

Fred James

Chief Regulatory Officer

Phone: 604-623-4046

Fax: 604-623-4407

bchydroregulatorygroup@bchydro.com

Via CRTC Website

December 18, 2020

Mr. Claude Doucet

Canadian Radio-television and Telecommunications Commission

(CRCT or Commission)

Ottawa, ON K1A 0N2

Dear Mr. Doucet:

**RE: Telecom Notice of Consultation CRTC 2020-366-1 (the Notice)
BC Hydro Submission of Intervention**

1. BC Hydro wishes to be considered as an intervener and participate in person in any future public hearing in this proceeding. The undersigned is BC Hydro's designated representative.
2. This intervention is intended to supplement the submission filed by the Canadian Electricity Association (**CEA**) because the manner in which BC Hydro and TELUS share many poles is unique in Canada. Accordingly, we provide the Commission with certain facts about the situation in British Columbia to inform its analysis and we have not provided a response to every question set out in the Notice.¹
3. BC Hydro is one of the largest energy suppliers in Canada, generating and delivering electricity to 95 per cent of the population of British Columbia. It operates an integrated system of 30 hydroelectric plants and two thermal generating stations, as well as approximately 78,000 kilometres of transmission and distribution lines. BC Hydro is an agent of the Government of British Columbia² and BC Hydro and its facilities fall within the constitutional jurisdiction of the Province of British Columbia, including under section 92A(1)(c) of the *Constitution Act*, 1867. As acknowledged in the Notice, the Commission does not have jurisdiction over the terms of access to poles owned by electricity utility companies,³ including BC Hydro.
4. BC Hydro and TELUS share about 85 per cent of the poles that support BC Hydro's electricity distribution wires and equipment. Almost all of these poles are jointly owned by BC Hydro and TELUS (the **Poles**).⁴ TELUS manages a physical 24 inch

¹ This intervention is made in accordance with the Notice providing that the scope of this proceeding is "...potential regulatory measures that could facilitate access to poles owned by Canadian carriers (telecommunications poles) or poles to which Canadian carriers control access..." and Notice paragraphs 18 to 22.

² *Hydro and Power Authority Act*, [RSBC 1996] Chapter 212, section 3.

³ The Notice at paragraph 18.

⁴ The remaining poles that are not jointly owned but are jointly used by BC Hydro and TELUS are poles with a service drop over a road, highway, railway, or other obstruction.

portion of each Pole, but always within the terms of its arrangement with BC Hydro. TELUS has no rights to attach its facilities, or allow others to attach their facilities, to any additional part of the Poles.

5. BC Hydro's primary concern regarding this proceeding is that there may be knock-on implications for BC Hydro and its ratepayers if the CRTC imposes additional obligations on TELUS. BC Hydro has statutory obligations under the *Utilities Commission Act* (B.C.),⁵ such as being obligated to provide our customers with electricity service that is in all respects adequate, safe, efficient, just and reasonable.⁶ While BC Hydro recognizes the importance of enabling the deployment of efficient broadband-capable networks, that deployment cannot compromise BC Hydro's operation of its electricity system or its ability to meet statutory obligations. To be clear, BC Hydro has been entrusted with responsibility for almost all of British Columbia's complex and hazardous electricity system. The Commission does not have expertise in electricity matters and should take great care not to put BC Hydro's electricity system at any risk whatsoever.
6. BC Hydro is also concerned that any additional obligations imposed on TELUS may result in increased costs for BC Hydro, such as a need for additional human and technical resources in the areas of design, standards and project delivery, and make ready work. These costs would ultimately be borne by BC Hydro's electricity ratepayers.
7. The Pole arrangements between BC Hydro and TELUS are carefully calibrated. In return for sharing the physical pole infrastructure, and its associated risks and costs, BC Hydro and TELUS have accommodated each other's operational needs.
8. BC Hydro is prepared to work with carriers to accommodate tweaked conditions of access by third-party carriers to the TELUS-managed portion of the Poles. However, any change to the regulatory regime applicable to TELUS must hold harmless BC Hydro and not effectively regulate BC Hydro, being careful not to act outside the Commission's authority.

A. Background

9. Each Pole has an allocation and use of space for TELUS' purposes. When a third-party carrier applies to TELUS for access to the 24 inch TELUS-managed portion of a Pole, TELUS is required to evaluate the request under the safety, technical, engineering, indemnity and other requirements worked out between TELUS and BC Hydro. TELUS may also impose additional requirements of which BC Hydro is unaware.
10. In some instances, TELUS is unable to accept a request without performing make ready work that can only be done by BC Hydro. In such a situation, TELUS submits a request to BC Hydro to provide a cost estimate and schedule for the make-ready work. BC Hydro reviews and provides a make-ready cost estimate and a proposed

⁵ RSBC 1996, c 473.

⁶ RSBC 1996, c 473, section 38.

schedule to TELUS. If, after receiving that information from TELUS, the third-party carrier decides to proceed, TELUS submits a request to BC Hydro to do the work. BC Hydro then informs TELUS when the work is complete.

11. Once the make-ready work, if any, is complete and all the other requirements are met, TELUS issues to the third-party carrier a permit authorizing the equipment to be attached to the TELUS-managed portion of the Pole.

B. BC Hydro Responses to Certain CRTC Questions

Q2. Should there be a maximum amount of time within which owners of telecommunications poles must complete make-ready work? If so, suggest what the maximum amount of time should be and when that time period should start. If not, provide rationale.

12. For the Poles, there should not be a maximum amount of time within which make-ready work must be completed. There is no “one-size fits all” timeline, for four reasons:
 - (a) There is no mechanism allowing TELUS to impose timelines on BC Hydro for make-ready work. While BC Hydro does perform make-ready work for TELUS and its third-party carrier applicants, and works to do so in a timely manner, that work is always in the context of BC Hydro’s statutory obligations to provide its customers with electricity service that is in all respects adequate, safe, efficient, just and reasonable.⁷ Make-ready for third-party carriers is done on a schedule that takes into account BC Hydro’s other work, such as service connections, restoration, maintenance and capital work. As an illustrative example, BC Hydro must have the flexibility to prioritize its work and allocate resources to emerging needs such as storms and forest fires.
 - (b) There are many factors that can impact the time required to complete make-ready work, including the volume and complexity of a particular request, and other TELUS requests for third-party carriers that BC Hydro is processing. For example, additional time may be required if:
 - ▶ There are right-of-way issues to resolve;⁸
 - ▶ Electric outage coordination is required;
 - ▶ Complex site work is required or work is weather dependent;
 - ▶ Non-stocked materials need to be procured;
 - ▶ The location is remote with no local crew availability;

⁷ *Utilities Commission Act*, RSBC 1996, c 473, section 38.

⁸ For example, if the pole is on private land or First Nations land, the licensees are required to acquire their own rights of way from the landowner or First Nation directly, which might not be known until after the detailed design is completed.

- ▶ Additional community consultation and iterative amendments to an application are required in order to optimize the solution for the third-party carrier (this consultation often takes place after preliminary design is complete);
 - ▶ The application involves new types or variants of equipment where additional review and evaluation of work methods, processes, and standards may be required to ensure public and worker safety;
 - ▶ The pole analysis indicates that a taller or stronger pole is required to support the proposed equipment; or
 - ▶ Existing equipment needs to be moved to another location on the pole or an existing anchoring configuration needs to be re-arranged, requiring coordination with TELUS or third-party carriers.⁹
- (c) There may be consultation requirements that have an impact on timelines. For example, First Nation consultation or archeological / heritage monitoring may be required, which may take additional time depending on the circumstances, and may impact timelines for the applicable government agencies to approve applications.
- (d) In general, make-ready works are becoming more complex. Some make-ready work requests require coordination (including obtaining approvals where applicable) with other stakeholders, including private land owners, municipalities, the provincial government (e.g. transportation and environment ministries), railway companies, and pipeline companies. Each of these stakeholders have their own timelines, which may depend on the complexity and number of requests they are reviewing. While such circumstances may not always arise, we believe they demonstrate that setting a maximum amount of time within which make ready work must be completed would be inappropriate and difficult to implement.

Q3. Should parties requesting access to telecommunications poles be permitted to commence preparatory work on the poles if the owner does not meet a relevant timeline established in the support structure service tariff (assuming that all permit applications include capacity plans prepared by a duly authorized engineer which validate the safety of the proposed installations)? Provide rationale.

13. Electrical infrastructure has significant safety and reliability considerations.
14. In no circumstances may anyone do work on a Pole that is generally done or managed by BC Hydro, without BC Hydro's express written permission. When doing its work, BC Hydro takes into account the materials that will be utilized, how they are sourced and quality assurance programs. It also takes into account the planning and

⁹ Sometimes when an additional anchor is added for telecommunication system purposes, existing BC Hydro (or both TELUS and BC Hydro) anchors need to be moved further from the pole to create sufficient space. This may trigger other issues (e.g., amending an existing right of way or the need to acquire additional property rights.)

execution of the work and exactly who will be doing the work. It is not sufficient, when dealing with electricity infrastructure, that a “duly authorized engineer” signs off. This work is, and must be subject to, multiple levels of utility control, risk mitigation, review and oversight by BC Hydro.

15. Any work on or related to the electrical system must be performed by qualified personnel and must be done in accordance with all safety and technical regulations and standards, including Part 19 of the Occupational Health and Safety Regulation.¹⁰ That regulation requires, for example, that certain work only be conducted by workers that are specially trained and, in some cases, only by qualified electrical workers. BC Hydro opposes any party that it has not authorized performing any preparatory make-ready work on Poles.
16. For the period of 2013 to 2020, BC Hydro is aware of at least 14 “near miss” safety incidents involving telecommunications personnel working on or near BC Hydro poles. BC Hydro is also aware of overloaded poles causing fires in other jurisdictions. For example, an investigation by the California Public Utilities Commission’s Consumer Protection and Safety Division concluded that poles were so top-heavy with electrical and telecommunications wires and equipment that they broke up in winds that they should have been able to withstand.¹¹ We believe these examples underscore the need for all work on Poles to be conducted by qualified personnel under supervision and oversight by electric utilities such as BC Hydro.¹²
17. However, there may be circumstances that are wholly within the ambit of TELUS’ management of its 24 inches of Pole space where TELUS uses approved contractors that can also be retained by third-party carriers to do certain work that would have been done by TELUS. TELUS would retain responsibility for all such work and BC Hydro would retain its rights to ensure all work is done in accordance with the obligations to and standards required by BC Hydro.

Q9. How can the Commission, within the limit of its jurisdiction, best minimize the challenges that parties face when trying to access poles that are subject to a joint-use agreement?

18. With respect to the Poles, BC Hydro suggests that third-party carriers apply to TELUS for attachment as early as possible, so that there is more time for TELUS to process those applications and efficiently consult BC Hydro if necessary.

¹⁰ BC Reg 296/97.

¹¹ Refer to: <https://www.mercurynews.com/2017/10/21/pge-helped-stall-effort-to-map-risky-power-lines-prone-to-wildfires/>.

¹² For example, refer to:
<https://www.mercurynews.com/2017/10/21/pge-helped-stall-effort-to-map-risky-power-lines-prone-to-wildfires/><https://www.nytimes.com/2018/06/14/business/energy-environment/california-fires-utilities.html>
<https://losangeles.cbslocal.com/2013/08/19/study-nearly-1-in-4-edison-utility-poles-overloaded/>.

19. Regardless of the regulatory approach adopted by the Commission in this proceeding, BC Hydro is engaged in efforts with TELUS to improve efficiency and service timelines. For example, BC Hydro and TELUS are working to improve reporting and performance metrics as well as adopt a more structured approach to make-ready work. The Commission may want to consider encouraging discussions between TELUS and third-party carriers that can inform TELUS and BC Hydro's on-going improvements.

Q10. When a Canadian carrier is authorized by way of a joint-use agreement to approve third-party attachments to poles owned by a utility company, should this authority be limited to the pole space that is assigned exclusively for the attachment of communication facilities? Provide rationale.

20. BC Hydro submits that the Commission does not have jurisdiction over poles. It has jurisdiction over TELUS and other carriers. As a result, the Commission cannot and should not seek to regulate the portion of the Poles managed by BC Hydro, but only TELUS' conduct in how it manages its 24 inch space on each Pole.

Q11. When a Canadian carrier is authorized by way of a joint-use agreement to approve third-party attachments to poles owned by a utility company, should all obligations relating to the review, approval, or denial of the requests be the same as those in the support structure tariffs for poles owned by the carrier? Provide rationale.

21. For poles jointly-owned by BC Hydro and TELUS, TELUS is required to meet or exceed any relevant BC Hydro standard and requirements when evaluating an application submitted by a third-party carrier. To the extent consistent with those standards and requirements, the Commission may oblige TELUS to deal with requests from third-party carriers in the same manner as the support structure tariffs for poles owned by TELUS.
22. The bottom line is that a telecom regime designed for telephone poles should not be imposed on poles that carry electricity system infrastructure, except with respect to matters that have no impact on BC Hydro and its facilities on the Poles.

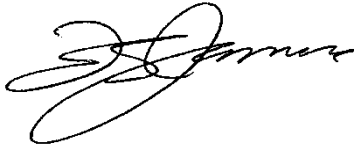
C. Conclusion

23. BC Hydro recognizes the Commission's concern that untimely and costly access to poles owned by Canadian carriers has negative impacts on the deployment of efficient broadband-capable networks, particularly in areas of Canada with limited or no access to such networks. To that end, BC Hydro believes that it is part of the solution and is working with TELUS to improve the make-ready process to enable efficient access to TELUS' telecommunication space.
24. BC Hydro cautions the Commission against "one-size fits all" regulatory measures for poles used by electricity utilities and telecom carriers. The better approach is to encourage planning and coordination between each set of electricity utilities, ILECs and others that seek to use such poles.

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25. For further information, please contact the undersigned.

Yours sincerely,



Fred James
Chief Regulatory Officer

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