

General Issues Committee
May 20, 2015
Item 7.1



Hamilton

**Application of the City of Hamilton to the CRTC
Re: City and Bell Canada MAA
Information Update
May 20, 2015**

1 - Background

- City's previous MAA (2007) with Bell expired in November, 2012.
- City gave notice to Bell that it would seek new MAA and would not renew old MAA.
- Negotiations proceeded but the City and Bell could not come to an agreement on the terms to be contained in the City's new MAA.
- The City's proposed MAA terms and conditions are crafted to address problems and provide proper remedies for non-compliance issues with Bell.
- The City seeks to include in its MAA: cost consequences for performance failures; a clear formula for allocating relocation costs; and, provisions for cost consequences for Bell if Bell fails to comply with the Agreement.
- The City estimates Bell costs the City in the range of \$450,000 per year due to performance and non-compliance issues. When work around charges are considered, that annual figure increases significantly, in excess of \$1,000,000.00.



1A Impact of Bell Failures – Why Exacting MAA is Required

Example A



- City supporting Bell conduit system on the Kenilworth / Burlington project.
- Bell does not have specific installation records for this site.
- Bell is not responsible for all additional costs but Bell's equipment installed over top of the City's infrastructure caused a significant financial impact to the City in the range of \$400,000.00.
- 2007 MAA provides no means to recover these funds – a new MAA is required to address these underlying and resulting issues.

1B Impact of Bell Failures – Why Exacting MAA is Required

Example B



- These Bell cabinets are in a non-approved location on Amberwood Drive, in front of St Pauls Elementary school.
- The cabinets are in a sight-triangle and pose a safety hazard for pedestrians and drivers.
- Hamilton asked Bell to place the first cabinet in a different location in 2011.
- Despite being notified Bell did not remove the first cabinet . In 2012, Bell compounded its error by installing a second cabinet at the same location.
- As of April, 2015 (i.e. 4 years later) Bell has still not acted.
- 2007 MAA provides no means to force Bell to act. A new MAA is required.

1C Impact of Bell Failures – Why Exacting MAA is Required

Example C

- Without the City's knowledge Bell used duct tape to affix its wires to the City's sidewalk at Bing Crescent.
- Councillor complaints brought issue to the attention of staff.
- City raised this issue in its Application to the CRTC to illustrate the types of difficulties experienced with Bell.
- Bell denied in its Answer that it had even done any work in the area, but further investigation by the City has confirmed that Bell did in fact conduct works, including works related to the utility box at right hand side of photo.
- Despite hazard created by Bell, the City says Bell was slow to respond. A new MAA is required to address these types of issues and the problems which give rise to such failures.



2 – Intervening Parties and Last Steps Taken

- Quebecor Media and MTS Allstream Inc. have intervened to lend support to the positions taken by Bell Canada in its Reply to the City's Application.
- The Federation of Canadian Municipalities (FCM) has intervened to lend support to the positions taken by the City. The issues raised are of a national concern.
- The FCM's support signals a broad support by Canadian municipalities for the City's Application.
- The City of Calgary has been engaged by Telus (on behalf of a number of other telecommunications companies) in a CRTC process that raises some similar issues to those raised in the City of Hamilton's Application

2 – Intervening Parties and Last Steps Taken

- January 9, 2015, the City's Application was filed with the CRTC.
- March 5, 2015 interventions and Answer from Bell Canada were received.
- Bell's Answer was largely non-responsive to the City's concerns, as expressed in its Application.
- Bell's Answer focused on a desire to engage in mediation and use the CRTC's approved Model MAA as a basis for further negotiations.
- Bell's Answer denied many of the factual underpinnings of the City's positions with respect to the terms and conditions of its proposed MAA.
- It was therefore required that the City's Reply to Bell's Answer be detailed, factually accurate and well evidenced.
- Reply submitted to the CRTC on April 15, 2015.
- Bell has not sought a further opportunity to respond to the City's Reply.

3 – Next Steps and Possible Courses of Action by CRTC

- Because Bell has raised the issues of mediation and the CRTC's Model MAA there are several possible courses of action which may result before this matter is concluded:
 - The Commission could order the parties to submit to a period of CRTC staff-assisted mediation on any or all of the issues raised by either party;
 - The Commission could determine that a preliminary issue dealing with the legal import and effect of the CRTC's Model MAA requires an initial adjudication and could invite further submissions (written and or oral) with respect to such an issue;
 - The Commission could require the matter to proceed and be heard by the CRTC; or,
 - The Commission could render a decision, or partial decision, with respect to any of the matters raised without further input from the parties.



Hamilton