



Telecom Decision CRTC 2013-618

PDF version

Route reference: Telecom Notice of Consultation 2011-614, as amended

Ottawa, 21 November 2013

CISC Model Municipal Access Working Group – Report on a Model Municipal Access Agreement

File number: 8690-C12-201113125

In this decision, the Commission approves the consensus recommendations contained in the CISC Model Municipal Access Working Group's non-consensus report. The Commission determines that the non-consensus items in the report are to be negotiated between a carrier and a municipality when they enter into a municipal access agreement.

Introduction

1. Canadian carriers have a long history of dealing with Canadian municipalities in order to gain access to a municipality's rights-of-way, which is necessary to provide telecommunications services to the public. In certain situations, the Commission has had to resolve disputes between carriers and municipalities in order to ensure that Canadians have access to competitive telecommunications services.
2. Pursuant to sections 42, 43, and 44 of the *Telecommunications Act* (the Act), the Commission, in Decision 2001-23, granted a Canadian carrier¹ access to municipal property in Vancouver under 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). The Commission anticipated that the Leducor principles would also assist other carriers and municipalities in negotiating the terms and conditions under which carriers would construct, maintain, and operate transmission facilities on or in municipal property.
3. 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 basis to resolve disputes on matters related to access to municipal rights-of-way.
4. In Telecom Notice of Consultation 2011-614, the Commission considered that since Decision 2001-23 was issued, the case-by-case approach for disputes had served the needs of Canadian carriers and municipalities to a certain degree with respect to access to municipal rights-of-way. However, the Commission considered that a model MAA would benefit both Canadian carriers and municipalities by providing

¹ Leducor Industries Limited

for 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.

5. In that notice, the Commission initiated a proceeding calling for comments on a model MAA. The Commission considered that a model MAA should be developed through the following two-step process:
 - i. hold a public consultation to develop principles; and
 - ii. establish an ad hoc CRTC Interconnection Steering Committee (CISC) working group to develop the terms and conditions of a model MAA based on those principles.
 6. In Telecom Notice of Consultation 2011-614-1, the Commission requested CISC to form an ad hoc working group to develop a model MAA based on the Leducor principles established in Decision 2001-23 and other relevant Commission decisions. The Commission also set a deadline for that working group to report back to the Commission. Pursuant to that notice, CISC established the Model Municipal Access Agreement Working Group (the working group) with representatives from Canadian telecommunications companies and municipalities, including the Federation of Canadian Municipalities, which represents municipalities across Canada.
 7. In Telecom Notices of Consultation 2011-614-2, 2011-614-3, and 2011-614-4, the Commission extended the reporting deadline for the working group.
 8. On 18 July 2013, the working group submitted a non-consensus report entitled *Model Municipal Access Agreement* (the report). In the report, the working group reached consensus on the majority of items regarding a model MAA; however, there were also a few non-consensus items. The report can be found in the “Reports” section of the working group’s web page, which is available in the CISC section of the Commission’s website at www.crtc.gc.ca.
 9. The Commission considers that the report raises the following issues:
 - I. Should the Commission approve the consensus items?
 - II. How should the Commission deal with the non-consensus items?
- I. Should the Commission approve the consensus items?**
10. The Commission notes that the working group requested approval of the consensus items contained in the report.
 11. The Commission considers that the consensus items will provide benefits to both Canadian telecommunications carriers and municipalities when a Canadian carrier requests access to a municipality’s rights-of-way. Accordingly, the Commission **approves** the consensus items in the report regarding the model MAA.

II. How should the Commission deal with the non-consensus items?

12. The members of the working group disagreed on how the Commission should deal with the non-consensus items contained in the report.
13. The Canadian telecommunications carrier members submitted that a written follow-up proceeding is needed to clarify the non-consensus items. They stated that these items represent significant and material issues that, in their view, have not been fully dealt with in past Commission decisions. They submitted that the Commission now has an opportunity to provide clarity with respect to these issues and to eliminate cause for unnecessary future disputes. They argued that if the model MAA lacks clarity on these specific items, disputes may increase.
14. The municipal members submitted that all non-consensus items should be left for negotiation between parties using the model MAA as a non-binding resource document, and that a subsequent written proceeding is unnecessary. They submitted that the Commission must not establish a process that would prescribe any particular terms or that could be seen as prejudging the outcome of future disputes in proceedings before the Commission.
15. The Commission notes that, although the working group representatives made substantial progress in reaching consensus on a majority of items for a model MAA, they were unable to agree on the wording for a lesser number of items. The Commission considers that further process is unlikely to lead to the parties reaching agreement on the wording for these items. Further, the Commission considers that in the absence of a specific dispute over access to municipal rights-of-way, it may not be appropriate for the Commission to provide specific wording.
16. Accordingly, the Commission determines that the non-consensus items are to be negotiated between a Canadian telecommunications carrier and a municipality that are entering into an MAA.

Model MAA

17. The consensus and non-consensus items contained in the report (the latter of which are to be negotiated) constitute the model MAA. The wording of the model MAA was drafted in English by the members of the working group and has been translated into French by the Commission for the convenience of all telecommunications carriers and municipalities in Canada. The [model MAA](#) is available in the CISC section of the Commission's website at www.crtc.gc.ca.

Secretary General

Related documents

- *Proceeding to consider a model Municipal Access Agreement*, Telecom Notice of Consultation CRTC 2011-614, 23 September 2011, as amended by *Amended proceeding to consider a model Municipal Access Agreement*, Telecom Notices of Consultation CRTC 2011-614-1, 7 February 2012; 2011-614-2, 3 August 2012; 2011-614 3, 29 November 2012; and 2011-614-4, 11 April 2013
- *Ledcor/Vancouver – Construction, operation and maintenance of transmission lines in Vancouver*, Decision CRTC 2001-23, 25 January 2001