REGION OF OTTAWA CARLETON
RÉGION D'OTTAWA CARLETON

REPORT
RAPPORT

Our File/N/Réf. **50** 50-00-1050
Your File/V/Réf.

DATE 03 October 2000

TO/DEST. Co-ordinator Transportation Committee

FROM/EXP. Director Infrastructure Maintenance
Environment and Transportation Department

SUBJECT/OBJET **MANAGEMENT OF REGIONAL RIGHTS-OF-WAY FOR UTILITY, CONSTRUCTION AND MAINTENANCE ACTIVITIES - CONSULTANT REPORT - *ADDENDUM* REPORT**

DEPARTMENTAL RECOMMENDATION

That Transportation Committee recommend Council exempt necessary utility repair and maintenance works to existing underground plant from the proposed trenching moratorium outlined in the 01 September 2000 staff report on this subject.

BACKGROUND

At its meeting of 20 September 2000 in considering the 01 September 2000 staff report on this subject, Transportation Committee referred this matter back to the Working Group to review the moratorium, fee and other related issues and that they be brought back to the Transportation Committee meeting of 04 October 2000. Accordingly, the area municipalities, utility companies and telecommunications companies were invited to provide further comments with respect to these matters.

DISCUSSION

A letter received from Enbridge Consumers Gas late on 20 September 2000 has been included with the previously received comments in the 01 September 2000 staff report. Bell Canada and Rogers Cable Systems have both provided further input. Bell Canada's letter of 26 September 2000 and staff's subsequent letter of clarification are also included in the staff report. Bell expressed concerns with proposals for emergency works and the moratorium. In follow-up telephone discussions, Bell officials confirmed their support for the moratorium but indicated that Bell did not recognize pavement degradation costs as an appropriate municipal "out-of-pocket" cost and that Bell would request that the matter of pavement degradation costs be deferred pending a decision from the Canadian Radio-television and Telecommunications Commission (CRTC) with respect to the current proceeding regarding the terms and conditions for telecommunications companies' access to municipal rights-of-way in the City of Vancouver (CRTC PN-99-25).

In staff's opinion, pavement degradation costs are very clearly direct costs incurred by the Region due to the activities of utility and telecommunications companies on Regional rights-of-way. As Regional expenditures, these costs are currently funded from the general property tax base. The Region commenced its review of fee issues and costs long before the current CRTC proceeding and, in endorsing the Federation of Canadian Municipalities' five rights-of-way management principles, Regional Council has, on several occasions, affirmed its position that it should not be out-of-pocket any costs due to the presence of private utilities or telecommunications companies using Regional rights-of-way. However, Bell Canada suggests that the Region should absorb pavement degradation costs as a "cost of doing business".

Staff met with Rogers Cable Systems on 28 September 2000 and a copy of Rogers' follow-up letter, dated 02 October 2000, is attached. Rogers indicates that the time spent discussing these issues on 28 September 2000 was time well spent and staff agrees. Rogers requests that the repair and maintenance of telecommunications plant be exempt from the proposed moratorium. Staff agrees with this. The intent of the moratorium is to encourage more co-ordination and co-operation with respect to utility works, including joint trenching. Since utility repair and maintenance works do not afford the same opportunity to do this as compared to the construction of new utility works, the exemption requested by Rogers is reasonable. Staff would monitor such activities on moratorium streets to ensure that utilities do not undertake new works, plant upgrades or replacements under the guise of the maintenance and repair exemption.

Rogers Cable Systems is also concerned about possible future actions that the Region (or the new City) may take with respect to rights-of-way fees and recommendations from the Ainley Group report. Staff indicated that the Region's standard approach on such matters has been to consult with all stakeholders and that it was expected that the new City of Ottawa would continue this open process. Regional staff very strongly support opportunities for joint utility/municipal dialogue on public rights-of-way matters and have participated in many such forums. It should be noted that earlier consultations on this specific project involved meetings, interviews, questionnaires, presentations, circulations of drafts of the consultant's report, circulation of the consultant's final report, requests for comments on staff's draft recommendations, telephone conversations and further meetings.

Committee and Council approval of the recommendations in the two reports will increase safety for workers and the public, reduce disruptions to the community, ensure longer road life, ensure better allocation of user costs and make for the more efficient use of scarce right-of-way space.

Approved by
L. Ross for W. S. Beveridge, P. Eng.

LAR/

Attach. (1)

ROGERS
CABLE

333 Bloor Street East
Toronto, Ontario M4W 1G9
Tel. (416) 935-6666

October 2, 2000

Mr. Lorne Ross, P.Eng.
Manager, Surface Projects Branch
Regional Municipality of Ottawa-Carleton
735 Industrial Avenue
Ottawa, ON K1G 5J1

Dear Lorne:

Re: Proposed Changes to the Regional Regulatory Code

It was a pleasure to meet with you on September 28, 2000 to discuss the proposed recommendations in your September 1, 2000 report to the Transportation Committee. We feel strongly that the additional time we were given to exchange information about your recommendations was both valuable and time well spent. The purpose of this letter is to summarize the issues we discussed and to advise the Region of where Rogers Cable's concerns remain.

With respect to the recommendation that the Regulatory Code be amended to institute a 3-year road cut moratorium in recently resurfaced roads or in roads where a telecommunications cut has recently been made, we are somewhat reassured by your acknowledgement of Rogers' statutory right to construct plant within the Regional rights of way. We also support the initiatives of the Region to co-ordinate the efforts of telecommunications companies with the goal of minimizing road cuts. Rogers is of the opinion that such efforts have the benefit of minimizing impacts to our mutual customers/constituents.

As noted during our discussion, we are most interested in the content of the Regulatory Code amendment, and we appreciate your offer to provide us with a copy of the draft amendment before it is presented to Council.

Rogers remains concerned that the moratorium exemption provisions that are to be included in the amendment will not adequately reflect the needs of the telecommunications industry. As we suggested during the meeting, we feel that a moratorium exemption should be available to repair or maintain telecommunications plant in a fashion that is similar to the exemption available for utilities where there is a gas or fluid leak, or where there is a public health or safety concern. We consider this request is appropriate given the significant number of our customers using the Rogers @Home high-speed internet service to order medication or obtain medical advice via the internet. Furthermore, we have a growing customer base using the @Home service for business purposes. Clearly, such uses cannot accept a potential 3-year wait for service restoration in the event of a disruption. This concern will escalate as Rogers rolls out a residential telephone service as announced last week (see article attached). Consequently, we are asking staff and Regional Council to include repairs and maintenance of telecommunications facilities as an additional exemption to the moratorium in the proposed Regulatory Code amendment.

With respect to the pavement degradation fee, Rogers accepts responsibility for paying the Region's legitimate out-of-pocket expenses related to works we undertake in the rights of way we use. We also undertake to continue working closely with your staff to review these fees from time to time. We are, however, concerned about the suggestion that past costs may be sought if permission to do so is granted for municipalities as a result of a CRTC decision in the Vancouver vs. Ledcor dispute. Such a policy would punish telecommunications companies retroactively for pursuing legitimate business activities and providing necessary services to the public. Nonetheless, we are prepared to await the outcome of that process before raising this issue further.

Concerning the proposed increase in the warranty period from 24 to 36 months, Rogers accepts the increased coverage sought by the Region. Waiving the permanent warranty provisions and instituting a fee for all permits is of concern given the very likely potential for increased permit fees in the future. However, as with future consultation required to deal with pavement degradation costs, we will undertake to work with staff to review permit fees in the future.

Finally, we also note that we continue to have a number of concerns with respect to the recommendations of the Ainley report. We understand that we will have further opportunity to address these concerns either through UPUCC committee meetings or joint utility/municipal staff meetings. It would be appreciated if you could keep us informed of any such meetings in the future.

In conclusion, we are grateful for the opportunity to share information and probe our concerns with you further. In our view, this time was extremely valuable. We are also pleased to confirm that we will continue to work with staff on the issues as outlined above.

However, we do request that the Regulatory Code amendment include a moratorium exemption such that telecommunications companies will reasonably be able to repair or maintain facilities in a moratorium road. We plan to attend the Transportation Committee meeting on October 4, 2000 to present our position on your recommendations.

If you have any questions with respect to Rogers' position on these issues, please call Robin McIntyre at (613) 759-8585 or me at (416) 935-4808. Thank you again for the opportunity to meet with you.

Yours very truly,

John Armstrong

John T. Armstrong, Director
Municipal & Industry Relations

Encl.

Search Results

Rogers to enter telephone market

Studying systems that would be tied to its cable TV network

KEITH DAMSELL

Tuesday, September 26, 2000

MEDIA REPORTER -- **Rogers Communications Inc.** plans to enter the local and long-distance telephone market next year, a new business that will pit the cable and wireless company against the country's telecommunications giants.

Rogers Telecom Inc., a newly formed unit, will spend three months studying advanced telephony systems and how they might work in conjunction with Rogers' TV cable network.

The unit will choose the most compatible system early next year and slowly begin integrating hardware and software into existing operations. The company expects to have its first residential phone customers by the end of 2001.

The telephone business "adds significant marginal value to what Rogers offers its customers today -- cable, the Internet, wireless and content," said Rogers Telecom president **Peter Ciceri**. Before joining Rogers, Mr. Ciceri was president and managing director of Compaq Canada Inc.

"The technology is developing at that rapid a pace that we really need to get going on this now so we can offer it when it really is feasible from an economic and a customer standpoint," Mr. Ciceri said.

Analysts expect Rogers will embrace Internet protocol telephony, which sends and receives voice as digital telephony, which sends and receives voice as digital information over co-axial cable wires. In theory, IP telephony users connect a digital box to their phone and TV cable.

The technology has yet to be proved commercially, but has won the backing of major U.S. players, including AT&T Corp., Cisco Systems Inc. and Sprint Corp.

It is expected that the telephone service will be marketed initially to Rogers' 266,000 high-speed Internet customers in Southern Ontario and Vancouver. Analysts estimate the initial startup cost will be $600 to $800 per customer.

Rogers and its cable rivals have flirted with the idea of offering local and long-distance services for several years, so news of a 2001 launch was no surprise to Bay Street analysts. Despite infrastructure costs and the technology risks associated with the phone system, there's much agreement that the Toronto-based company must secure more revenue streams via its valuable cable network to remain competitive, they said.

"Most institutional investors will greet this development cautiously with respect to the technology, but in principle very positively with respect to the economics," said Steven Salamon, an analyst at Toronto's HSBC Securities.

A second analyst, however, said Rogers will have its share of challenges in the low-margin telephone trade. The company will be forced to offer competitive rates to attract new customers to an unproved service, the analyst said.

"It's another possible revenue source for a cable company if the returns are good. But that's a big if," the analyst said.

Rogers' move into the telephone business "is not a huge surprise," said Nick Culo, spokesman for Vancouver-based Telus Corp. The telecommunications company controls the bulk of Western Canada's phone lines and is slowly expanding its reach into Central Canada.

"Anything can and will happen. It's been a competitive landscape for a long time and it's sure to get even more competitive. You have to welcome it if you're going to be successful."

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BCE Inc., the Montreal-based owner of Bell Canada, declined comment. "As soon as they announce their plans, we'll be happy to provide comment," said Norm Berberich, company spokesman.

BUSINESS

Report on Business Company Snapshot is available for:
ROGERS COMMUNICATIONS INC.

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