



City of Richmond

Report to Committee

To: Public Works and Transportation Committee **Date:** February 6, 2002
From: Steve Ono, P.Eng.
Director, Engineering **File:** 0157-20-FCMU1-01
Re: **The Federation of Canadian Municipalities Resolution to require action from the Government of Canada regarding CRTC jurisdiction**

Staff Recommendation

That the following resolution be adopted and forwarded to the Federation of Canadian Municipalities (FCM) for debate at the next National Board of Directors' meeting:

WHEREAS the Federation of Canadian Municipalities (FCM) approved at their 1999 annual conference and adopted at the May 2001 conference the "Occupancy and Use of Municipal Rights-of-Ways" document.

WHEREAS the document contains five principles intended to guide the relationships between municipal governments and parties that occupy and use municipal rights-of-ways.

WHEREAS the FCM encourages municipalities to practice these principles.

WHEREAS on March 1999, Ledcor Industries Limited filed a Part VII application-requesting relief under the Telecommunications Act sections 43 and 61(2) naming the City of Vancouver as respondent.

WHEREAS on January 2001 the "Ledcor/Vancouver – Construction, operation and maintenance of transmission lines in Vancouver" Decision CRTC 2001-23 was implemented.


WHEREAS, this decision did not support the five principles as adopted by the FCM.

WHEREAS the Federation of Canadian Municipalities has filed an appeal on "Decision CRTC 2001-23" with the Federal Court of Appeal.

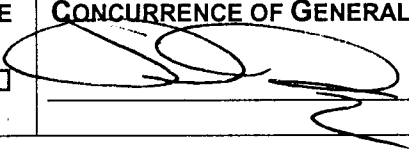
WHEREAS AT&T Canada has recently applied to the CRTC to have portions of an existing access agreement, with the City of Toronto, that conflict with CRTC Decision 2001-23 removed from their agreement.

WHEREAS the CRTC has published "Public Notice CRTC 2001-99" which seeks submissions on the question of what circumstances, if any, would justify an intervention by the CRTC to alter the terms and conditions of an existing property access contract between a carrier and a municipality.

BE IT RESOLVED that FCM urge the Federal Government to confirm that the CRTC has no authority to alter the terms of existing contracts between a carrier and a municipality on access to municipal rights-of-ways, at their next meeting of the national Board of Directors.



Steve Ono, P.Eng.
Director, Engineering

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Staff Report

Origin

In light of recent decisions by the Canadian Radio-television and Telecommunication Commission (CRTC), AT&T Canada has applied to CRTC to alter their existing agreement with the City of Toronto. This has national implications for municipal governments' ability to manage the occupancy and use of rights-of-ways.

The Federation of Canadian Municipalities (FCM) has invited members to submit resolutions on subjects of national municipal interest for consideration by the National Board of Directors.

This report is in response to the FCM's invitation.

Analysis

Shortly after the CRTC deregulation of telecommunication companies, the Federation of Canadian Municipalities (FCM) adopted five guiding principles for municipal governments to apply to all telecom companies requesting access to City streets. These principles address management, cost compensation and liability associated with occupancy and use of municipal rights-of-ways by telecommunication companies.

These principles were largely struck down in January 2001, by Ledcor versus Vancouver Decision CRTC 2001-23, but the decision is now under appeal.

In keeping with the FCM guiding principles, the City of Richmond currently has two Interim Municipal Access Agreements with GT Group Telecom Services Corp. and AT&T Canada Corp. These agreements were signed in 2001 as interim forms of agreement for the use of City road rights-of-ways by federally regulated telecommunication's firms, until such time as the results of the appeal of the CRTC 2001-23 (Ledcor versus Vancouver) are known.

On May 28, 2001, following the release of the Ledcor decision, AT&T Canada made application to the CRTC to alter the terms and conditions in their existing Access Agreement with the City of Toronto. In essence, AT&T has asked the CRTC to rule that Toronto remove terms which conflict with CRTC Decision 2001-23, which for the most part struck down the five principles recommended by the FCM. This could result in municipalities not having the ability to manage the rights-of-ways to protect the future municipal infrastructure systems and would allow other companies to apply to alter other existing agreements. If the CRTC ruling is successful, AT&T and Group Telecom could apply to Richmond to amend their agreements with the City, affecting clauses such as Relocation and Liability Indemnification which form part of the existing agreements.


Financial Impact

Under the guidelines of the CRTC Decision 2001-23, the City has negotiated hard costs for administration fees in the agreements with both Group Telecom and AT&T. There are presently no immediate financial impacts on the City. However, in the future we may see costs incurred as a result of relocation of telecom systems, liability charges related to disruption of services, damage costs as a result of usual municipal activities within rights-of-way and no compensation for the use of City rights-of-way. Furthermore, a ruling in AT&T's favour against the City of Toronto will remove existing clauses protecting the City and allow these costs to be incurred.

Conclusion

The CRTC governs the telecom companies' right to provide services to communities. As a result of the CRTC deregulation of services provided by telecom companies and multiple providers competing for access in municipal rights-of-ways, there is a growing need to control the future integrity of the City's rights-of-ways and associated infrastructure and to protect the existing signed agreements with those companies. We now have multiple providers competing for access in municipal rights-of-ways and the City needs to recuperate costs and have control over its' municipal rights-of-ways as defined by the FCM in their five principles for use by the municipalities.

Staff propose that Council consider the resolutions in this report for submission to the FCM for consideration. All resolutions endorsed by the FCM will be brought forward to the Federal Government and submitted to the appropriate minister, department or agency for dialogue.


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PHL:bj/sld