Q: *Would the FMCC support SSi's proposed Open Gateway Facility and the Backbone Assistance Program as consistent with the FMCC's proposed NISF? Please elaborate.*

Response:

1. FMCC has reviewed the intervention and supporting documents submitted by SSi. Please find FMCC's comments on the SSi proposals below.

2. We share SSi's concerns about the need to provide affordable and sustainable broadband services to remote communities.

3. A satellite gateway model could be part of this solution. However, we noted our concerns in the Northwestel hearing (CRTC 2012-669) and in the Satellite Inquiry Report (SIR) about the *de facto* monopoly on Fixed Satellite Services (FSS) in the North. Similarly, under the present circumstances, FMCC is concerned that, under SSi's proposal or a similar arrangement, potential gateway operators would be placed in a position of monopoly in their operating markets – specifically at the community level. Our 'first mile' position is that communities should be extended opportunities to own and control local broadband infrastructure and services.

4. Significantly, a gateway operator that also owns and/or operates the local facilities used to provide service to end users (e.g. consumers, community POPs, businesses, or government offices) would be placed in a position to act on incentives to foreclose entry or operations of potential competitors, by exercising control over the "bottleneck" element of the network — the "Open Gateway." We point to some examples of this kind of outcome in the case of terrestrial networks: for example, K'atlodeeche First Nation in the NWT owns a high-speed, high-capacity local fibre optic network, but faces challenges in interconnecting outside the community due to the lack of an adequate gateway.[1]

5. If such a situation should arise with regards to the Open Gateway model, it would be in fundamental conflict with FMCC's position that community intermediary organizations are best placed to provide service in areas presently unserved or underserved by existing private service providers. In short, in FMCC's view it would be inappropriate and undesirable to create a situation whereby the gateway operator could leverage its position to dominate downstream markets for connectivity at the expense of local organizations, communities and residents.

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[1] McMahon, R. and Fabian, L. (2014). *Indigenous Community Networking in Canada's Northern Territories: A case study from K'atl'odeeche First Nation.* Paper presented at the Canadian Communication Association Annual Conference. Brock University, June.

6. FMCC notes SSi's suggestion that its Open Gateway and Broadband Assistance Program ("BAP") proposals would include "utility backbone regulation" measures.[2] Before taking a position in relation to SSi's proposals, FMCC would require greater articulation of the utility regulation element of SSi's proposal, in particular with regards to the mechanisms contemplated to ensure that any potential gateway model does in fact provide open access for backhaul at reasonable rates, and that this access and rate structure are overseen by the CRTC.

7. FMCC is also concerned that, should the Commission adopt a mechanism along the lines of what SSi has proposed, the costing methodology employed to determine rates must take into account the role of subsidies in infrastructure deployment. While FMCC recognizes the risks involved in infrastructure investment in the North, we also note that, by definition, subsidies contribute significantly to defraying those risks. In calculating just and reasonable rates for access to Open Gateway facilities, the Commission must ensure that local service providers, and ultimately for the end users who subscribe to broadband services, are not forced to pay rates that are reflective of unduly high returns to Gateway providers who have received subsidies to deploy their facilities.

8. FMCC notes that SSi proposes that the BAP funds would be managed and allocated by the Canadian Portable Contribution Consortium ("CPCC," now known as the Canadian Telecommunications Contribution Consortium).[3] Please refer to FMCC(CRTC)14Aug15-4. In that response we indicate several concerns with the governance of the CTCC – in particular the lack of representation from Northern-based communities and community-based organizations. In short, FMCC has proposed that an organization oversee funding for Northern Infrastructure and Services that would include local representation from affected regions, and therefore FMCC does not support CTCC oversight of new funds for Northern regions unless it is made a transparent and representative organization.

9. Further, FMCC is concerned that the CRTC may create a mechanism which "locks in" satellite services as the only form of transport available to communities. Although we recognize that service in many areas is provided on a best-effort basis, and that satellite service is better than no service at all, we urge the Commission to ensure that the possibility for evolution to superior means of transport be kept open. Following from this position, FMCC suggests that any other provider should have the right to install and operate backbone transmission facilities in satellite-served

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[2] Intervention of SSi to Telecom Notice of Consultation CRTC 2015-134, July 14, 2015, para. 90.

[3] Intervention of SSi to Telecom Notice of Consultation CRTC 2015-134, July 14, 2015, para. 97.

communities. This issue is particularly important in light of SSi's apparent preference for satellite connectivity as good enough for Northern communities for the foreseeable future.4

10. Concerning funding, we believe there should be a more holistic approach to supporting broadband services for remote communities. This could include, but would not be limited to, satellite gateway facilities. Our proposed Northern Infrastructure and Services Fund (NISF) takes this approach. In this regard, we draw attention to SSi's comments regarding the challenges and high costs of providing connectivity in the North, over and above the cost of providing backhaul.[5]

11. Specifically, SSi notes that "well over half of the markets SSi serves (and all markets in Nunavut) have no road access" and that "it can take days to reach a location to fix a problem, even if the fix itself is easy."[6] For these and similar reasons, FMCC has proposed that subsidy mechanisms for Northern broadband projects include elements which provide for training and for the creation and support of local expertise in the maintenance and operation of local networks.[7] Rather than funding operations that are managed remotely, FMCC is of the view that a successful broadband project must foster local learning, capacity-building and community involvement. This process begins by including local community members in the management and operation of the network itself.

12. Finally, FMCC is not convinced, as SSi appears to be, that markets for local service in the North are "proving to be competitive" and that therefore, transport connectivity should be the sole focus of the Commission's regulatory efforts.[8] As noted in the Satellite Inquiry, many areas remain unserved at present, representing thousands of unconnected households. It is not clear that a focus on transport that excludes measures to assist deployment of local networks would be sufficient to ensure that these communities become properly served.

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[4] Intervention of SSi to Telecom Notice of Consultation CRTC 2015-134, July 14, 2015, paras. 69 & 70.

[5] Intervention of SSi to Telecom Notice of Consultation CRTC 2015-134, July 14, 2015, para. 66.

[6] Intervention of SSi to Telecom Notice of Consultation CRTC 2015-134, July 14, 2015, paras. 67 & 68.

[7] Intervention of FMCC to Telecom Notice of Consultation CRTC 2015-134, July 14, 2015, paras 154 - 157.

[8] Intervention of SSi to TNC CRTC 2015-134, July 14, 2015, para. 57.