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Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission
Ottawa, ON K1A 0N2

RE: Requests for information with respect to Telecom Notice of Consultation CRTC 2020-366, *Call for comments regarding potential regulatory measures to make access to poles owned by Canadian carriers more efficient*, as modified by Telecom Notice of Consultation 2020-0366 -- Response from the First Mile Connectivity Consortium (FMCC)

Dear Mr. Doucet:

In accordance with the process established by the Telecom Notice of Consultation CRTC 2020-366 dated 5 November 2020 (Revised 18 November 2020), the First Mile Connectivity Consortium (FMCC) files the enclosed Responses to the Commission's Requests for Information (RFIs).

Sincerely,

Rob McMahon, Coordinator
First Mile Connectivity Consortium
info@firstmile.ca

Introductory Comments

1. The First Mile Connectivity Consortium (FMCC) is an incorporated independent not-for-profit national association. Our members are First Nations Internet service providers known as “community/regional intermediary organizations.” Our work focuses on innovative solutions to digital infrastructure and services with and in rural and remote regions and communities across Canada. More details about our members and activities are available at <http://firstmile.ca>
2. Below, we respond to several questions from the Commission that are relevant to the members of FMCC. We note that we have addressed many of these issues with examples in our initial submission of December 18, 2020, and refer the Commission to that document.
3. However, we reserve the right to file responses to other parties’ comments and to address these issues in further stages of this consultation.
4. We request that responses to questions to Bell Canada and its affiliates, TELUS, and SaskTel be put on the public record. Much of the information requested by the Commission has been previously requested by the FMCC and other parties without success. Responses filed “in confidence” should therefore not be permitted.

Question 6: Delays in Providing Permits for Access to Poles

5. As we noted in our initial submission¹, delays in providing information about support structure access charges and in approving access can result in small providers significantly underestimating costs in funding proposals, and make it impossible to meet project deadlines or develop an operational plan to sustain their projects over time.
6. In general, we agree with the proposal for a 60 day deadline for ILECs to grant a permit for access for 50 or more poles. However, we realize that in some circumstances, for rural and remote regions, 90 days may be required. Any deadline adopted by the Commission should be enforceable (see below).
7. Full information on the reason(s) that an application is denied should be provided to the applicant when the decision is made, under the deadlines proposed above. The applicant should then be able to fast track deployment of its own poles.
8. Delays beyond reasonable deadlines as proposed above should not be permitted. If the rationale for a delay is the difficulty for the ILEC to check on poles in remote areas, the applicant should be permitted to submit photographs or other information that would enable the ILEC to make the decision without physically visiting the site.

¹ Telecom Notice of Consultation CRTC 2020-366: Call for comments regarding potential regulatory measures to make access to poles owned by Canadian carriers more efficient.
Submission of the First Mile Connectivity Consortium, December 18, 2020.

Question 7: Penalties for missing deadlines

9. We generally agree with TekSavvy’s proposal for a system of credits to be applied toward monthly recurring charges for permits that are issued after the deadline. An alternative would be a fine, with the amount levied to be credited to the applicant.
10. Whatever mechanism is chosen, it is important is that there be enforceable deadlines with penalties significant enough to provide incentives to the ILECs to meet the deadlines.
11. Some of FMCC’s members operate in Ontario. We note that Ontario has recently passed *The Supporting Broadband and Infrastructure Expansion Act, 2021* (also known as *Bill 257: The Building Broadband Faster Act of 2021*). This Act applies to electric utilities and municipalities, rather than telecom providers, but it does require that “A[n electric] distributor or transmitter shall compensate the proponent for a loss or expense incurred because the distributor or transmitter failed to comply with a notice...²” This model may also be relevant for telecom providers. A copy of the Act is attached to this submission.

Question 8: Make-ready work

12. The Commission should require information regarding the costs for all aspects of the use of support structures to be clearly and simply stated, predictable, and transparent to third party users – and in particular, small and non-profit providers. This includes all make-ready work.

Question 9: Corrective Work

13. We generally agree with the proposal from Rogers for corrective work that can be done by the pole attacher or its contractor. However, we think that longer deadlines may be required for remote regions, such as 60 days for the ILEC to complete the corrective work or a similar period for the pole attacher to complete the work.

Question 10: Replacement of poles

14. Issues typically include the general condition of the pole, space on the pole for the new attachment, and standards such as required height above the ground for the new attachment.
15. We note that estimates for replacement costs should also include an estimate for burying cable and fibre in conduit where feasible.
16. Our members can provide examples of costs and cost-sharing in remote areas.

Question 11: Installation of new strands

17. In addition to room on the pole, the pole must allow for the new strand to be at a specified height above the ground (road clearance). If this is not possible, new poles may be required,

² Bill 257: An Act to enact the *Building Broadband Faster Act, 2021* and to make other amendments in respect of infrastructure and land use planning matters Legislative Assembly of Ontario, enacted April 12, 2021.

or, if possible, the strands could be buried in conduit.

18. Our members can provide examples of the necessity of replacing or installing new poles, and costs, where strands would be too low on existing poles to meet road clearance requirements.

Question 12: One Touch Make Ready

19. We agree with the proposal to adopt the One Touch Make Ready (OTMR) principle approved by the Federal Communications Commission (FCC) in 2018 “whereby the attacher, who has the incentive to move quickly, is able to perform simple make-ready work in the telecommunications space on a pole, subject to notice requirements and other safeguards needed to ensure the quality of the make-ready work.”
20. The FCC states:

“... new attachers are not responsible for the costs associated with bringing poles or third-party equipment into compliance with current safety and pole owner construction standards to the extent such poles or third-party equipment were out of compliance prior to the new attachment. Although [pole owners] have sometimes held new attachers responsible for the costs of correcting preexisting violations, this practice is inconsistent with our long-standing principle that a new attacher is responsible only for actual costs incurred to accommodate its attachment.”³
21. We believe that these conditions should apply to OTMR in Canada.

Question 13: Bell proposal for OTMR

22. We note that most of the issues raised by Bell are addressed in the solution adopted by the FCC (see above) and therefore would be addressed if the CRTC adopts the FCC’s approach:

“... new attachers are not responsible for the costs associated with bringing poles or third-party equipment into compliance with current safety and pole owner construction standards to the extent such poles or third-party equipment were out of compliance prior to the new attachment.... our long-standing principle [is] that a new attacher is responsible only for actual costs incurred to accommodate its attachment.”⁴
23. However, we disagree with Bell’s proposal. The criteria for OTMR should be set and enforced by the Commission, not by an ILEC. The whole purpose of OTMR is to provide incentives to expedite the process, not to have contractors “certified”, “licensed” or vetoed by an incumbent.

Question 17: Future Use

24. While incumbents often conclude that there will be little future demand in remote and Northern regions, they may also decide to reserve pole or conduit space for future upgrades

³ Removing Barriers to Infrastructure Investment: Third Report and Order and Declaratory Ruling” FCC 18-111, WC Docket No. 17-84, WT Docket No. 17-79, August 3, 2018, para. 121

⁴ Ibid.

or replacements. They may therefore greatly increase costs for third party providers who may have to install additional (and redundant) support structures.

25. We propose that incumbents should be able to reserve new or existing pole or conduit space for future upgrades or replacements for no more than five years after which access to poles should be on a “first come, first served” basis.
26. Incumbents should provide access to conduit at wholesale prices.
27. Any applicant for access to the pole should be required to install its equipment within a specified period not to exceed two years, after which it would need to reapply for access.

Question 20: Dispute Resolution:

28. FMCC’s members were not aware of *Broadcasting and Telecom information Bulletin CRTC 2019-184*. More generally, they were not aware that the CRTC has mechanisms for dispute resolution, or how to ask the Commission for assistance for resolving a dispute.
29. They would like to have access to a presentation or video on how the dispute process functions, and to have this information made available on the CRTC website.

Question 21: Preventive Measures:

30. The FMCC agrees with Quebecor that ILECs should organize information and training sessions when they issue new directives regarding access to their support structures.
31. The FMCC also agrees that a “coordination table” or group should be established in each province to address potential problems. Members should include ILECs, competitive providers, electric utilities, and representatives of the communities or regions to be served.
32. As noted under Question 7 above, Ontario has recently passed *The Supporting Broadband and Infrastructure Expansion Act, 2021* (also known as *Bill 257: The Building Broadband Faster Act of 2021*) which applies to electric utilities and municipalities, and could be a useful reference for this coordination proposal. A copy of the Act is attached to this submission.
33. We thank the Commission for the opportunity to contribute to this consultation.

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