

# **Telecom Notice of Consultation CRTC 2023-89**

## **Call for comments – Broadband Fund policy review**

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### **Reply Comments of the First Mile Connectivity Consortium**

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## **Introductory Comments and Executive Summary**

1. The First Mile Connectivity Consortium (FMCC) is an incorporated independent not-for-profit national association. Our members are First Nation Internet service providers known as “community/regional intermediary organizations.” Our associate members are university and private sector researchers and others interested in Indigenous and community communications and telecommunication services for the public good. Our work focuses on innovative solutions to digital infrastructure and services in and with rural and remote regions and communities across Canada. More details about our members and activities are available at: <http://firstmile.ca>
2. In these Reply Comments, we present our perspectives on the interventions filed by other parties in these proceedings. We organize our response according to key themes.
3. **We reiterate** our list of past recommendations regarding the Broadband Fund that have not been addressed to date; many of these have also been suggested by other intervenors in these proceedings:
  - Focus on **northern/remote regions** (including northern parts of the provinces as well as the northern territories);
  - Focus on **community providers**, particularly Indigenous regional community intermediary organizations;
  - A **governance structure** that includes representatives from these regions and communities;
  - A funding mechanism that provides **ongoing operating support** where needed, and not simply one-time infrastructure funding;
  - Inclusion of funding for **digital literacy and training local residents in IT skills** needed by providers and other organizations; and,
  - Inclusion of funding for **monitoring of service quality** in remote/isolated communities.
4. Other recommendations made by other parties include: **clarity on consultation requirements** and the **Duty to Consult**; and, updated language regarding **Aboriginal and Treaty Rights and UNDA requirements**.
5. We **agree** with several parties that the Commission should establish **an Indigenous Office at the Commission**. We have emphasized the need for staff with a specific focus on Indigenous contexts and requirements in our submission to this proceeding, in submissions to CRTC 2022-147, and in earlier Commission proceedings.

6. In addition to improving its existing Broadband Fund policy, the **Commission should establish a separate Indigenous Broadband Fund**. We advocated for this in our submission, as did several other intervenors including First Nations of Nacho Nyak Dun (FNNND). The application process for the Indigenous Broadband Fund should incorporate lessons from other existing broadband funding programs, which FMCC members and other small non-profit and Indigenous applicants have successfully applied for. In particular, we suggest that the Commission consider Indigenous Services Canada’s First Nations Infrastructure Fund (FNIF) as a successful funding model for projects led by Indigenous and non-profit organizations. Our Intervention discusses the benefits of the FNIF funding model in detail.
7. FNNND also provides detailed comments on the process of establishing an Indigenous Broadband Fund. We **agree** with their recommendation to have the Commission adopt a similar process to that used in the Commission’s **Co-Development of Indigenous Broadcasting Policy** (para 55).
8. We agree with FNNND that advancing reconciliation must include more comprehensive engagement with Indigenous peoples, respectful assistance in co-developing solutions to address their needs and priorities, access to committed champions and advocates, and access to business, technical, and financial resources aligned with their interests (para 29).
9. We note that a rationale for an Indigenous-specific funding stream and our other recommendations can be found in s. 2 of Cabinet Direction SOR 2023/23, as referenced also by FNNND, which states:
  - “c) Ensure affordable access to high-quality, reliable and resilient telecommunications services is available in all regions of Canada including rural areas, remote areas and Indigenous communities
  - e) Reduce barriers to entry into the market and to competition for telecommunications service providers that are new, regional or smaller than the incumbent national service providers
  - f) Enable innovation in telecommunications services, including new technologies and differentiated service offerings” (quoted in para 21).
10. In the context of Indigenous connectivity policy, these directions support economic reconciliation for both consumers and providers living and working in rural/remote, Northern and Indigenous communities.

## Reply Comments on Consultations with Indigenous Peoples

### **Indigenous consultations undertaken by the CRTC**

11. We **agree** with several intervenors who recommended that the Commission should build institutional capacity and expertise through an **Indigenous Engagement Office**. For more than 10 years we have advocated for the establishment of such an Office. We note that PIAC also supports such a proposal, recommending a dedicated forum or office at the CRTC to provide information, guidance, technical and application support.
12. Parties including the Indigenous Connectivity Institute (ICI), FNNND and Infrastructure Ontario pointed out the limits in existing consultation and engagement mechanisms utilized by the CRTC. Written and electronic communications may not be the most effective means of communicating with rural, remote, Northern and Indigenous communities.
13. We endorse the ICI's recommendation that the Commission "send delegations with members of appropriate status/rank to major events like the Indigenous Connectivity Summit, both to actively listen and to hold consultations" (p.5). Infrastructure ON also provides good suggestions for how the Commission might share information with Indigenous communities.
14. Despite the focus of these proceedings on establishing an Indigenous Broadband Fund or Indigenous Funding Stream, we note there are few Indigenous intervenors.<sup>1</sup> This demonstrates a problem with the Commission's existing engagement processes. As stated by the ICI,

"Consultation processes and funding program criteria do not respect the rights of Indigenous Peoples, are not structured in a way that is inclusive, and do not ensure meaningful participation by Indigenous Peoples. In fact, the criteria to access funding from the Broadband Fund effectively excludes many Indigenous communities/organizations from applying" (p.4)
15. Intervenors including PIAC and FNNND similarly stated that many Indigenous groups lack the necessary resources and expertise required to effectively participate in administrative proceedings. These limitations highlight the need for more direct engagement between the Commission and Indigenous governments, communities and organizations, such as through a dedicated office.

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<sup>1</sup> Our review of the Interventions found five Indigenous Intervenors: FMCC; First Nation of Nacho Nyak Dun; Eeyou Communication Network; Indigenous Connectivity Institute; and Great Northern Wireless Inc.

## **Indigenous consultation requirements for Broadband Fund applicants**

16. Contrary to interventions from major telecommunications carriers (Bell Canada, TELUS) we **agree** with PIAC that the current standard for consultation is too low. We are skeptical of recommendations from large commercial Telecommunications Service Providers (TSPs) that request more “flexibility” in the consultation process. For example, Bell suggests that engagement with communities becomes more frequent and detailed **after** a project has been awarded; this implies that an applicant would be able to apply for and receive funding approval **before** any consultation with the communities it proposes to serve. This effectively derogates the intention of the “Duty to Consult” and is problematic with respect to substantive engagement with Indigenous rights holders. Discussing a project **after** the fact with communities undermines and goes against the original purpose or intention of the “Duty to Consult.”
17. Compared to large, well-resourced commercial telecommunications companies like Northwestel, Indigenous communities have much less ‘bargaining power’ and technical capacity in areas such as legal and marketing/engagement teams. This inherently limits the scope of their ability to shape a project to fit the needs of their citizens and community, and to secure tangible benefits such as partnerships and equity in funded projects. Bell’s proposal would only further disempower these communities in their negotiations.
18. We agree with the GNWT that “rather than allowing service providers to establish their own engagement or consultation frameworks – the CRTC should impose framework requirements that promote meaningful engagement with Indigenous communities” (para 7).
19. For years we have stressed the need for the Commission to clearly define the ‘**Duty to Consult**’ in the context of telecommunications policy and regulation. Intervenors including PIAC and FNNND similarly recommend that the Commission clarify the definition of the duty to consult. We agree with the two problems FNNND identified regarding the Commission’s existing presentation of the Duty to Consult:

“[First]...the duty to consult is not dependent on the existence of ‘adverse impact’. If this were so, and it appears from the Call and application guidelines that the determination of ‘adverse’ is to be made by the applicant, there would be no requirement for consultation if the applicant judged there would be no adverse impacts. This is clearly unacceptable.

Secondly, it is implied that the constitutional duty to consult and accommodate is conditional. This is likewise unacceptable and inconsistent with statute, settled law and the honour of the Crown. First Nations and Indigenous peoples are rights-holders, which the Commission has repeatedly acknowledged. Those rights exist whether or not a determination

is made by an applicant, or indeed by the Commission, that a duty to consult ‘may’ only arise if the project might have ‘adverse impact’” (paras 86-89).

20. We support and echo FNNND’s request that the CRTC “clarify and affirm that the duty to consult with Indigenous governments is **unconditional** and **applies wherever the interests of a First Nation or Indigenous group may be impacted**, adversely, beneficially or otherwise, by a proposed project” (para 89).
21. As PIAC states, the duty to consult should also ensure the community is fully informed on all expected project outcomes, and final approval of project should be contingent on evidence the applicant has indeed identified and addressed any and all concerns about funded services.
22. We recognize FNNND’s position that a ‘checklist’ approach to consultation and engagement is problematic, given the unique contexts of each First Nation’s criteria of assessing engagement.
23. Furthermore, Western and Indigenous approaches regarding what constitutes consultation protocol are very different. If the Indigenous proponents are Rights holders, the consultation process should follow their protocols. For example, see the Manito Aki Inakonigewin Toolkit.<sup>2</sup>
24. At the same time, we also recognize the ‘burden of consultation’ experienced by many First Nations with small staff and limited time to review detailed technical proposals. As noted by Bell, “many communities are inundated with support requests and do not have the capacity to respond to all of them” (para 85.3).
25. Unlike Bell, we do not think this situation is a reason to limit or undermine the ability of Indigenous peoples to exercise control over telecommunications projects in their territories. Indigenous governments, organizations and communities should instead be supported and enabled in their consultation and engagement activities. We strongly oppose Bell’s suggestion that consultation and engagement should require an ‘opt out’ rather than an ‘opt in’ policy (i.e. Bell states that if the applicant does not get endorsement from affected communities by a certain date, it can proceed without it.)
26. In CRTC 2022-147, several Indigenous parties including Tr’ondëk Hwëch’in Government, First Nation of Na-Cho Nyäk Dun, Kwanlin Dün First Nation and Taku River Tlingit First Nation submitted statements that pointed out limitations and issues with Northwestel’s consultation and engagement activities. The Commission should take these perspectives

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<sup>2</sup> See: <http://gct3.ca/wp-content/uploads/2023/02/MAI-Toolkit.pdf>

into account. Northwestel (and its parent company Bell) is a large corporation with adequate staffing and resources to engage in fulsome consultation with small population Indigenous communities.

27. We **recommend** that the Commission establish a process to co-design an agreed-upon definition of ‘Duty to Consult’ as well as consultation requirements in the context of telecommunications. This process could be part of the development of the Indigenous Broadband Fund, as discussed in Paras 6-7 above.
28. This process should include mandated Indigenous organizations with existing expertise in telecommunications matters. For example, FMCC member organizations such as the First Nations Education Council (Quebec), the First Nations Technology Council (BC), and Clear Sky Connections (Manitoba) are already mandated by their member First Nations to act on issues associated with technology development, including telecommunications policy and regulation. The Commission should liaise with the Intermediary Organizations best positioned to connect with local Indigenous governments.
29. Consultation requirements could also draw from existing processes developed by Indigenous governments and organizations, as well as utilized by governments and sectors. For example, the Province of B.C. points to the Connecting Communities BC (CCBC) program, which suggests mechanisms such as “a band council resolution, pursuant to the consent of majority of the quorum of councillors of the band elected under the Indian Act”, as well as a letter of support from the Hereditary Chiefs that have jurisdiction over territories that fall outside of the band-controlled reservation land.” (para 26)
30. We refer to para 97 of FNNND’s presentation, which provides examples of steps that might constitute ‘**acceptable consultation**’. We also **agree** with FNNND that “the Commission should include the First Nation in the assessment of applications for projects in their territory” (para 96).

## **Reply Comments on Broadband Fund Administration**

### **Fund Administration**

31. We note that the Auditor General of Canada’s Report on Connectivity in Rural and Remote Areas released in March 2023 indicated that by January of 2023, only 40% of the funding had been allocated (para 2.48).<sup>3</sup> The report does not include details on the overall number of applications to the Fund.

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<sup>3</sup> See: [https://www.oag-bvg.gc.ca/internet/English/att\\_\\_e\\_44225.html](https://www.oag-bvg.gc.ca/internet/English/att__e_44225.html)

32. Our analysis of successful Broadband Fund applications in 2022 (as presented in our Intervention) demonstrates that 50% of the funding went to major incumbents (Bell, TELUS, Rogers, and Shaw). Contrary to Bell’s assertions, commercial providers have done quite well with the Broadband Fund so far – much more so than the smaller non-profit and Indigenous providers that would benefit from an Indigenous-specific funding stream or separate Indigenous Broadband Fund.
33. We strongly **disagree** with Bell’s statement that low levels of expended funding provide evidence that the amount of collected revenue for the Broadband Fund was excessive and therefore the CRTC should cease collecting funds from industry.
34. As Bell is aware, there are already several taxpayer funded programs in place for broadband deployment, such as ISED’s Universal Broadband Fund, Connect to Innovate, Indigenous Services Canada (First Nations Infrastructure Fund) and so on.
35. Our position is that the CRTC should maintain contributions from TSP revenues as the source of the Broadband Fund.

### **Application process**

36. In our Intervention we noted the challenges that FMCC members face when applying to the CRTC Broadband Fund – including the administrative complexity of the application process, which deterred them from applying.
37. With respect to improving uptake of the Broadband Fund by Indigenous and non-profit applicants, the key challenge is not excessive funding, or the source of the funding, but rather an overly complex administrative burden placed on applicants. Many FMCC members decided not to apply to the CRTC’s Fund because of the onerous application requirements. To address this challenge, the Commission should reform and simplify the application process.
38. FMCC members that did apply for the Commission’s Broadband Fund (Eeyou Communication Network, K-Net Services and Clear Sky Connections) report that they never received a response indicating that their application was unsuccessful, nor why their project was not funded. As the Auditor General’s report on Connectivity in Rural and Remote Areas suggests, it is not a good management practice to make applicants wait for years for news about an application,<sup>4</sup> with only the CRTC’s lack of response to indicate whether an application has been successful or not.

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<sup>4</sup> [https://www.oag-bvg.gc.ca/internet/English/att\\_\\_e\\_44225.html](https://www.oag-bvg.gc.ca/internet/English/att__e_44225.html), (para 2.44)



39. We also **agree** with PIAC that the inefficient administration of the Broadband Fund has delayed decisions and accumulated unused funds, as well as their comments on delayed decisions (approximately 10 months to make an initial decision during which applicants were not informed if their Application was on hold, not selected, or deemed ineligible).
40. To provide greater certainty to applicants, we agree with proposals from Access Communications Co-operative and The Coalition that the Broadband Fund use pre-scheduled annual project intake periods and prescheduled dates for awarding successful applications.
41. We note that several intervenors (e.g. Association of Manitoba Municipalities; Federation of Canadian Municipalities) recommend the creation of a single-window intake process to access all federal broadband funding streams. This approach should not affect the creation of a separate Indigenous Broadband Fund, given the unique criteria and context of that fund. TELUS also recommends that the Commission coordinate with other streams of public funding for broadband when advancing reconciliation. As Infrastructure Ontario highlights, dedicated funding for First Nation community development corporations and Not-For-Profit organizations can support project viability through stable local infrastructure and human resources (p.5). We reiterate that any such funding should prioritize and support Indigenous-led initiatives, including Indigenous and non-profit service providers.

### **Eligibility criteria**

42. We agree with Rogers that the Commission should prioritize funding to underserved First Nations (as well as Inuit and Metis) communities.
43. Several intervenors identified geographic gaps in existing Broadband Fund support in Manitoba (Association of Manitoba Municipalities) and Nunavut (SSi Canada). The GNWT also pointed to gaps within regions, such as those experienced by Satellite Dependent Communities (SDCs), which also have majority Indigenous residents and lower family incomes relative to other households in the NWT (para 8). The revisions to the Commission's Broadband Fund policy need to take these gaps into account, to ensure that all Canadians gain access to telecommunications services.
44. We **agree** with Access Communications Co-operative that the Broadband Fund application intakes should cover both **access and transport** projects. As noted in our Intervention, many Indigenous communities and community networks face challenges in securing adequate backhaul as well as local infrastructure to meet the desires of their end users; therefore, this criteria should also apply to the Indigenous Broadband Fund.

45. We **disagree** with the suggestion from Access Communications Co-operative that the number of households impacted by the single point of failure provides a potential metric for prioritizing and maximizing the benefits of resiliency funding. This metric does not apply in small-population, geographically dispersed rural, remote, Northern and Indigenous regions that are on the ‘front lines’ of the climate crisis and associated natural disasters.
46. We **disagree** with The Coalition’s proposal that projects associated with government connectivity funding should not be eligible for additional funding. In the case of Indigenous-owned and operated initiatives, applicants should be permitted to draw from multiple sources of government funding (similar to the process used in ISC’s FNIF). As discussed in paras 169-170 in our original Intervention, FNIF works with First Nations to coordinate infrastructure funding with their 5-year community investment plans. This process would benefit from further coordination with broadband funding initiatives.

### **An Indigenous Broadband Fund**

47. Our Intervention provides extensive comments on the design and governance of an Indigenous Broadband Fund. We stress that the design of the Indigenous Broadband Fund must substantively involve Indigenous governments, organizations and communities. As rights-holders, they are entitled to provide input in the policies and regulations that impact their citizens and communities. We have stated in numerous past interventions that the design of Indigenous connectivity policy is supported through the Government of Canada’s obligations under the UNDA and economic reconciliation.
48. We stress that an Indigenous Broadband Fund must support the ownership and provision of infrastructure and services by Indigenous organizations and communities. There is a strong desire among Indigenous peoples to build and operate telecommunications infrastructure and services. As stated by the GNWT: “Indigenous groups across the North – and in the NWT specifically – seek to participate in the ownership and provision of telecommunications infrastructure and networks, including in Indigenous communities” (para 25). This is also evident through the efforts of FMCC member organizations and Indigenous-led connectivity initiatives taking place across Canada.
49. FNNND suggests that the Indigenous-specific funding stream be dedicated to projects led by Indigenous governments, with eligibility, assessment and implementation terms that are supportive of Indigenous involvement” (Para 25). We concur.
50. We **agree** with PIAC that eligibility criteria for the Indigenous Broadband Fund should be informed by proactive consultation with Indigenous communities. As suggested by FNNND,

“The criteria for evaluation of applications to the Indigenous-specific funding stream must be reworked from the ground up, using the Commission’s reconciliation lens. Existing requirements for eligibility as a Canadian carrier or multiple years experience as a broadband network operator are obstacles to Indigenous participation and hinder rather than advance reconciliation” (para 53).

51. SSi Canada similarly points out that required project management experience minimizes the value of operating experience, and is to the detriment of smaller, regional, or Indigenous community-based applicants who focus their efforts on network operations, rather than project management (para. 159). As FNNND notes and we have repeatedly stressed in our interventions, “The priorities of First Nations and other Indigenous governments will not be the same as those of TSP shareholders” (para 83).

52. A dedicated Indigenous Broadband Fund funded through a small portion of industry revenues can support these initiatives and substantively contribute to economic reconciliation and corporate social responsibility in the telecom sector.

### **Eligible costs**

53. We **agree** with PIAC’s recommendations for eligible costs including:

- costs of training, repair, and technical support;
- overall funding to improve communications during outages;
- costs of developing service tailored to needs and values of community;
- allowing for flexibility in use of other funding sources; and
- funding for spectrum licensing fees, where required.

54. Infrastructure ON similarly included spectrum and other related operational expenses as eligible for funding under their Accelerated High-Speed Internet Program (AHSIP) (p.8).

55. We also agree with Eastlink’s suggestion to make eligible costs for additional generators, batteries and technology upgrades, to improve network resiliency in rural/remote regions.

56. We further support the recommendation from TELUS and others that the Commission introduce an inflation adjustment mechanism to funded projects; we note that we made a similar recommendation in our Intervention. Access Communications Co-operative and The Coalition similarly propose that the Broadband Fund allow applicants to adjust project costs due to inflation, technology and supply chain shocks.

## **Funding for digital skills training**

57. We agree with FNNND that “Developing capacity or improving digital literacy may be equally important in achieving broadband access which delivers social and economic benefits as installing network connectivity” (para 30). Importantly, any funding for digital literacy should extend beyond simply training consumers to utilize services and applications to include activities such as network installation, management and operations, community engagement, data collection and monitoring, and participation in policy design and evaluation.
58. While TELUS suggests that Indigenous ownership of facilities may be best served by focusing on maximizing adoption of broadband services (such as through programs to enhance digital skills), we stress that such skills should therefore include training in the building, operations and maintenance of infrastructure and services. In our Intervention (para 148) we provide a list of other funded skill categories eligible through the FNIF program.
59. We **agree** with the ICI’s statements in this regard, as noted in their 2022 Calls to Action and their proposal to support the development of a network of Digital Navigators in Indigenous communities:
- “Digital navigators can help facilitate outreach, digital literacy, and awareness required as internet access is introduced and expanded within communities, as well as contribute local data for monitoring and evaluation of funded infrastructure and services and policy engagement.” (cited on p.6).
60. As noted by the ICI, this is similar to the Tribal Digital Navigators program funded through the National Digital Inclusion Alliance in the U.S. We also note that in Canada, library staff have become “digital navigators” to keep libraries relevant and accessible.
61. We also note that other intervenors such as the federation of Canadian Municipalities and the Association of Manitoba Municipalities called for a digital capacity-building program to develop technical expertise and support local and regional broadband infrastructure planning and deployment in underserved communities.

## **Funding for wholesale access**

62. Eastlink states that “unserved and underserved communities cannot be connected without investment from facilities-based providers” (para 5). However, in many cases that investment has included significant funding contributions from public sources, such as the UBF or Broadband Fund. In such cases, we question Eastlink’s argument that “an already

challenging business case can be rendered completely unjustifiable” if such facilities are opened to wholesale high-speed access framework. The whole point of providing public funding or requiring industry contributions to subsidize the deployment of facilities by commercial providers in these regions is to address the limited business case.

63. We agree with SSi Canada that the Broadband Fund policy should require and enforce wholesale open access to all funded facilities. This should include funding open gateways in the context of satellite-served communities. We have made this point in various proceedings, including our original Intervention and our submission to CRTC 2022-147. We agree with SSi Canada’s point that,

“Only if funded facilities are subject to enforceable wholesale open access conditions will Indigenous communities, along or working together with TSPs dedicated to meeting their needs, be able to make use of the facilities in ways that evolve with their needs, interests, and priorities” (para 12).

### **Funding resiliency and reliability**

64. We agree with intervenors including National Capital FreeNet, ECN, PIAC, TELUS, and Sasktel that state resiliency funding should be provided to build fibre backhaul redundancy and introduce backup satellite capacity in ways that avoid linear fibre routes, prioritize fibre rings, and design alternative routing paths.
65. PIAC suggests that resiliency projects adopt a reverse auction model, with open access to networks as a requirement to secure funding. Elsewhere, Infrastructure Ontario also touts the benefits of a reverse auction approach, which they state “helped incentivize ISPs to offer competitive proposals, while maximizing the impact of government funding by driving competition and innovation in the broadband market” (p.15).
66. In past interventions we have disagreed with a reserve auction model, raising concerns that it fails to support a diversity of providers – therefore limiting benefits of competition and local employment that could be secured through a comparative selection approach that supports Indigenous providers based in the regions and communities they serve.
67. We noted that PIAC is sensitive to the argument that smaller ISPs lack the resourcing to compete with major ILEC bidders, and that the Commission should therefore determine if other policy priorities such as promotion of Indigenous ISPs and then exempt these areas from reverse auction. We agree, and re-iterate our concerns that a simple Reverse Auction model would privilege existing incumbent service providers with the resources and financing required to successfully compete in a reverse auction.

68. For example, our analysis of the reverse auction approach utilized by Infrastructure Ontario’s Accelerated High-Speed Internet Program (AHSIP) indicates that almost three-quarters – 71% - of estimated funds awarded went to three major commercial service providers: Bell Canada, Rogers, and Xplornet. The table below summarizes the contracts awarded by AHSIP to date:

<b>Organization</b>	<b>Amount (Estimated in millions CAD)</b>
Bell Canada	\$483.8
Xplornet Communications Inc.	\$240
Rogers Communications Canada Inc.	\$171
Community Network Partners	\$150.2
Cogeco Connexion	\$74.3
Bragg Communications	\$69
North Frontenac Telephone Company	\$39.5
Eh!tel Networks Inc.	\$24.7
<b>TOTAL</b>	<b>\$1,252.5</b>

69. Given this context and analysis, we generally oppose a reverse auction model unless the proposed project includes a substantial partnership with Indigenous provider(s).

70. We also argue that a comparative selection model more targeted to support Indigenous and non-profit providers located in rural/remote, Northern and Indigenous regions supports climate resiliency. During the wildfire season of Summer 2023, Indigenous providers including FMCC member organizations have been the ‘boots on the ground’ offering essential services to large commercial providers that otherwise lack access to technicians or other resources in affected regions. Indigenous and non-profit providers operating in these regions are best suited to provide support for resilient network infrastructure and services.

71. We agree with suggestions by PIAC and GNWT that resilient/redundant networks should provide opportunities for Indigenous ownership/operations of infrastructure/services. For example, GNWT suggests that the Great Slave Lake fibre redundancy project could be undertaken in partnership with one or more Indigenous businesses, which would increase Indigenous asset ownership and beneficial participation in the NWT (para 6).

### **Monitoring and evaluation criteria**

72. There is a clear requirement for more monitoring and evaluation of the outcomes of projects supported by the CRTC’s Broadband Fund and of the consultation process. We agree with Cogeco that the Broadband Fund has been outperformed by other funding initiatives by federal, provincial and territorial levels. We also agree with Infrastructure ON that the Commission consider “developing more robust accountability mechanisms to

ensure the service speeds outlined in application submissions remain sustainable and affordable beyond the timeframe specified in the project agreement” (p.8)

73. Given the dearth of available data from many remote, Northern and Indigenous communities, it is essential that the Commission has information from the end-users, as well as the proprietary information from service providers. We propose that the Commission work with local communities, particularly in rural, remote, Northern and Indigenous regions, to train and engage local residents in community-based Internet performance and monitoring initiatives. We also recommend that CRTC staff and Commissioners visit rural/remote Indigenous and Northern communities in person.
74. Demand-side data is also required to determine whether a community has sufficient transport capacity to meet the universal service objective. For example, Infrastructure Ontario recommends local assessments of indicators such as the technology deployed, the network equipment quality, the distance between the community and the node, and the available backhaul capacity. We concur.
75. We noted Infrastructure ON’s helpful discussion of the distinctions between capacity in transport vs. access networks (p.13).
76. As noted by the Province of B.C., the Commission should work with Indigenous communities to develop appropriate, community-based indicators that reflect their values, priorities, and perspectives. Indigenous communities can provide their own definitions of success, methods of data collection and analysis, and ways of reporting and sharing results, and evaluating projects in their communities (para 18). Our past interventions have stressed this point, and pointed out that both communities and service providers benefit from direct engagement in the planning, monitoring, and evaluation of funded projects.
77. To support more transparent monitoring and evaluation of results, we agree with Cogeco that the CRTC should develop and present a dashboard of progress toward achieving USO, including number and geographic area of households that remain to be connected.

### **Reply Comments on Affordability**

78. As noted by PIAC, the Commission needs to redefine and re-prioritize affordability. In particular, rather than simply compare prices to urban services the CRTC must consider other factors including cost-to-income ratio; international comparisons; and statistical and survey data on affordability. National Capital FreeNet also recommends against conflating urban/rural/remote pricing differences with overall affordability.

79. We agree with the Association of Manitoba Municipalities that the Commission should establish a national target of affordability that reflects the diverse economic realities of communities and households across Canada.
80. We disagree with large providers like Bell that recommend the Commission require applicants to commit to charging the same rates as in the applicant's own offerings in comparable areas (para 147). The result would be that Northwestel could justify retaining its current pricing in the North, which many intervenors stated was too high or inappropriate in CRTC 2022-147.

## **Reply Comments on Operational and Consumer Subsidies**

### **Operational Subsidies**

81. We **disagree** with intervenors, including Access Communications Co-operative, The Coalition, Cogeco, and large commercial providers (TELUS; Rogers), that argue against an operational subsidy. Large commercial providers already have access to regional transport networks and associated bandwidth at much lower costs than small non-profit and Indigenous providers.
82. Operational subsidies should be made available only for small non-profit and Indigenous providers. Our intervention submitted that Indigenous and non-profit providers serving remote, sparsely populated communities have a limited number of premises across which costs can be spread, and the cost to serve such areas is higher in terms of operating and maintenance costs, as well as upstream connectivity costs. As stressed in our intervention, FMCC member organizations must pay high rates for access to transport, and those high costs are then passed on to end users.
83. Both ARCC and National Capital FreeNet suggest that operational funding can be used to offset transport costs for small and community-owned providers. We agree with the Federation of Canadian Municipalities that operational funding could help lower the costs to consumers in rural, northern and remote areas.
84. We are concerned that any operational subsidies to providers might not be passed on in terms of more affordable services for consumers. We urge that the Commission consider subsidies directly to consumers as discussed in the section below.
85. Some parties who suggest that operational subsidies should be supported by general tax revenues rather than a levy on Canadian telecom revenues. For example, **the Coalition**



states that operational subsidies will become an indefinite commitment that will overwhelm resources of NCF.

86. We agree with the GNWT that the CRTC consider **adding** funding for any newly established operational costs and/or Indigenous-specific funding streams over and above the current annual Broadband Fund amounts drawn from the National Contribution Fund (“NCF”).” (para 33).
87. TELUS suggests that funding for operational expenses would be affected by potential administrative complexity. We **disagree**, and discuss the administration of a subsidy in paras 89-94 below.
88. ECN proposes that the Commission adopt a similar model to the HCSA telephony program for broadband services. The same regions that experienced limited telephone services because of the high costs of infrastructure development and service provision today experience broadband access disparity.<sup>5</sup>

### **Consumer Subsidies: Subsidy mechanism**

89. We **disagree** with GNWT’s endorsement of the **Connecting Families proposal** from Bell. In our intervention we noted that such programs can be cancelled without warning or offer only limited support to households. They may also impact the viability of smaller and non-profit ISPs, since larger providers might offer them as ‘loss-leader ’products to secure customers away from potential competitors for commercial gain.<sup>6</sup>
90. We agree with PIAC that Connecting Families is a limited program that depends on voluntary participation of ISPs, and has too narrow eligibility requirements (the available service plans for this program are also no longer sufficient for modern usage needs).
91. In past interventions including CRTC 2022-147 we provided extensive comments on subsidies, which we believe should be an open, portable subsidy to allow for consumer choice and stimulate competition.
92. We agree with PIAC’s recommendation for a direct-to-consumer subsidy built on the U.S. Federal Communications Commission’s Lifeline model (with additional consideration to the FCC’s Affordable Connectivity Program). Subsidies to reduce prices for users should be provided directly to *consumers*, not as subsidies to TSPs.

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<sup>5</sup> Eastlink similarly suggests that operational costs are appropriate in rural and remote areas.

<sup>6</sup> See: <https://downup.io/b-c-prepared-to-blunt-any-impact-of-10-internet-on-smaller-providers/>

93. An example of an open portable subsidy is proposed by Viasat in the form of broadband “vouchers”—*i.e.*, **portable subsidies** awarded to consumers to be used with the eligible broadband provider of their choice. Viasat argues that such an approach “avoids ‘locking-in’ consumers to their initial choice of service” (para 16), and would also “drive long-term efficiency in administration of support programs” (para 17). Furthermore, Viasat suggests:

“Distributing support in this fashion would promote consumer choice and competition, while at the same time incentivizing broadband providers to offer competitive pricing as well as innovative services that meet the needs of consumers as they evolve over time” (para 5)....

“A voucher system would automatically adapt to market developments and consumer preferences in near-real time, making implementation of the programs more efficient and requiring less ongoing oversight. And a voucher system would naturally curtail program waste, as consumers would have no incentive to stay with low-quality services when they have alternative choices and would not be stuck with service providers that fail to deliver what they promise (para 17).

94. We note that PIAC proposes that the CRTC set aside \$25 million of the \$148 million in unawarded funds to first create a “trial” subsidy for consumers in the Far North, where broadband service prices are typically higher than in the rest of Canada. However, we are concerned that consumers would be harmed if such a subsidy were then terminated. An ongoing financing model should be in place before any limited trial.

### **Reply Comments on Support for Mobile Wireless Coverage of Roads**

95. While we generally agree with several intervenors who endorse capital and operational funding for mobile wireless projects along major transportation roads and satellite-dependent communities, we also note their concerns that such projects must not come at the expense of fixed broadband infrastructure.

96. We agree with Rural Municipalities of Alberta’s concerns that a focus on mobile wireless will result TSPs seeking funding for more profitable mobile wireless projects near urban centres, while rural Canadians will continue to be left behind. As stated by the Federation of Canadian Municipalities, gaps in cell coverage lead to safety concerns. Communities with the fewest connectivity options should therefore be prioritized for mobile service.

### **Conclusion**

97. Concerning future-proofing the Broadband Fund, we agree with parties including Sasktel that the CRTC’s Basic Service Objective of 50 mbps down/10 mbps must be considered a

moving target, subject to revision as broadband requirements evolve. Already, many urban regions of Canada can access 500 mbps to 1 gbps levels of service or higher.

98. While northern and remote regions lag in access to even the current BSO, funded new and upgraded networks in these regions should include sufficient capacity to meet residential and business/organizational needs for at least the next decade.

99. We thank the Commission for the opportunity to submit our positions on these issues.

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