



## Telecom Notice of Consultation CRTC 2017-66

PDF version

Reference: 2016-51

Ottawa, 10 March 2017

*File number: 1011-NOC2017-0066*

### Call for comments

### Clause 13(b) of the Municipal Access Agreement between the City of Hamilton and Bell Canada regarding the vertical location of underground facilities

**Deadline for submission of interventions: 10 April 2017**

[\[Submit an intervention or view related documents\]](#)

*The Commission initiates a proceeding to reconsider clause 13(b) of the Municipal Access Agreement between the City of Hamilton and Bell Canada regarding the vertical location of underground facilities.*

### Background

1. In Telecom Decision 2016-51, the Commission approved a Municipal Access Agreement (MAA)<sup>1</sup> between the City of Hamilton (the City) and Bell Canada (the MAA).
2. After Telecom Decision 2016-51 was issued, the City and Bell Canada began disputing the interpretation of some parts of clause 13(b) of the MAA. Clause 13(b) reads as follows:

13(b) The locates provided by the Company to the Municipality for pre-design shall contain sufficient design information and survey detail as reasonably required by the Commissioner, such as line and elevation of the Equipment within the alignments, but excluding information on depth. If the Company is unable to provide either the line or elevation information within an agreeable time frame, the Municipality may invoice the Company for any costs reasonably incurred by the Municipality in determining the line or elevation of the Equipment within the alignments.

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<sup>1</sup> An MAA sets out the terms and conditions of a carrier's access to highways and other public places under a municipality's jurisdiction that is required to provide telecommunications services, including broadcasting services, to the public.

3. On 13 May 2016, Bell Canada filed a letter with the Commission in which it requested clarification concerning the application of clause 13(b). Specifically, it sought to understand whether the Commission intended to require Bell Canada to provide the vertical coordinates of its underground facilities to the City upon request. Bell Canada submitted that it and the City had divergent views on the requirements of the clause, and that clarification would facilitate the operation of the MAA.
4. On 21 July 2016, Commission staff issued a letter to both parties in which it indicated its view that clause 13(b), as worded in Telecom Decision 2016-51, does not require Bell Canada to provide to the City vertical coordinates of its underground facilities.
5. On 16 August 2016, the City filed a letter with the Commission in which it requested that the Commission rule on the legal effect of clause 13(b). Further, on 14 September 2016, the City filed a letter with the Commission in which it submitted that the Commission should
  - i. define a clear and fair process, and establish reasonable timelines, that would enable the City and Bell Canada to present a coherent and complete record on the issue of elevation and clause 13(b); and
  - ii. define a clear process that would provide for proper notice to potentially affected third parties and enable them to make representations to the Commission on the issue.

### **Further process with regard to clause 13(b)**

6. As noted above, Bell Canada and the City have divergent views on the requirements of clause 13(b). The City was of the view that the Commission intended to require Bell Canada to provide vertical coordinates in the form of elevation information for Bell Canada's underground facilities, while excluding depth information expressed as the distance of a facility from the surface of the ground. Bell Canada, however, was of the view that the Commission did not intend for the company to be required to provide vertical coordinates of its underground facilities.
7. Having reviewed the parties' submissions, the Commission considers that the matter of whether Bell Canada should provide vertical coordinates to the City as part of the pre-design process is important to the parties. Given this and the views expressed in support of the various interpretations, the Commission considers that there is merit in reviewing the obligations addressed in clause 13(b).
8. In light of the above, the Commission is initiating a proceeding to consider this matter.

### **Call for comments**

9. In this proceeding, the Commission is seeking comments on whether the MAA between the City and Bell Canada should provide the City with the ability to require

Bell Canada to provide it with the vertical coordinates for the company's underground facilities as part of the pre-design process, and, if so, in what form those vertical coordinates should be. The Commission invites comments, with supporting rationale, on the following questions:

- i. When Bell Canada is required by the General Manager of Public Works for the City to provide locates of its underground facilities to the City for the purpose of pre-design, should the City have the ability to require Bell Canada to include the vertical coordinates of Bell Canada's underground facilities? Why or why not?
  - ii. What would be the benefits for the City of having the vertical coordinates of Bell Canada's underground facilities?
  - iii. What would be the costs and implications for Bell Canada if it is required to provide the vertical coordinates of its underground facilities?
  - iv. What would be the costs and implications for the City if Bell Canada is not required to provide the vertical coordinates of its underground facilities?
  - v. If the Commission determines that Bell Canada must provide the vertical coordinates of its underground facilities upon request, in what form should the vertical location be provided (for example, elevation relative to sea level)?
  - vi. If the Commission determines that Bell Canada must provide the vertical coordinates of its underground facilities upon request, should this requirement apply to underground facilities already installed or only to underground facilities to be installed after the Commission's decision is issued?
10. To the extent that parties refer to sources considered to be "industry standard" in support of their positions, parties should provide copies of the relevant sections of such sources.

## **Procedure**

11. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, answers, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

12. The record of the Telecom Decision 2016-51 proceeding is added to the record of this proceeding.
13. The City and Bell Canada are made parties to this proceeding and may file interventions with the Commission by **10 April 2017**.
14. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **10 April 2017**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.
15. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a [template](#) for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.
16. The City and Bell Canada may file final replies with the Commission by **18 April 2017**.
17. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), for additional information that they may find useful when preparing their submissions.
18. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and 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.
19. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that enable text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
20. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

**by completing the**  
[\[Intervention form\]](#)

or

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax to**  
819-994-0218

21. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the filing/service of documents, as it may be difficult to establish that service has occurred.
22. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
23. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

### **Important notice**

24. All information that parties provide as part of this public process, except information designated confidential, 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 all personal information, such as full names, email addresses, postal/street addresses, and telephone and facsimile numbers.
25. The personal information that parties provide 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.
26. 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.
27. The information that parties provide 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 provide access to the information that was provided as part of this public process.

## Availability of documents

28. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by using the file number provided at the beginning of this notice or by visiting the "Participate" section of the Commission's website, selecting "Submit Ideas and Comments," then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
29. Documents are also available at the following address, upon request, during normal business hours.

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

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

Secretary General

## Related documents

- *City of Hamilton – Terms and conditions of a Municipal Access Agreement with Bell Canada*, Telecom Decision CRTC 2016-51, 10 February 2016
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010