;
 - prepaid calling cards can be purchased for as little as \$5, including one card that has no set-up fees and charges as little as \$0.042 per minute; and
 - the vast majority of the company's retail toll traffic is from customers who subscribe to toll plans, which can offer a cheaper option, even for low-usage customers.

Commission's analysis and determinations

12. Customers in Northwestel's operating territory have a variety of alternatives for toll services, including prepaid calling cards, VoIP services, and wireless services, which are less expensive than the basic toll schedule rates for toll calls.
13. Northwestel has been steadily losing toll market share over the years to alternative services, and basic toll service revenues comprise only a very small percentage of the company's total toll revenues. As a result, Northwestel's ability to generate increased revenues from the basic toll sector to finance below-cost pricing in areas that are highly competitive is limited.
14. Further, while equal access is not offered throughout the company's operating territory, many of the toll alternatives available do not require its availability.

15. Given the availability and use of alternatives to basic toll service, it is appropriate to rely on market forces rather than to continue to apply the constraints set out in Telecom Decision 2007-5. Accordingly, the Commission finds it appropriate to discontinue the application of the basic toll constraints, with the exception of the 50% discount applicable to TDD users.

16. In light of all the above, the Commission **approves** Northwestel's application.

Policy Direction

17. The Policy Direction⁶ states that the Commission, in exercising its powers and performing its duties under the *Telecommunications Act* (the Act), shall implement the telecommunications policy objectives set out in section 7 of the Act, in accordance with the Policy Direction.

18. Discontinuing the application of the constraints is consistent with subparagraph 1(a)(i)⁷ of the Policy Direction and the objective of paragraph 7(c)⁸ of the Act, while requiring the continued offering of a discount to TDD users is consistent with subparagraphs 1(a)(ii)⁹ and 1(b)(iii)¹⁰ of the Policy Direction. In compliance with subparagraph 1(b)(i)¹¹ of the Policy Direction, the Commission considers that the policy objectives set out in paragraphs 7(f) and (h)¹² of the Act are advanced by the regulatory measure maintained by this decision.

Secretary General

⁶ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁷ Subparagraph 1(a)(i) of the Policy Direction states that the Commission should rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives.

⁸ The cited policy objective is to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications.

⁹ Subparagraph 1(a)(ii) of the Policy Direction states that the Commission should, when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives

¹⁰ Subparagraph 1(b)(iii) of the Policy Direction states that the Commission, when relying on regulation, should use measures that, if not of an economic nature, are implemented in a symmetrical and competitively neutral manner to the greatest extent possible.

¹¹ Subparagraph 1(b)(i) of the Policy Direction states that the Commission, when relying on regulation, should use measures that specify the telecommunications policy objective that is advanced by those measures and demonstrate their compliance with the Policy Direction.

¹² The cited policy objectives are 7(f) to foster increased reliance on market forces and to ensure that regulation, where required, is efficient and effective; and (h) to respond to the economic and social requirements of users of telecommunications services.

Related documents

- *Review of the regulatory constraints that apply to the basic toll schedules*, Telecom Decision CRTC 2007-56, 23 July 2007; as amended by Telecom Decision CRTC 2007-56-1, 14 August 2007
- *Price cap regulation for Northwestel Inc.*, Telecom Decision CRTC 2007-5, 2 December 2007