



Telecom Notice of Consultation CRTC 2019-406

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Ottawa, 10 December 2019

Public record: 1011-NOC2019-0406

Call for comments regarding potential barriers to the deployment of broadband-capable networks in underserved areas in Canada

Deadline for submission of interventions: 24 January 2020

[\[Submit an intervention or view related documents\]](#)

The Commission invites interested persons to identify potential barriers and/or regulatory solutions to building new facilities or interconnecting to existing facilities in order to extend broadband-capable networks more efficiently into underserved areas in Canada and give all Canadians access to high-quality voice services and broadband Internet access services.

Background

1. In Telecom Regulatory Policy 2016-496, the Commission began shifting the focus of its regulatory frameworks from wireline voice services to broadband Internet access services. As such, it established that Canadians, in urban areas as well as in rural and remote areas, are to have access to voice services and broadband Internet access services on both fixed and mobile wireless networks. This is known as the universal service objective.
2. The Commission also established, among the criteria to measure the successful achievement of the universal service objective, that Canadian residential and business fixed broadband Internet access service subscribers should be able to access speeds of at least 50 megabits per second (Mbps) download and 10 Mbps upload, and to subscribe to a service offering with an unlimited data allowance. The Commission noted that investment in transport facilities will be required in underserved areas in order to achieve the broadband portion of the universal service objective.
3. In Telecom Regulatory Policy 2018-377, the Commission established a funding mechanism (i.e. the Broadband Fund) to (i) build broadband-capable network infrastructure to achieve the universal service objective, and (ii) close the gaps in connectivity. It also noted that transport infrastructure projects would likely provide the foundation to expand broadband networks, since telecommunications service providers (TSPs) could access that transport infrastructure and undertake other fixed

access and transport infrastructure projects in underserved areas that would previously have been impossible.

4. Pursuant to the Commission's 2019 [Communications Monitoring Report](#), at the end of 2018, broadband service at speeds meeting or exceeding the Commission's universal service objective target of 50 Mbps download and 10 Mbps upload with an option for unlimited monthly data transfer was available to 85.7% of Canadian households, but to only 40.8% of households in rural areas¹ and 31.3% of households on Indigenous reserves.
5. While important progress is being made to improve access to universal service objective-level broadband networks for all Canadians, efficient access to existing network facilities may also be an important element in supporting universal access, in particular in underserved regions of the country.

Access to required transport services

6. The Commission has generally forborne from regulating the provision of wholesale transport services.² In Telecom Decision 2008-17, the Commission revised its definition of an essential service and forbore from regulating all high-speed fibre-based services on a national basis.³ Essentiality findings were made on a service-by-service basis and applied on a national basis across Canada.⁴ Accordingly, following a three-year phase-out period, the Commission stopped regulating rates for competitors' access to wholesale fibre-based digital transport services and to all wholesale Ethernet transport services, and the incumbents were not required to file tariffs with the Commission. Many of those services are still forborne from rate regulation.

Efficient access to support structures

7. Under the *Telecommunications Act*, the Commission has the authority to regulate access to support structures (such as poles and conduits) owned by a Canadian carrier. In Telecom Decision 2008-62, the Commission determined that such

¹ Rural areas are defined as having a population of less than 1,000 or a density of 400 or fewer people per square kilometre.

² Transport services are services that provide interconnection in order to connect an access network to other access networks and/or the Internet. An access network is one that connects homes and businesses to an Internet service provider in that community.

³ Northwestel has an existing regulatory obligation to offer a Wholesale Connect service, pursuant to a tariff, in its serving territory. The Commission also regulates rates and terms for low-speed retail interexchange private line services along monopoly controlled routes. Low-speed digital services are speeds up to DS3 (45 Mbps digital service).

⁴ In that decision, the Commission noted a high incidence of competitor self-supply or alternative supply of fibre-based access and transport facilities. In essence, the Commission considered that the high supply levels were indicative of competition for such facilities and forbore from the regulation of high-speed fibre-based transport services across all of Canada.

authority extends to support structures not owned by the carrier but to which the carrier has the right to grant access. The Commission's authority does not include regulating access to support structures owned by third parties that are not also Canadian carriers, such as provincially regulated utilities, nor does it extend to transmission lines situated on private land.⁵

8. An incumbent Canadian carrier that owns poles and conduits is required, on request and where spare capacity is available, to offer competitive access to these poles and conduits pursuant to a Commission-approved tariff. At present, the Commission has approved rates, terms, and conditions for access to the poles and conduits owned by large and certain small incumbent local exchange carriers (ILECs).⁶ The last review of these services took place almost a decade ago in Telecom Decision 2010-900.

Call for comments

9. The Commission is committed to providing Canadians in all regions of the country with access to affordable, high-quality telecommunications services. As such, the Commission supports the initiatives of telecommunications companies as they continue to invest in robust infrastructure that can be upgraded and that supports the Commission's universal service objective.
10. In this regard, identifying barriers to extending transport networks and accessing support structures, while considering regulatory steps to address such barriers, could simultaneously help to reduce the costs associated with extending broadband networks and serve to improve Canadians' access to high-quality telecommunications services. Such a review would complement the Broadband Fund, as it would seek to facilitate infrastructure builds through regulatory measures that could reduce or even eliminate the need for additional funding.
11. Therefore, the Commission is issuing this notice of consultation with a view to identifying, exploring, and addressing barriers to providing universal service objective-level services to all areas of Canada. The focus of this notice is to identify impediments to building or extending transport networks to underserved areas, and to explore potential regulatory solutions. This notice and its findings are independent of the Commission's [Broadband Fund](#).
12. The Commission invites all parties to provide comments, as follows:
 - (i) Identify barriers that service providers and communities face in building new facilities, or interconnecting to or accessing existing facilities, to extend networks into underserved areas in order to offer universal service objective-level services. These barriers could include, but may not be limited to, access to affordable transport services and efficient use of support

⁵ *Barrie Public Utilities v. Canadian Cable Television Association* [2003] 1 S.C.R. 476.

⁶ Commission-approved rates, terms, and conditions can be viewed on the Commission's [Tariff Applications](#) web page.

structures (e.g. concerns with space reserved for future use, and the costs and timeliness of gaining access to these support structures).

- (ii) Describe how and to what extent these barriers are preventing parties from extending transport networks and offering universal service objective-level services in underserved regions of Canada.
- (iii) Propose potential regulatory measures that are within the Commission's jurisdiction, to address the identified barriers.
- (iv) Any other related issue within the scope of the proceeding.

Procedure

13. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, answers, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website at www.crtc.gc.ca, under "[Statutes and regulations](#)". The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
14. All TSPs are made parties to this proceeding and may file interventions with the Commission by **24 January 2020**.
15. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **24 January 2020**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.
16. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a [template](#) for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.
17. All documents required to be served on parties to the proceeding must be served using the contact information contained in the interventions.
18. All parties may file replies to interventions with the Commission by **10 February 2020**.
19. The Commission and parties may request information, in the form of interrogatories, from any party to the proceeding. The requesting party must file its request for

information with the Commission, and serve the request on the party to whom it is addressed, by **9 March 2020**.

20. Responses to requests for information are to be filed with the Commission, and served on all parties, by **15 April 2020**.
21. Parties may request (i) further responses to interrogatories, specifying in each case why a further response is necessary, and (ii) the public disclosure of information that has been designated confidential, setting out in each case the reasons for disclosure. These requests must be filed with the Commission, and served on the parties to whom they are addressed, by **24 April 2020**.
22. The Commission will announce a further process at a future date. That process will include the dates by which parties are to file final submissions and final replies.
23. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at www.crtc.gc.ca, for additional information that they may find useful when preparing their submissions.
24. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
25. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that enable text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
26. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax to
819-994-0218

27. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
28. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
29. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.
30. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.

Important notice

31. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and fax numbers.
32. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
33. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
34. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

35. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at www.crtc.gc.ca by using the public record number provided at the beginning of this notice or by visiting the "Consultations and hearings – Have your say!" section, then selecting "our applications and processes that are open for comment". Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
36. Documents are also available at the following address, upon request, during normal business hours.

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782
Toll-free TTY: 1-877-909-2782

Secretary General

Related documents

- *Development of the Commission's Broadband Fund*, Telecom Regulatory Policy CRTC 2018-377, 27 September 2018
- *Modern telecommunications services – The path forward for Canada's digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Review of the large incumbent local exchange carriers' support structure service rates*, Telecom Decision CRTC 2010-900, 2 December 2010; as amended by Telecom Decision CRTC 2010-900-1, 9 December 2010
- *Rogers Cable Communications Inc. - Application to review and vary part of Telecom Decision 2007-75*, Telecom Decision CRTC 2008-62, 16 July 2008
- *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008