

**Before the Canadian Radio-television and
Telecommunications Commission**

Telecom Notice of Consultation CRTC 2022-65

***Call for comments – Funding next-generation 9-1-1
access services through the
National Contribution Fund***

**Intervention
of
Xplornet Communications Inc.**

ABRIDGED

April 21, 2022

INTRODUCTION AND EXECUTIVE SUMMARY

1. Xplornet Communications Inc. (“Xplornet”) is pleased to provide its intervention with respect to Telecom Notice of Consultation CRTC 2022-65, *Call for comments – Funding next-generation 9-1-1 access services through the National Contribution Fund*, as amended (“TNC 2022-65”).
2. In TNC 2022-65, the Commission is proposing to fund the provision of NG9-1-1 access services by service providers, in whole or in part, through the National Contribution Fund (“NCF”) in order to ensure that rural Canadians are not required to pay significantly higher costs for access to this service. The Commission has sought comments on this proposal.
3. In this intervention, we provide our initial views on the questions that the Commission has posed as part of TNC 2022-65. Xplornet supports the Commission’s assessment that access to 9-1-1 services represents a basic service that should be available to all Canadians. Xplornet equally agrees that the costs associated with NG9-1-1 Voice services should be fairly allocated across all voice service subscribers.
4. Accordingly, if the high costs presented by rural NG9-1-1 Voice service providers cannot be otherwise mitigated, Xplornet supports the Commission’s proposal to establish a subsidy to reduce the costs imposed on rural voice subscribers to a level similar to that imposed on voice subscribers in urban environments.
5. Xplornet submits that the NCF mechanism is well positioned to manage a subsidy for NG9-1-1 Voice services. However, Xplornet has significant concerns about directly leveraging the current NCF mechanism to support NG9-1-1 Voice services, as the current NCF contribution formula, which is designed to support broadband services, is not appropriate to collect funds to support NG9-1-1 Voice.
6. In order to ensure that a contribution mechanism is effectively designed to support NG9-1-1 Voice, Xplornet submits that the Commission should establish a separate contribution formula to collect any funds needed to support NG9-1-1 Voice. This

formula should exclude retail Internet revenues from contribution-eligible revenues. Failing to establish a separate contribution formula to support NG9-1-1 Voice that excludes retail Internet revenues would inappropriately impose costs on broadband subscribers who will not benefit from the service.

7. Certain information contained in this intervention is being provided in confidence to the Commission. The information provided in confidence represents sensitive commercial information that is not publicly available and that is consistently treated as confidential by our company. If this information were released on the public record, it would provide Xplornet's competitors with important information about Xplornet's business and would prejudice Xplornet's competitive position, causing material financial harm. An abridged version of this intervention is provided for the public record.

XPLORNET COMMUNICATIONS INC.: CANADA'S RURAL BROADBAND PROVIDER

8. Xplornet is a champion for rural connectivity in Canada. We proudly serve those Canadians who choose to live in traditionally underserved areas outside of the cities and urban areas. Today, we are proud to provide broadband Internet services to approximately one million rural Canadians located in every province and territory of Canada.
9. Over the last 17 years, we have invested over \$2 billion to bring advanced broadband services to rural Canadians. Our national network leverages diverse advanced technologies, including fibre-to-the-home ("FTTH") connectivity and state-of-the-art 5G wireless technologies. Our rural FTTH deployments offer gigabit speeds comparable to those found in large urban centres.
10. Xplornet is a leader in the deployment of advanced wireless technology. Since the mid-2000s, fixed wireless technology has rapidly evolved through the development of 3G, 4G WiMAX and 4G LTE technologies. Xplornet has ensured that rural Canadians were among the first to benefit from these technological developments. In the mid-2000s, Xplornet worked with Motorola to develop the fixed wireless radios first deployed in Canada to provide broadband. In the 2010s, Xplornet

worked internationally with radio manufacturers and standards bodies, including the 3GPP forum, to develop an improved ecosystem for fixed wireless radios. Xplornet was the second provider in the world and the first in North America to deploy a 3500 MHz spectrum band LTE radio for fixed wireless broadband services, which doubled rural speed offerings at the time.

11. In 2021, we launched our Xplore 50/10 UNLIMITED service, which provides wireless broadband download speeds of up to 50 Megabits per second (“Mbps”) and upload speeds of up to 10 Mbps with unlimited data. Our launch of this service has brought speeds that meet the Commission’s Universal Service Objective (“USO”)¹ to over 500,000 households and businesses across Canada. These are homes that have historically been – and wrongly continue to be – considered underserved by the National Broadband Availability Map maintained by Innovation, Science and Economic Development Canada (“ISED”). In addition to our Xplore 50/10 UNLIMITED service, we are currently offering wireless broadband services that deliver speeds of up to 100 Mbps across portions of our network.
12. We are continuing to invest in our wireless network to bring the latest capabilities to our customers. In August 2021, we launched Canada’s first standalone 5G network² and invested \$244 million to obtain additional spectrum licences through ISED’s 3500 MHz spectrum auction. This new spectrum will be key to enabling our 5G roadmap. The development of our 5G network will unlock exciting new services for rural Canadians that will deliver speeds multiple times those available today.
13. As a complement to our terrestrial wireline and wireless networks, Xplornet also leverages its fleet of geostationary orbit satellites to provide direct-to-home satellite broadband services to Canadians outside of our terrestrial service footprint. Xplornet is currently offering satellite Internet packages with speeds of up to 50

¹ In Telecom Regulatory Policy CRTC 2016-496, *Modern telecommunications services – The path forward for Canada’s digital economy*, the Commission established its USO as the level of broadband service to which all Canadians should have access. In order to meet the USO, a service must provide a download speed of 50 Mbps, an upload speed of 10 Mbps, and unlimited data.

² <https://www.xplornet.com/about/news/xplornet-launching-canadas-first-rural-5g-standalone-network/>

Mbps. In the near future, we will add an additional satellite to our fleet, the Jupiter 3 satellite. Using this satellite, we will offer plans with speeds of up to 100 Mbps for our satellite customers.

14. Across all of our broadband service offerings, we offer Voice of Internet Protocol (“VoIP”) home phone services to our customers. Xplornet is participating in the present consultation as an Internet Service Provider and competitive local exchange carrier.

A CONTRIBUTION REGIME FOR NG9-1-1 VOICE SHOULD EXCLUDE RETAIL INTERNET REVENUES

15. In the Consultation, the Commission has proposed that the provision of NG9-1-1 access services by service providers should be funded, in whole or in part, through the National Contribution Fund (“NCF”).³ The Commission has estimated that the funding requirement for NG9-1-1 Voice would be approximately \$55 million annually.
16. Xplornet supports the Commission’s assessment that access to 9-1-1 services represents a basic service that should be available to all Canadians. Xplornet equally agrees that the costs associated with NG9-1-1 Voice services should be fairly allocated across all voice service subscribers.
17. Accordingly, if the high costs presented by rural NG9-1-1 Voice service providers cannot be otherwise mitigated, Xplornet supports the Commission’s proposal to establish a subsidy to reduce the costs imposed on rural voice subscribers to a level similar to that imposed on voice subscribers in urban environments.
18. Xplornet believes that the NCF structure is well suited to managing this subsidy. However, Xplornet has significant concerns about directly leveraging the current NCF mechanism to support NG9-1-1 Voice services. Indeed, the Commission has finally concluded a multi-year transition period to repurpose the NCF from a mechanism to support access to voice services in high cost serving areas to a

³ TNC 2022-65, paragraph 14.

mechanism focused on supporting broadband services.⁴ Since the Commission announced the creation of its Broadband Fund in Telecom Regulatory Policy 2016-496⁵, the Commission has been implementing a plan to phase out NCF support for voice services in order to allow the NCF to focus on supporting broadband. As part of this transition, the Commission modified the contribution formula for the NCF to include revenues from retail Internet services and retail paging services as contribution-eligible revenues and designed a three-year transition plan to end support for voice services.⁶ This three-year period finally concluded in 2021.

19. Given that the NG9-1-1 Voice service being implemented is a voice service allowing Canadians to place voice calls to 9-1-1 contact centres,⁷ Xplornet submits that a decision to leverage the current NCF mechanism and contribution formula to support NG9-1-1 Voice would run counter to the Commission's multi-year initiative to re-align the NCF as a mechanism to support broadband services and inappropriately impose costs on broadband subscribers who will not benefit from the service.
20. Accordingly, should the Commission determine that is appropriate to leverage the NCF to manage a subsidy to support NG9-1-1 Voice, Xplornet submits that a separate contribution formula should be established that ensures that the costs associated with NG9-1-1 Voice services are fairly allocated across voice subscribers and not imposed on broadband subscribers who will not benefit from NG9-1-1 Voice services.
21. To illustrate the impact that applying the current NCF contribution formula to support NG9-1-1 Voice would have for our subscribers, we note that our voice

⁴ The NCF also supports access to Internet-based video relay services.

⁵ Telecom Regulatory Policy CRTC 2016-496, *Modern telecommunications services – The path forward for Canada's digital economy*.

⁶ See Telecom Regulatory Policy CRTC 2018-213, *Phase-out of the local service subsidy regime*, confirmed in Telecom Regulatory Policy CRTC 2020-40, *Review of the price cap regime and local forbearance regime*.

⁷ Future phases of NG9-1-1 being contemplated will enable Canadians to exchange text messages; however, there is currently no timeline established to implement these services in Canada. See Telecom Decision CRTC 2021-199, *Establishment of new deadlines for Canada's transition to next-generation 9-1-1*, paragraph 40.

revenues in 2021 were #⁸. This figure represents only a small portion of our total telecommunications revenues of #⁹, as the vast majority of our revenues come from our broadband services.

22. In 2021, the Commission collected a total of \$169.9 million for the NCF, using a revenue-percent charge of 0.44%.¹⁰ Based on our contribution-eligible revenues of #¹¹, Xplornet contributed # to the NCF in 2021. If the Commission were to collect an additional \$55 million per year using this same formula, Xplornet would be responsible for an additional # in contribution payments each year.
23. Accordingly, if we were required to contribute an additional # annually to support NG9-1-1 Voice, the Commission would be asking us to contribute nearly 10% of our voice revenues to supporting NG9-1-1 Voice. This is not an appropriate outcome, and the funds we would be required to contribute would ultimately be borne by our residential broadband subscribers, who will not benefit from NG9-1-1 Voice, raising the cost of rural broadband services.
24. Xplornet submits that other broadband service providers offering VoIP services would experience a similar situation.
25. In order to ensure that a contribution mechanism is effectively designed to support NG9-1-1 Voice, Xplornet submits that the Commission should establish a separate contribution formula to collect any funds needed to support NG9-1-1 Voice. This formula should exclude retail Internet revenues from contribution-eligible revenues.
26. Finally, Xplornet notes that the administrative burden associated with applying two different collection formulas is not undue. Since January 1, 2020, the contribution formulas established for the NCF and for the Commission's annual telecommunications fees have not been the same. This has been accommodated

⁸ Local and access revenues of # and long distance revenues of #, together totaling #, as reported on lines 3 and 4 of the Commission's annual reporting Form 101 (Income Statement).

⁹ As reported on line 10 of the Commission's annual reporting Form 101 (Income Statement).

¹⁰ Telecom Decision CRTC 2021-384, *Final 2021 revenue-percent charge and related matters*, paragraph 20.

¹¹ As reported on line D.13 of the Commission's annual reporting Form 601 (Contribution – Annual Revenue Report).

through a simple reporting form that adjusts the contribution-eligible revenues that are considered for each purpose. Xplornet submits that a similar process could easily be established to include retail Internet revenues for the purposes currently funded through the NCF, and to exclude retail Internet revenues to collect funds to support NG9-1-1 Voice.

RESPONSES TO CONSULTATION QUESTIONS

27. In the remainder of this submission, we provide our preliminary responses to the specific questions set out by the Commission in TNC 2022-65. We reserve our right to comment more specifically on the matters raised in the consultation during the reply phase of this proceeding.

Q1. Would it be appropriate to recover some or all of the NG9-1-1 access service costs through a subsidy mechanism? If so, which costs (e.g., costs associated with NG9-1-1 networks, NG9-1-1 related costs associated with the operation of originating networks, costs associated with implementation of NG9-1-1 versus ongoing costs)?

28. Xplornet supports the Commission's assessment that access to 9-1-1 services represents a basic service that should be available to all Canadians. Xplornet equally agrees that the costs associated with NG9-1-1 Voice services should be fairly allocated across all voice service subscribers.

29. Accordingly, if the high costs presented by rural NG9-1-1 Voice service providers cannot be otherwise mitigated, Xplornet supports the Commission's proposal to establish a subsidy mechanism to reduce the costs imposed on rural voice subscribers to a level similar to that imposed on voice subscribers in urban environments.

Q2. If only a portion of the NG9-1-1 related costs is to be recovered through a subsidy mechanism, how would the remaining costs be recovered (e.g., subscriber charge through tariffs or otherwise)?

30. Xplornet agrees that, if the high costs presented by rural NG9-1-1 Voice service providers cannot be otherwise mitigated, the Commission could establish a

subsidy mechanism to reduce the costs imposed on rural voice subscribers to a level similar to that imposed on voice subscribers in urban environments.

Q3. Who should be eligible for disbursements from the subsidy fund for NG9-1-1 access service costs (e.g., only NG9-1-1 network providers, a subset of NG9-1-1 network providers, or other TSPs? If a subset of NG9-1-1 network providers or other TSPs, which ones and for which costs)? How should disbursements be determined and made (e.g., one-time payment to cover all relevant costs over a fixed period of time or other method)?

31. Xplornet reserves its right to provide further comment in the reply phase of the consultation.

Q4. Is there any reason that the Central Fund Administrator (CFA), supervised by the Canadian Telecommunications Contribution Consortium Inc. (CTCC), should not be responsible for administering any subsidy created for NG9-1-1 access services within the NCF?

i. Would any changes be required to the governing agreements of the CFA or the CTCC in the event that NG9-1-1 access services costs were to be subsidized through the NCF?

32. Xplornet believes that the CFA supervised by the CTCC is well positioned to administer any subsidy created to support NG9-1-1 Voice within the NCF framework. As noted above, a separate contribution formula should be established to collect funds to support NG9-1-1 Voice that excludes retail Internet revenues from contribution-eligible revenues.

Q5. If a new fund other than the NCF were to be established for NG9-1-1 access services costs,

i. who would be required to contribute, how would the funds be collected, and on what basis would contribution liability be determined; and

ii. who would administer the new fund and what oversight mechanisms would need to be established?

33. Xplornet submits that the structure of the NCF is well positioned to provide subsidy to support NG9-1-1 Voice and that a new fund does not need to be established.

34. However, Xplornet has significant concerns about directly leveraging the current NCF mechanism to support NG9-1-1 Voice services. Indeed, the Commission has

finally concluded a multi-year transition period to repurpose the NCF from a mechanism to support access to voice services in high cost serving areas to a mechanism focused on supporting broadband services.¹² Since the Commission announced the creation of its Broadband Fund in Telecom Regulatory Policy 2016-496, the Commission has been implementing a plan to phase out NCF support for voice services in order to allow the NCF to focus on supporting broadband. As part of this transition, the Commission modified the contribution formula for the NCF to include revenues from retail Internet services and retail paging services as contribution-eligible revenues and designed a three-year transition plan to end support for voice services.¹³ This three-year period finally concluded in 2021.

35. Given that the NG9-1-1 Voice service being implemented is a voice service allowing Canadians to place voice calls to 9-1-1 contact centres,¹⁴ Xplornet submits that a decision to leverage the current NCF mechanism and contribution formula to support NG9-1-1 Voice would run counter to the Commission's multi-year initiative to re-align the NCF as a mechanism to support broadband services and inappropriately impose costs on broadband subscribers who will not benefit from the service.
36. Accordingly, should the Commission determine that is appropriate to leverage the NCF to manage a subsidy to support NG9-1-1 Voice, Xplornet submits that a separate contribution formula should be established that ensures that the costs associated with NG9-1-1 Voice services are fairly allocated across voice subscribers and not imposed on broadband subscribers who will not benefit from NG9-1-1 Voice services.
37. To illustrate the impact that applying the current NCF contribution formula to support NG9-1-1 Voice would have for our subscribers, we note that our voice

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¹³ See Telecom Regulatory Policy CRTC 2018-213, *Phase-out of the local service subsidy regime*, confirmed in Telecom Regulatory Policy CRTC 2020-40, *Review of the price cap regime and local forbearance regime*.

¹⁴ Future phases of NG9-1-1 being contemplated will enable Canadians to exchange text messages; however, there is currently no timeline established to implement these services in Canada. See Telecom Decision CRTC 2021-199, *Establishment of new deadlines for Canada's transition to next-generation 9-1-1*, paragraph 40.

revenues in 2021 were #¹⁵. This figure represents only a small portion of our total telecommunications revenues of #¹⁶, as the vast majority of our revenues come from our broadband services.

38. In 2021, the Commission collected a total of \$169.9 million for the NCF, using a revenue-percent charge of 0.44%.¹⁷ Based on our contribution-eligible revenues of #¹⁸, Xplornet contributed # to the NCF in 2021. If the Commission were to collect an additional \$55 million per year using this same formula, Xplornet would be responsible for an additional # in contribution payments each year.
39. Accordingly, if we were required to contribute an additional # annually to support NG9-1-1 Voice, the Commission would be asking us to contribute nearly 10% of our voice revenues to support NG9-1-1 Voice. This is not an appropriate outcome, and the funds we would be required to contribute would ultimately be borne by our residential broadband subscribers, who will not benefit from NG9-1-1 Voice, raising the cost of rural broadband services.
40. Xplornet submits that other broadband service providers offering VoIP services would experience a similar situation.
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42. Finally, Xplornet notes that the administrative burden associated with applying two different collection formulas is not undue. Since January 1, 2020, the contribution formulas established for the NCF and for the Commission's annual telecommunications fees have not been the same. This has been accommodated

¹⁵ Local and access revenues of # and long distance revenues of #, together totaling #, as reported on lines 3 and 4 of the Commission's annual reporting Form 101 (Income Statement).

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¹⁷ Telecom Decision CRTC 2021-384, *Final 2021 revenue-percent charge and related matters*, paragraph 20.

¹⁸ As reported on line D.13 of the Commission's annual reporting Form 601 (Contribution – Annual Revenue Report).

through a simple reporting form that adjusts the contribution-eligible revenues that are considered for each purpose. Xplornet submits that a similar process could easily be established to include retail Internet revenues for the purposes currently funded through the NCF, and to exclude retail Internet revenues to collect funds to support NG9-1-1 Voice.

Q6. Should there be a sunset date or review date for any subsidy related to NG9-1-1 access services?

43. Xplornet is concerned about recurring costs being imposed on Canadians. The Commission should take all steps to minimize and limit funding requirements.

Q7: If contribution or subsidy is not an appropriate mechanism to deal with any concerns arising from divergent costs related to NG9-1-1 and differences in the size of customer bases from which to recover such costs, what other approach should the Commission consider to address these concerns?

44. Xplornet reserves its right to provide further comment in the reply phase of the Consultation.

CONCLUSION

45. In this intervention, we provide our initial views on the questions that the Commission has posed as part of TNC 2022-65.
46. If the high costs presented by rural NG9-1-1 Voice service providers cannot be otherwise mitigated, Xplornet supports the Commission's proposal to establish a subsidy mechanism to reduce the costs associated with NG9-1-1 Voice service imposed on rural voice subscribers to a level similar to that imposed on voice subscribers in urban environments.
47. Xplornet submits that the structure of the NCF is well positioned to provide subsidy to support NG9-1-1 Voice and that a new fund does not need to be established.
48. However, in order to ensure that a contribution mechanism is effectively designed to support NG9-1-1 Voice, Xplornet submits that the Commission should establish a separate contribution formula to collect any funds needed to support NG9-1-1

Voice. This formula should exclude retail Internet revenues from being contribution-eligible revenues. Failing to establish a separate contribution formula to support NG9-1-1 Voice that excludes retail Internet revenues would inappropriately impose costs on broadband subscribers who will not benefit from the service.

49. We thank the Commission for the opportunity to provide these comments and look forward to participating in the remaining stages of this consultation.

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