



Telecom Decision CRTC 2008-91

Ottawa, 19 September 2008

Application by the City of Baie-Comeau regarding the costs to relocate TELUS Communications Company's telecommunications facilities

Reference: 8690-B62-200805286

In this Decision, the Commission determines a methodology for allocating costs between the City of Baie-Comeau and TELUS Communications Company (TCC) to relocate TCC's telecommunications facilities.

Introduction

1. On 4 April 2008, the Commission received an application by the City of Baie-Comeau (Baie-Comeau) requesting, among other things, that the Commission resolve a dispute over which party should pay for the relocation of TELUS Communications Company's (TCC) underground telecommunications facilities in question.
2. In a letter dated 7 July 2008, the Commission advised the parties that it would adjudicate this matter on an expedited basis in accordance with the process established in Telecom Circular 2004-2.
3. A panel of three Commissioners heard this matter on 5 September 2008. In addition to the oral component of the proceeding and the 4 April 2008 application, the Commission considered written submissions from the parties.
4. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Issue

5. In its application, Baie-Comeau noted that TCC's telecommunications facilities needed to be relocated in order for Baie-Comeau to address issues of failing sewer and waterworks infrastructure. Parties had agreed on a plan to relocate TCC's telecommunications facilities.
6. The Commission has identified that the issue to be resolved is the extent to which each party is responsible for paying the costs to relocate TCC's telecommunications facilities.

Positions of parties

7. Baie-Comeau submitted that it should not be required to pay any of the costs to relocate TCC's telecommunications facilities. Baie-Comeau argued that because of the advanced age of the facilities in question, TCC would have had to replace these in the not too distant future, at TCC's cost. Baie-Comeau also submitted that by installing its facilities directly above those of the municipality, TCC should have known that these would likely have to be displaced at some

point in time in order for the municipality to access its sewer and waterworks infrastructure. Baie-Comeau further alleged that TCC did not have the proper authorization from the municipality to install the facilities in question.

8. TCC submitted that because Baie-Comeau was causing its telecommunications facilities to be relocated, Baie-Comeau should have to pay for the labour and equipment costs to remove the existing and install the new assets, and an amount for the residual value of the existing assets. TCC proposed to pay for the new replacement assets. According to TCC, the facilities in question, which include support structures, had been installed commencing in the mid-nineteen sixties with proper written authorization from Baie-Comeau. TCC submitted that regular inspections of its network revealed that the facilities in question were in good working condition and consequently did not require replacement in the foreseeable future.

Commission's analysis and determination

9. The Commission notes Baie-Comeau's submission that TCC did not have proper authorization to install the facilities in question. The Commission notes, however, that subsection 76(2) of the *Telecommunications Act* (the Act) provides that a transmission line that was constructed by a Canadian carrier on, over, under or along a highway or other public place while the carrier's operations were not being regulated under an Act of Parliament shall be deemed to have been constructed with the consent referred to in subsection 43(3) of the Act. Accordingly, the Commission rejects Baie-Comeau's submission that TCC did not have proper authorization.
10. The Commission considers that the methodology chosen to allocate the costs of relocating TCC's facilities between Baie-Comeau and TCC should be predictable, and just for both parties involved.
11. The Commission considers that the costs to relocate TCC's telecommunications facilities are the costs to purchase the new assets, and the labour and equipment costs to remove the existing assets and to install the new assets.
12. In Decision 2001-23, the Commission stated that where parties are negotiating the allocation of costs to relocate telecommunications facilities, it would be appropriate to take into account the following factors:
 - i) who has requested the relocation, i.e., the municipality, the carrier, or a third party;
 - ii) the reason for the requested relocation (e.g. safety reasons, aesthetic reasons, to better serve customers); and
 - iii) when the request is made vis-à-vis the original date of construction (e.g. whether the request is made a considerable length of time after the original construction, or very shortly after that time).
13. In light of the evidence on the record of this proceeding, the Commission finds it appropriate to consider the factors set out in Decision 2001-23 to resolve the issue in this proceeding. The Commission notes that both parties have interpreted and applied these factors in their submissions.

14. The Commission notes that TCC did not contest Baie-Comeau's submission that the requested relocation of TCC's telecommunications facilities was necessary so that Baie-Comeau could proceed to the replacement of its failing sewer and waterworks infrastructure.
15. The Commission notes that based on the evidence, the facilities in question were installed by TCC at different times over the past 40 plus years. In particular, TCC's support structures were installed over 40 years ago and TCC's cables and associated accessories were installed between 1967 and 2007, with an average age of over 25 years.
16. In Telecom Decision 2008-14, the Commission approved appropriate asset lives that would be used in regulatory economic studies. The Commission considers that the service lives approved in Telecom Decision 2008-14 are an appropriate indicator of what could be reasonably expected to be the useful life of an asset at the time of its installation.
17. Notwithstanding TCC's arguments that the facilities in question continue to be functional, the Commission notes that the age of most of the facilities in question have reached or exceeded the asset lives approved by the Commission in Telecom Decision 2008-14.
18. The Commission considers that in light of the above, it is appropriate that in this case, TCC bear most of the costs to relocate its facilities.
19. The Commission finds that because Baie-Comeau requested the necessary relocation of TCC's facilities and that some of these facilities have a remaining life, it is also appropriate that Baie-Comeau bear a share of the costs of the relocation defined in paragraph 11 above, proportional to the remaining useful life of the assets in question.
20. Accordingly, Baie-Comeau's share of the costs to relocate TCC's telecommunications facilities is to be calculated as follows (see the example in the Attachment to this Decision):
 - i) Baie-Comeau's percentage of responsibility for each TCC asset in question is based upon the remaining life of the asset calculated as one minus the ratio of the actual age of each asset to the estimated service life of each asset as set out in Telecom Decision 2008-14.
 - ii) Baie-Comeau's percentage of responsibility for the costs to relocate TCC's facilities associated with each asset is determined by multiplying the result of i) above by the ratio of the replacement cost of each asset to the total replacement cost of all the assets.
 - iii) The sum of the percentages (see column E in the Attachment) calculated in ii) above yields the extent to which Baie-Comeau is responsible for the costs to relocate TCC's facilities.
21. TCC is responsible for the remainder of the costs to relocate its telecommunications facilities as well as any costs to augment its network.

Secrétaire général

Related documents

- *Review of certain Phase II costing issues*, Telecom Decision CRTC 2008-14, 21 February 2008, as modified by Telecom Decision CRTC 2008-14-1, 11 April 2008
- *Expedited procedure for resolving competitive issues*, Telecom Circular CRTC 2004-2, 10 February 2004
- *Ledcor/Vancouver – Construction, operation and maintenance of transmission lines in Vancouver*, Decision CRTC 2001-23, 25 January 2001

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

ATTACHMENT

Illustrative example of calculation of Baie-Comeau's share of the costs to relocate TCC's telecommunications facilities					
Description of Asset	Age of Asset in years (A)	D2008-14 Estimated Life in years (B)	Remaining useful life (%) (C) = (1-((A)/(B)))X100	Replacement Cost of Assets (\$) (D)	% of cost to be attributed to Baie-Comeau (E) = (C)X(D)/(F)
Conduit and access structures	43*	40	0%	261,700	0%
Sealpeth 24GA 600 cable (1998)	10	17	41.2%	2,486	0.38%
Sealpeth 24GA 600 cable (1987)	21	17	0%	1,398	0%
Sec 72 Fib Opt LT	1	18	94.4%	1,480	0.52%
				267,064 (F)	0.90%**

- The above example does not include all assets identified by TCC in its evidence.
- In column (C) above, if (A) is greater than (B), then (C) = 0%.
- In the above example, Baie-Comeau would be responsible for 0.9% of the costs to relocate the TCC telecommunications facilities in question. TCC would be responsible for the remainder, in this example 99.1%.

* Estimates provided by TCC on the record of this proceeding.

** Note that the result may be different once TCC recalculates including all the assets that require relocation.