



## Telecom Notice of Consultation CRTC 2011-614

PDF version

Ottawa, 23 September 2011

### Call for comments

### Proceeding to consider a model Municipal Access Agreement

File number: 8690-C12-201113125

*In this notice, the Commission calls for comments on a model Municipal Access Agreement to be developed in a two-step process.*

#### Introduction

1. The introduction of competition in the provision of telecommunications services has led to an increase in the number of carriers in the industry. Concomitantly, there has been an increase in the demand for access to municipal rights-of-way, such as street crossings and other municipal property, for the purposes of installing, operating, and maintaining transmission facilities.<sup>1</sup> This demand has resulted in municipalities and Canadian carriers having to negotiate and enter into multiple access agreements, which has consumed a significant amount of their time and resources.
2. In 1999, the Commission received an application under section 43 and subsection 61(2) of the *Telecommunications Act* (the Act) from a Canadian carrier<sup>2</sup> requesting access to a municipality's rights-of-way, as the parties had been unable to reach a mutually acceptable agreement regarding access terms and conditions. In light of sections 42, 43, and 44 of the Act, the Commission issued Decision 2001-23, which granted access under the terms and conditions set out in a Municipal Access Agreement (MAA). In that decision, the Commission also established the principles it had used in addressing the dispute before it (the Leducor principles).
3. The Commission anticipated that the Leducor principles would also assist other carriers and municipalities in negotiating the terms and conditions under which municipalities would permit carriers to construct, maintain, and operate transmission facilities on or in municipal property, without having to resort to an application pursuant to section 43 or 44 of the Act. At that time, the Commission was not persuaded that it was appropriate to adopt any particular model or standard agreement to serve as a starting point for discussions between municipalities and carriers. Rather, the Commission encouraged parties to negotiate individual, mutually acceptable MAAs.

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<sup>1</sup> According to the definition in the *Telecommunications Act*, “‘transmission facility’ means any wire, cable, radio, optical or other electromagnetic system, or any similar technical system, for the transmission of intelligence between network termination points, but does not include any exempt transmission apparatus.”

<sup>2</sup> Leducor Industries Limited (Leducor)

4. Many MAAs have been successfully negotiated between Canadian carriers and municipalities without the Commission's intervention. However, in exceptional cases, the Commission has had to issue decisions on a case-by-case<sup>3</sup> basis to resolve disputes on matters related to access to municipal rights-of-way.
5. The Commission considers that, in the 10 years since Decision 2001-23 was issued, the case-by-case approach for disputes has served the needs of Canadian carriers and municipalities to a certain degree with respect to access to municipal rights-of way. However, the Commission considers that a model MAA<sup>4</sup> would provide benefits to both Canadian carriers and municipalities, as well as an opportunity to address issues that may have arisen since the Leduc principles were established. A model MAA would provide such benefits as predictability, lower personnel costs in terms of time and money, and entry into new small markets on a more efficient basis, while allowing for a degree of customization to incorporate unique circumstances.
6. The Commission considers that a model MAA should be developed through a two-step process. As a first step, the Commission is establishing this public consultation process to seek input from interested persons regarding what considerations should form part of a model MAA and what policy matters the Commission must address with respect to access to public property. In the second step, the Commission will establish an ad-hoc CRTC Interconnection Steering Committee (CISC)<sup>5</sup> working group to develop the access terms and conditions to be included in the model MAA, based on the principles and guidance established by the Commission as a result of the first step in the process.

### **Call for comments**

7. The Commission invites interested persons and parties to submit comments on what considerations, including responsibilities and commitments, the municipality and the carrier should deal with and agree upon in order for the carrier to access public property for the purposes of constructing, maintaining, and operating transmission facilities. These considerations could include, but are not limited to, the following:
  - agreement term;
  - liability requirements;

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<sup>3</sup> These decisions are: Telecom Decision 2010-806, Telecom Regulatory Policy 2009-150, Telecom Decision 2008-91, Telecom Decision 2008-45, Telecom Decision 2007-100, Telecom Decision 2005-36, and Telecom Decision 2003-82.

<sup>4</sup> The CRTC Interconnection Steering Committee (CISC) has developed a number of standard or template agreements for use by telecommunications carriers, such as Billing and Collection Agreements and the Intercarrier Number Portability Operations Agreement. A model MAA could provide a non-binding template for use by carriers and municipalities.

<sup>5</sup> The CISC was established pursuant to Telecom Public Notice 96-28, to identify issues and propose solutions for consideration by the Commission.

- types of costs<sup>6</sup> to be recovered;
  - costing methodologies and assumptions;
  - loading factors;
  - public safety; and
  - any other matters that may have arisen since the Ledcor principles were established that should be included in a model MAA.
8. In their submissions, interested persons and parties are requested to provide supporting arguments and information as to why an item should be included in an MAA, how this item should be addressed in a model MAA, the key principles to be considered for this item, and whether some form of monetary compensation, if appropriate, should be considered.
  9. In addition, interested persons and parties should identify related policy matters that the Commission should address and resolve in order to provide the required principles and guidance to be incorporated into a model MAA, which the ad-hoc CISC working group will develop.

## Procedure

10. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure), which came into force on 1 April 2011, apply to this proceeding.<sup>7</sup>
11. Any interested person who wishes merely to file written comments in this proceeding, but does not wish to become a party to the proceeding, may do so by using this comments link or by writing to the Secretary General of the Commission (by mail: CRTC, Ottawa, Ontario, K1A 0N2; by fax: 819-994-0218) by **6 March 2012**. Such persons will not receive copies of the various submissions and will not be permitted to ask or answer interrogatories.
12. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues, by **18 November 2011**. In accordance with section 26 of the Rules of Procedure, this intervention must explicitly state that the person wishes to be considered an intervener.

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<sup>6</sup> These costs could include, but are not limited to, plan review and inspection costs; relocation costs; pavement degradation costs; lost productivity costs; and liability costs.

<sup>7</sup> The Rules of Procedure set out, among other things, the rules for the filing, content, format, and service of interventions and interrogatories; the procedure for filing confidential information and requesting its disclosure; and the conduct of the public hearing. Accordingly, the procedure set out in this notice must be read in conjunction with the Rules of Procedure and their accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."

13. The Commission and parties may request information, in the form of interrogatories, from any party to the proceeding. In accordance with section 73 of the Rules of Procedure, the requesting party must file its request for information with the Commission on or before **9 December 2011**, and must serve the request on the party to whom it is addressed.
14. Responses to requests for information from other parties or the Commission are to be filed with the Commission and served on all parties by **10 January 2012**.
15. Requests by parties for further responses to the interrogatories posed in their requests for information, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information that has been designated confidential, setting out in each case the reasons for disclosure, must be filed with the Commission and served on the relevant party or parties by **17 January 2012**.
16. Written responses to requests for further responses to interrogatories and for public disclosure must be filed with the Commission and served on the party or parties making the request by **24 January 2012**.
17. Determinations will be issued regarding requests for further information and public disclosure as soon as possible. Any information to be provided pursuant to such determinations must be filed with the Commission and served on all parties by **7 February 2012**.
18. All parties may file final written arguments with the Commission on any matter within the scope of this proceeding, serving copies on all other parties, by **21 February 2012**. Final arguments, including an executive summary, are not to exceed 15 pages.
19. All parties may file reply arguments with the Commission, serving copies on all other parties, by **6 March 2012**. Reply arguments, including an executive summary, are not to exceed 10 pages.
20. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.
21. The Commission will not formally acknowledge interventions or comments. It will, however, fully consider all submissions, which will form part of the public record of the proceeding.
22. Parties are reminded that, in accordance with the Rules of Procedure, if a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date. A document must be filed with the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due.
23. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.

24. Electronic submissions should be in HTML format. Alternatively, Microsoft Word may be used for text and Microsoft Excel for spreadsheets.
25. Each paragraph of all submissions should be numbered. In addition, 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.
26. The Commission encourages interested persons and parties to monitor the record of this proceeding and/or the Commission's website for additional information that they may find useful when preparing their submissions.

### **Important notice**

27. All information provided as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email, or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information provided.
28. The personal information provided 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.
29. 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.
30. The information provided 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 link directly to the information provided as part of this public process.

### **Location of CRTC offices**

31. Submissions may be examined or will be made available promptly upon request at Commission offices during normal business hours.

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

Central Building  
Les Terrasses de la Chaudière  
1 Promenade du Portage, Room 206  
Gatineau, Quebec J8X 4B1  
Tel.: 819-997-2429  
Fax: 819-994-0218

### ***Regional offices***

Metropolitan Place  
99 Wyse Road, Suite 1410  
Dartmouth, Nova Scotia B3A 4S5  
Tel.: 902-426-7997  
Fax: 902-426-2721

205 Viger Avenue West, Suite 504  
Montréal, Quebec H2Z 1G2  
Tel.: 514-283-6607

55 St. Clair Avenue East, Suite 624  
Toronto, Ontario M4T 1M2  
Tel.: 416-952-9096

360 Main Street, Suite 970  
Winnipeg, Manitoba R3C 3Z3  
Tel.: 204-983-6306  
Fax: 204-983-6317

2220 – 12th Avenue, Suite 620  
Regina, Saskatchewan S4P 0M8  
Tel.: 306-780-3422

100 4<sup>th</sup> Avenue SW, Suite 403  
Calgary, Alberta T2P 3N2  
Tel.: 403-292-6660  
Fax: 403-292-6686

858 Beatty Street, Suite 290  
Vancouver, British Columbia V6B 1C1  
Tel.: 604-666-2111  
Fax: 604-666-8322

Secretary General

### **Related documents**

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application regarding access to municipal property in the City of Thunder Bay, Telecom Decision CRTC 2010-806, 29 October 2010*
- *MTS Allstream Inc. – Application regarding a Municipal Access Agreement with the City of Vancouver, Telecom Regulatory Policy CRTC 2009-150, 19 March 2009*

- *Application by the City of Baie-Comeau regarding the costs to relocate TELUS Communications Company's telecommunications facilities, Telecom Decision CRTC 2008-91, 19 September 2008*
- *Shaw Cablesystems Limited's request for access to highways and other public places in the County of Wheatland, Alberta, Telecom Decision CRTC 2008-45, 30 May 2008*
- *Shaw Cablesystems Limited's request for access to highways and other public places within the District of Maple Ridge on terms and conditions in accordance with Decision 2001-23, Telecom Decision CRTC 2007-100, 25 October 2007*
- *Part VII Application by Allstream Corp. seeking access to Light Rail Transit (LRT) lands in the City of Edmonton, Telecom Decision CRTC 2005-36, 17 June 2005*
- *Terms and conditions of existing agreements for access to municipal rights-of-way, Telecom Decision CRTC 2003-82, 4 December 2003*
- *Ledcor/Vancouver – Construction, operation and maintenance of transmission lines in Vancouver, Decision CRTC 2001-23, 25 January 2001*
- *Implementation of Regulatory Framework – Development of Carrier Interfaces and Other Procedures, Telecom Public Notice CRTC 96-28, 1 August 1996*