



## Telecom Decision CRTC 2025-185

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Reference: Part 1 application posted on 7 November 2022

Gatineau, 24 July 2025

*Public record: 8622-C143-202209246*

### **CIK Telecom Inc. – Application for non-discriminatory and timely access to the multi-dwelling units of strata corporation EPS 757**

#### **Summary**

The Commission is taking action to help ensure that Canadians benefit from access to affordable and high-quality Internet services.

Through this decision, the Commission is continuing to help promote competition and increase choice for consumers in all types of dwellings. A competitive marketplace helps foster more innovative services and lower prices for telecommunications services.

CIK Telecom Inc. (CIK) filed an application claiming it is being denied timely access to install its own fibre facilities and provide telecommunications services in two multi-dwelling units (MDUs) administered by strata corporation EPS 757 (EPS 757). CIK also claimed that residents of the MDUs are being denied the right to select the telecommunications service provider of their choice, hindering competition.

CIK requested that the Commission grant relief by enforcing the MDU access condition. This requires building owners to provide access to an MDU on a timely basis and under reasonable terms and conditions to any telecommunications or Internet service provider wishing to serve an MDU's residents.

The Commission considers that EPS 757 has denied CIK access to the two MDUs on a timely basis. However, it also considers that EPS 757 has legitimate concerns regarding some of the provisions in CIK's proposed access agreement. The Commission therefore directs CIK to review the terms and conditions of its access agreement with EPS 757.

The Commission is also directing CIK and EPS 757 to reach an agreement for access to the two MDUs within **30 days** of the date of this decision, and for both parties to sign the agreement no later than **60 days** from the date of this decision.

The Commission will consider whether further intervention is required if no agreement is reached within the designated timeframe. The purpose of this approach is to motivate the parties to negotiate promptly, while at the same time mitigating the impact on residents.

## Background

1. In Telecom Decision 2003-45, the Commission set out its framework for access to multi-dwelling units (MDUs), such as apartment buildings and condominiums (the MDU access framework). In that decision, the Commission emphasized the importance of promoting competition and choice regardless of the type of dwelling in which an end-user resides.
2. In the same decision, the Commission established the MDU access condition, which requires that all local exchange carriers (LECs) wishing to serve residents in an MDU can access end-users on a timely basis and under reasonable terms and conditions.<sup>1</sup>
3. In the decision, the Commission also established guidelines to assist building owners and LECs in negotiating just and expedient conditions of access to MDUs, including conditions relating to fees (e.g., fees that a building owner may reasonably charge the LEC to recover costs incurred), the installation of wiring and equipment, and liability (the Guidelines).

## Application

4. On 1 November 2022, CIK filed an application claiming that it had been denied timely access under reasonable terms and conditions to two MDUs administered by EPS 757, located at 6888 Cooney Road and 8333 Anderson Road in Richmond, British Columbia (the MDUs).
5. CIK submitted that the denial of timely access violated the MDU access condition. It added that this denial warrants the Commission imposing shorter timelines for escalating service restrictions, similar to those imposed in Telecom Decision 2022-5. Specifically, CIK requested that the Commission impose the MDU access condition until access is granted, in accordance with section 24 of the *Telecommunications Act* (the Act).
6. The Commission received interventions regarding CIK's application from EPS 757, the Competitive Network Operators of Canada (CNOC), and an individual.
7. In a [letter](#) dated 5 December 2022, the Commission suspended the proceeding to provide CIK and EPS 757 additional time to conduct good-faith negotiations. In the letter, the parties were asked to file three biweekly negotiation progress reports. A follow-up [letter](#) dated 7 February 2023 requested that the parties submit a final negotiation progress report by 28 February 2023.

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<sup>1</sup> In Telecom Regulatory Policy 2021-239, the Commission extended the MDU access condition and associated obligations to all carrier Internet service providers.

8. In its final negotiation progress report, CIK indicated that EPS 757 had made no effort to advance negotiations since CIK had filed its previous progress report. Furthermore, the report requested that the Commission resume the suspended proceeding.
9. No negotiation status reports have been filed by EPS 757. In a [letter](#) dated 10 March 2023, Commission informed parties that it was reinstating the proceeding initiated by CIK's original application.

## **Issues**

10. The Commission has identified the following issues to be addressed in this decision:
  - Is CIK being denied timely access to the MDUs under reasonable terms and conditions?
  - What action, if any, should the Commission take to help ensure that CIK obtains timely access to the MDUs under reasonable terms and conditions?

## **Is CIK being denied timely access to the MDUs under reasonable terms and conditions?**

### **Positions of parties**

#### **CIK**

11. CIK submitted that it has been seeking access to the MDUs since May 2022, and that its requests for access have been repeatedly ignored by EPS 757. CIK added that by ignoring its access requests, EPS 757 has denied the residents of the MDUs the competitive benefits that the MDU access framework is intended to foster. CIK indicated that the circumstances of the present case are similar to those of the application that led to Telecom Decision 2022-5.
12. CIK submitted that Commission intervention would advance the telecommunications policy objectives set out in section 7 of the Act by reducing barriers to entry and promoting competition and affordability with respect to the provision of telecommunications services.

#### **EPS 757**

13. EPS 757 submitted that it has very limited space available in its equipment room, and that CIK's facilities would use a large portion of the remaining space.
14. EPS 757 also submitted that CIK's application is different from other cases where LECs have been denied timely and reasonable access, because the MDU was owned

by a private corporation in those cases.<sup>2</sup> In contrast, EPS 757 noted that under the provincial *Strata Property Act*, it is required to seek unit owners' approval – by way of a 75% majority vote – regarding any significant change in the use or appearance of common property. EPS 757 further submitted that the Commission may not exercise its authority under subsection 42(1) of the Act to bypass this requirement because the Commission's power is limited by any contrary provisions in another act – in this case, section 71 and subsection 80(2) of the *Strata Property Act*.

15. Furthermore, EPS 757 identified the following provisions in CIK's access agreement that it considered unreasonable and contrary to the Guidelines set out by the Commission in the MDU access framework:

- Access to individual units

CIK proposed that EPS 757 assist it in granting access into individual units within the MDUs to install its equipment. EPS 757 noted that it is not the legal owner of the private units. It also stated that under the [Schedule of Standard Bylaws](#) in the *Strata Property Act*, there are limited circumstances under which strata corporations may access individual units. These circumstances do not include the installation of telecommunications equipment.

- Termination of the agreement

CIK proposed that EPS 757 may not terminate the agreement until there are no active CIK customers in the MDUs. EPS 757 submitted that this provision would prevent it from terminating the agreement in the event of a breach by CIK, and that it would also prevent it from renegotiating the agreement at the end of the initial term.

- Fees

CIK proposed that EPS 757 may not charge any rent, royalty, occupancy fees, or any amount related to the availability or consumption of utilities, or any other charges, for the term of the agreement. EPS 757 indicated that the Guidelines permit the levy of certain fees.

- Insurance

CIK proposed that EPS 757 maintain a specified level of insurance. EPS 757 noted that the level of insurance proposed by CIK is higher than the level it is required to maintain under the *Strata Property Act*.

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<sup>2</sup> See Telecom Decision 2022-148, involving an investment company, and Telecom Decision 2022-5, involving a real estate developer.

- Covenants

CIK proposed that EPS 757 maintain the MDUs and protect CIK's equipment in accordance with accepted building industry standards. It also proposed that EPS 757 assist CIK in resolving any interference to its equipment caused by other equipment or activities of third parties within the MDUs. EPS 757 submitted that such clauses are unduly onerous.

- Release and indemnity

CIK proposed a mutual release and indemnity provision. EPS 757 noted that such a clause would prevent it from taking legal action against CIK in the event of negligent acts.

### **CIK's reply**

16. CIK submitted that there is an extensive body of Commission decisions where the MDU access condition was enforced in relation to buildings administered by strata or condominium corporations, notably in Telecom Decisions 2014-42 and 2015-148 and in Broadcasting and Telecom Decision 2015-574.

17. CIK noted that the relief being sought in its application does not directly grant it access into the MDUs, nor does it indirectly force EPS 757 to sign the agreement.

18. Regarding the issue of obtaining unit owners' approval prior to a significant change in the use or appearance of common property, CIK indicated that it merely needs a licence to access the equipment rooms and conduits of the MDUs and therefore, no vote by the unit owners would be required in this case.

### **Commission's analysis**

#### **EPS 757's argument regarding limited space available for CIK's equipment**

19. The MDU access framework states that LECs wishing to install or upgrade in-building wire and related facilities in an MDU should, subject to the building owner's reasonable acceptance of the wiring plan, be given access to the closets, panels, and any common pathways required to do so. It also states that where there is insufficient space available in risers to install additional in-building wiring, the building owner may either permit the LEC to construct additional riser space in the MDU or allow the LEC to upgrade or replace the existing in-building wire and related facilities to make more efficient use of the riser space available. Therefore, limited space is not a reason for EPS 757 to deny CIK access to the MDUs.

**EPS 757's argument regarding the need for unit owners' prior approval for changes to common property**

20. The Commission considers that it is incumbent upon the MDU owner, executive body, or legal representative to take the necessary procedural steps to provide non-discriminatory and timely access to a LEC seeking access to an MDU, regardless of the corporate structure of the MDU. Therefore, EPS 757's argument regarding the need for unit owners' prior approval for changes to common property does not justify denying CIK access to the MDUs.

**EPS 757's argument regarding the provisions in CIK's access agreement**

21. The Commission has reviewed the provisions in CIK's access agreement that EPS 757 claimed were unreasonable. It compared the provisions of CIK's access agreement with (i) the Guidelines, (ii) the *Strata Property Act* and the Strata Property Regulation, and (iii) the provisions contained in access agreements that EPS 757 has entered into with other carriers, i.e., Shaw Cablesystems G.P. (Shaw) and Novus Entertainment Inc. (Novus), as well as those in Bell Canada's standard MDU access agreement.<sup>3</sup>

***Access to individual units***

22. CIK proposed that EPS 757 assist it in granting access into individual units within the MDUs to install its equipment. The Commission considers this provision vague as to what constitutes assistance by EPS 757 to CIK. In addition, the MDU access framework does not contain a requirement for MDU owners – in this case, EPS 757 – to provide a LEC with access to individual units in an MDU. Moreover, the Guidelines do not address this issue.

23. Considering the above, the Commission considers that if this provision were to be retained, it should be amended to clarify what would constitute reasonable assistance by EPS 757 in granting CIK access to individual units. The Commission considers that if there is to be a provision relating to reasonable assistance, it should be within the scope of the MDU owner's role and consistent with the *Strata Property Act*.

***Termination of the agreement***

24. CIK proposed that EPS 757 may not terminate the agreement until there are no active CIK customers in the MDUs. CIK's access agreement favours CIK because EPS 757 would have no avenue to terminate the agreement until CIK has no active customers in the MDU, including in the event of a breach of the agreement by CIK. Nevertheless, the Commission recognizes that the termination of an access agreement by EPS 757 could result in the sudden and unexpected loss of service to CIK's active customers in the MDU, which is contrary to the MDU access framework. Therefore,

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<sup>3</sup> Although Bell Canada has not entered into an access agreement with EPS 757, the Commission used Bell Canada's public standard MDU access agreement for comparison purposes.

the Commission considers that the agreement should be amended to include a clause stating that, in the event of a breach of the agreement by CIK, the MDU owner will not terminate the access agreement or disconnect CIK's customers unless CIK does not remedy the breach within a reasonable timeframe. The length of this timeframe should be specified in the agreement.

### **Fees**

25. CIK proposed that EPS 757 may not charge any rent, royalty, occupancy fees, or any amount related to the availability or consumption of utilities, or any other charges, for the term of the agreement. EPS 757 countered that the Guidelines permit the levy of certain fees.
26. In the MDU access framework, the Commission considered it appropriate that LECs compensate building owners for the use of space occupied by telecommunications facilities,<sup>4</sup> as well as for utility costs incurred to accommodate a LEC's telecommunications equipment, such as electricity.<sup>5</sup> Therefore, EPS 757 is within its right to collect rent from CIK for occupying space in the MDUs and to be compensated for costs incurred for electricity and other utilities consumed by CIK's telecommunications equipment and facilities. The Commission expects that the provision relating to fees be amended to be consistent with the Guidelines.

### **Insurance**

27. CIK proposed that EPS 757 maintain a minimum of \$5 million of insurance. In the MDU access framework, the Commission considered that the principles of liability in force in the province in which the MDU is located should apply and each party should seek assurance from the other that it is adequately insured or can self-insure.<sup>6</sup> The Strata Property Regulation states that the strata corporation must obtain and maintain liability insurance for a minimum amount of \$2 million, which is less than half the amount that CIK is requiring EPS 757 to maintain.<sup>7</sup>
28. While requiring the MDU owner to maintain a larger amount of liability insurance than is required under provincial regulations is not in itself contrary to the MDU access framework, CIK has not provided any justification why EPS 757 should be required to maintain \$5 million in liability insurance. Therefore, the Commission considers that the burden is on CIK to explain to EPS 757 the benefit or necessity of

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<sup>4</sup> See paragraph 160 of Telecom Decision 2003-45.

<sup>5</sup> See paragraph 163 of Telecom Decision 2003-45.

<sup>6</sup> See paragraph 172 of Telecom Decision 2003-45.

<sup>7</sup> See section 9.2 ([Minimum liability insurance](#)) in the Strata Property Regulation.

carrying a higher minimum amount of liability insurance than that prescribed by the Strata Property Regulation.

### **Covenants**

29. CIK proposed that EPS 757 maintain the MDUs and protect CIK's equipment in accordance with accepted building industry standards. It also proposed that EPS 757 assist CIK in resolving any interference to its equipment caused by other equipment or activities of third parties within the MDUs.
30. The Guidelines do not address the appropriateness of the disputed covenant provisions in CIK's agreement. The Commission considers that EPS 757's responsibility should be limited to protecting the MDU owner's in-building wire and not the MDU owner's entire property. Therefore, the Commission considers that it would be reasonable for CIK to require EPS 757 to reimburse it only for damages to its equipment or facilities caused by EPS 757 or its agents.
31. The Commission considers that CIK's access agreement is vague with respect to the nature of the assistance that EPS 757 would be expected to provide CIK in resolving third-party interference issues. The Commission considers that any assistance provided by the MDU owner should be limited to allowing the LEC or other service providers access to the MDU for the purpose of making adjustments, repairs, or upgrades.

### **Release and indemnity**

32. CIK proposed a mutual release and indemnity provision. However, the Guidelines do not include any specific information regarding release and indemnity provisions; the Guidelines instead state that the principles of liability for negligence in force in the province in which the MDU is located should apply.<sup>8</sup> Moreover, the *Strata Property Act* and the Strata Property Regulation do not contain any provisions with respect to release and indemnity. The Commission considers that CIK's proposed release and indemnity provision is not unreasonable and use language similar to access agreements that EPS 757 has entered into with other carriers. Consequently, the provisions relating to release and indemnity should be negotiated by CIK and EPS 757.

### **Conclusion**

33. The MDU access framework is clear that MDU owners are required to provide access to LECs who wish to serve the MDU's residents under reasonable terms and conditions. Although some of EPS 757's arguments regarding the reasonableness of the terms and conditions proposed by CIK are valid, this is not a reason to deny CIK access to the MDUs. In light of the above, the Commission expects EPS 757 to

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<sup>8</sup> See paragraph 172 of Telecom Decision 2003-45.

propose alternative provisions and negotiate with CIK until reasonable terms are agreed upon.

34. The Commission considers that EPS 757's refusal to grant CIK access to the MDUs constitutes a denial of access in a timely manner, which is contrary to the MDU access framework.

**What action, if any, should the Commission take to help ensure that CIK obtains timely access to the MDUs under reasonable terms and conditions?**

**Positions of parties**

35. CIK requested that the Commission enforce the MDU access condition by imposing the following measures:

- within 15 days following the date of the Commission's decision, that any other LEC or carrier Internet service provider (ISP) already present in the MDUs would not be permitted to provide services to any new or current resident that is not an existing customer of the applicable service provider;
- within 30 days following the date of the Commission's decision, that any LEC or carrier ISP already present in the MDUs would not be permitted to modify or upgrade the services being provided to a current resident; and
- within 45 days following the date of the Commission's decision, that the Commission would explore all regulatory options available to it, including issuing an order under section 42 of the Act and issuing a decision that would result in all LECs and carrier ISPs already present in the MDUs not being allowed to provide any services to the residents therein.

36. CNOc submitted that since EPS 757 has allegedly ignored CIK's repeated requests for access to the MDUs, the relief sought by CIK is reasonable, proportionate, and consistent with the Commission's decision to grant relief in Telecom Decision 2022-5.

37. The individual submitted that the relief sought by CIK was harmful to the residents of the MDUs. Specifically, by limiting the choice of telecommunications services in the MDUs, its residents may be restricted in their ability to receive emergency alerts, work from home, or modify their service plans to save money amid an inflationary environment.

**Commission's analysis**

38. The Commission's intervention in the present case is justified. EPS 757 has not been responsive to CIK's request for access to the MDUs since May 2022. During the time the proceeding was suspended, EPS 757 did not file any negotiation progress

reports despite being required to do so. If the Commission does not intervene, it is likely that the parties will not reach an agreement, and access will not be granted.

39. However, it would not be appropriate to approve CIK's request to impose restrictions on the provision of services by other LECs in the MDUs at the present time, given EPS 757's arguments regarding the reasonableness of the terms proposed in CIK's agreement.

## Conclusion

40. In light of all of the above, the Commission finds that EPS 757 is denying CIK access to the MDUs in a timely manner.
41. The Commission directs CIK to review the terms and conditions of its access agreement where it and EPS 757 disagree. The Commission also expects CIK to apply its guidance in this decision to CIK's remaining active applications.<sup>9</sup>
42. The Commission directs CIK and EPS 757 to negotiate and conclude an agreement for CIK to access the MDUs within **30 days** of the date of this decision, taking into consideration the Commission's determinations in this decision. Given EPS 757 has stated that it is required to seek the unit owners' approval through a 75% majority vote for any significant change in the use or appearance of common property, the Commission considers it reasonable to provide EPS 757 with enough time to arrange and conduct a vote by the unit owners once an agreement is concluded. Therefore, the Commission also directs both parties to sign the agreement no later than **60 days** from the date of this decision.
43. If, after the end of the 30-day negotiation period, no agreement has been reached – providing that CIK can demonstrate it proposed to EPS 757 new terms and conditions that are reasonable and consistent with the MDU access framework – the Commission will consider whether it should take further action, including potentially imposing the escalating service restrictions proposed by CIK in its application.

Secretary General

## Related documents

- *Rogers Communications Canada Inc. – Application for non-discriminatory and timely access under reasonable terms and conditions to the multi-dwelling unit at 70 Yorkville Avenue, Toronto, Ontario, Telecom Decision CRTC 2022-148, 8 June 2022*

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<sup>9</sup> The application at issue in this proceeding is one of several filed by CIK in 2022 in which it requested non-discriminatory and timely access on reasonable terms and conditions to MDUs administered by various strata corporations in British Columbia.

- *Rogers Communications Canada Inc. – Request for non-discriminatory and timely access to the Telegraph Square multi-dwelling unit development and to future developments by IronGate Developments Inc.*, Telecom Decision CRTC 2022-5, 14 January 2022
- *Access to in-building wire in multi-dwelling units*, Telecom Regulatory Policy CRTC 2021-239, 27 July 2021
- *Shaw Cablesystems G.P. and Shaw Telecom G.P. – Request for access to multi-dwelling units developed by Concord Pacific Developments Inc.*, Broadcasting and Telecom Decision CRTC 2015-574, 22 December 2015
- *Bell Canada - Application for timely access on reasonable terms to Edenshaw Homes Limited's Chaz Yorkville multi-dwelling unit project*, Telecom Decision CRTC 2015-148, 16 April 2015
- *Bell Canada – Request for access to Plaza Corporation's York Harbour Club multi-dwelling unit building project*, Telecom Decision CRTC 2014-42, 5 February 2014
- *Provision of telecommunications services to customers in multi-dwelling units*, Telecom Decision CRTC 2003-45, 30 June 2003