



22 February 2017

*Filed electronically*

Ms. Daniele May-Cuconato  
Secretary-General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, Ontario  
K1A 0N2

**RE: Northwestel Tariff Notice 976 - Wholesale Connect Service New Rates and Circuits:  
Requesting a streamlined order for interim approval of rates**

---

Dear Ms. May-Cuconato:

1. SSi Micro Ltd. ("SSi") has received and views with grave concern three connected filings, all made by Northwestel Inc. ("Northwestel") on February 6, 2017 (the "Three Filings"), specifically:
  - Northwestel Tariff Notice 976: Wholesale Connect Service New Rates and Circuits ("TN 976 Filing");
  - An application by Northwestel Inc. to Review and Vary Telecom Decision CRTC 2016-443 ("R&V Application"); and
  - An application by Northwestel Inc. for Forbearance from the Regulation of Wholesale Connect Service in Communities Served by the Mackenzie Valley Fibre Link (the "Second MVFL Forbearance Application").
2. SSi respectfully requests that the Commission issue a **streamlined order** giving **interim** approval to the Wholesale Connect rates filed by Northwestel as Schedule "B" to its TN 976 Filing (the Schedule B rates being the "CRTC Costing Rules-Derived Rates"). It would be consistent with past practice, and therefore appropriate, to issue such an order to take effect on March 1, 2017. The March 1 date is moreover the same date that Northwestel itself proposes in TN 976 as the interim approval date for a Commission Order.
3. SSi does not ask that the Commission make any determination at this time with respect to retroactivity of Wholesale Connect rates. Rather, that should wait for the Commission's final decisions concerning TN 976, thereby allowing for a complete record of interventions to be considered.



***- Streamlined Interim Approval of the CRTC Costing Rules-Derived Rates is Needed and Appropriate***

4. In SSi's submission, streamlined interim approval of the CRTC Costing Rules-Derived Rates from TN 976 would be appropriate in view of the following factors:
  - a. First, substantial harm will be imposed on Northwestel's actual and potential competitors by a protracted consideration of these filings, and in particular, by maintaining any longer Northwestel's Wholesale Connect rates at their current, extremely high levels. Indeed, the rates for Wholesale Connect currently charged are, by Northwestel's own admission and filings, too high to be justified on the basis of CRTC costing rules; and
  - b. Second, interested parties and the Commission must be allowed to evaluate properly Northwestel's proposed CRTC Costing Rules-Derived Rates in TN 976 by for their compliance with the rules that the Commission developed following the public proceeding that resulted in Telecom Decision CRTC 2016-443.
5. SSi submits that Northwestel's tactic of filing alternative rates as Schedule "A" to its TN 976 Filing (the "NWTel Hypothetical Rates") is yet another attempt by that company to delay, obfuscate and muddy the waters. This attempt is transparent: without waiting for the Commission to assess whether the CRTC Costing Rules-Derived Rates proposed in TN 976 rates do, indeed, comply with the CRTC costing rules set out in Decision 2016-443, Northwestel is seeking to have those rules revised. And the proposed Schedule A NWTel Hypothetical Rates in TN 976 are so obviously unacceptable that it demonstrates a further facile attempt to have the Schedule B CRTC Costing Rules-Derived Rates appear reasonable or even low by comparison.
6. If the Commission does not dismiss the Northwestel R&V Application outright, we respectfully recommend that a separate proceeding look at the application, but only after a final determination has been made with respect to the Schedule B CRTC Costing Rules-Derived Rates submitted with TN 976.
7. Northwestel's Wholesale Connect service rates constitute an ongoing situation, of which the Commission is very well aware, that is having a significant dampening effect on competition in Canada's Far North, and in particular in the Northwest Territories despite SSi's persistent and well-known efforts over many years to offer northern consumers its benefits.
8. As Northwestel notes in TN 976, it first proposed a tariff for Wholesale Connect service in March 2012. Following an application from Northwestel to review and vary the Commission's initial determination of appropriate cost components for the service (Telecom Order 2013-93), the Commission approved increased rates on a final basis in Telecom Regulatory Policy CRTC 2013-711



of 18 December 2013. On 28 January 2015, Northwestel filed Tariff Notice 923, proposing rates for Wholesale Connect services offered over higher speed circuits (150 Mbps and 200 Mbps) and adding a number of new locations. By streamlined Telecom Order CRTC 2015-39, the Commission duly gave TN 923 interim approval on 27 February 2015.

9. Responding in part to the consistent and documented challenges brought by interveners, including SSi, to Northwestel's assertions that its proposed rates for Wholesale Connect service were just and reasonable, the CRTC initiated a review of the rates for this service by Telecom Notice of Consultation CRTC 2016-180, dated 12 May 2016. The evidence provided by SSi and others in this proceeding was sufficiently probative that the Commission determined, in its Telecom Decision CRTC 2016-443 of 8 November 2016, that adjustments had to be made to Northwestel's costing assumptions with respect to the service. The Commission made all of the Wholesale Connect rates interim as of the date of that decision, "since Northwestel's costs, and hence its rates, are likely to change due to the adjustments in costing assumptions resulting from this decision" (paragraph 47).
10. This history is not disputed. However, Northwestel is now contending, in its TN 976 and R&V Filings of February 6, 2017, that it is somehow just and reasonable that that company be permitted to go on charging rates based on costing assumptions that the Commission has explicitly examined and found to be inappropriate – in the face of evidence from multiple interveners in the proceeding that resulted in Telecom Decision CRTC 2016-443 that the rates are currently set at a level that is so high that simply prohibits competition in the retail broadband market. (See Reply Comments of SSi, dated June 23, 2016, for a thorough review of that evidence.)
11. Two years have now passed since the Commission gave interim approval, after a streamlined process, to the rates that Northwestel proposed for its Wholesale Connect services at 150 Mbps and 200 Mbps. SSi respectfully submits that the Commission has before it, in the proceeding that supported its Decision CRTC 2016-443, ample evidence of the deleterious effect on competition of this lengthy interval during which Northwestel has been able to charge its few competitors rates set on the basis of costing assumptions that the Commission – and even Northwestel itself – has determined to be outdated and inappropriate. Further delays, such as those implicit in Northwestel's R&V Filing, will simply exacerbate this effect.

***- Concerning Northwestel and the Mackenzie Valley Fibre Link***

12. Unsatisfied with its delaying tactics as it seeks to maintain Wholesale Connect rates at levels set on the basis of costing assumptions that the Commission has carefully examined in a public proceeding and ruled to be inappropriate and to result in rates that are too high, Northwestel also applied, on February 6, 2017, for forbearance with respect to the regulation of its Wholesale Connect service in the communities to be served by the Mackenzie Valley Fibre Link (MVFL).



13. With respect to this Second MVFL Forbearance Application, SSi respectfully submits that the Commission should examine the potential competitive impact of Northwestel's direct and indirect participation in the Mackenzie Valley Fibre Link ("MVFL", "the Link") in a separate but comprehensive proceeding, rather than acceding to Northwestel's piecemeal requests for regulatory forbearance. To recall, thus far, the Commission has been faced with two separate requests by Northwestel for forbearance in respect of the Link:
  - a. Northwestel's August 10, 2016 application, still before the Commission (CRTC File # 8640-N1-201609893), for forbearance for vaguely described "operation and maintenance" services it is providing to MVFL through its Northern Lights General Partnership ("NLGP") with Leducor Inc.; and
  - b. The Second MVFL Forbearance Application, filed February 6, 2017, for forbearance from the rates it is required to offer competitors in the locations to be served by MVFL on the grounds that the prices established for transport services over MVFL undercut Northwestel's tariffed Wholesale Connect rates.
14. SSi believes that the MVFL project raises a series of questions concerning its potential impact on competition in the Northwest Territories.
15. The Commission's examination is still ongoing of Northwestel's central contention in the first MVFL forbearance application, that the circumstances of the Request for Proposals that preceded the decision of the Government of the Northwest Territories ("GNWT") to select a joint venture involving Northwestel were sufficiently competitive that no regulatory scrutiny of Northwestel's prospective service offerings to the Link is warranted. Yet now Northwestel is requesting forbearance from regulation of its Wholesale Connect service in the locations that the MFVL is proposed to serve.

**- Conclusions**

16. In closing, SSi again respectfully requests that the CRTC issue a **streamlined order** effective March 1, 2017 giving **interim** approval to the CRTC Costing Rules-Derived Rates filed by Northwestel as Schedule "B" to its TN 976 Filing.
17. SSi also respectfully submits that the Commission should thoroughly and properly review TN 976 to ensure that the CRTC Costing Rules-Derived Rates have been properly established, or if they are still too high.
18. SSi does not ask that the Commission make any determination at this time with respect to retroactivity of Wholesale Connect rates. Rather, that should wait for the Commission's final



decisions concerning TN 976, thereby allowing for a complete record of interventions to be considered and examination of the CRTC Costing Rules-Derived Rates to be completed.

19. If the Commission does not dismiss the Northwestel R&V Application outright, we respectfully recommend that a separate proceeding be initiated to look at the application, but only after a final determination has been made with respect to the Schedule B CRTC Costing Rules-Derived Rates submitted with TN 976.
20. Finally, SSi respectfully submits that the Commission examine the potential competitive impact of Northwestel's direct and indirect participation in the Mackenzie Valley Fibre Link in a separate but comprehensive proceeding, rather than acceding to Northwestel's piecemeal requests for regulatory forbearance.

Sincerely,

[SGD – DEAN PROCTOR]

Dean Proctor,

Chief Development Officer,

SSi Micro Ltd.

Email: [regulatory@ssimicro.com](mailto:regulatory@ssimicro.com)

Cc: Northwestel, [regulatoryaffairs@nwtel.ca](mailto:regulatoryaffairs@nwtel.ca)

**\*\*\* End of Document \*\*\***