

REGION OF OTTAWA CARLETON

REPORT

RÉGION D'OTTAWA CARLETON

RAPPORT

Our File/N/Réf. **50 41-00-0001**
Your File/V/Réf.

DATE 06 June 2000

TO/DEST. Co-ordinator, Transportation Committee

FROM/EXP. Director Infrastructure Maintenance

SUBJECT/OBJET **USE OF REGIONAL ROADS BY TELECOMMUNICATIONS
AND UTILITY COMPANIES - PRESENTATION**

DEPARTMENTAL RECOMMENDATION

That Transportation Committee receive this verbal presentation and associated handout material for information.

BACKGROUND

Attached is a copy of a handout associated with a presentation made by an Environmental and Transportation Department staff member at the American Public Works Association's annual Ontario Chapter meeting in Toronto on 01 February 2000. A similar presentation was made to an International Right of Way Association workshop here in Ottawa on 12 May 2000.

Staff would like an opportunity to provide Transportation Committee with a brief overview of the effort that the Region has been making with respect to managing the use of Regional Roads by Telecommunications and Utility Companies.

Approved by
W. S. Beveridge

Attach. (1)



Ottawa-Carleton



**USE OF PUBLIC RIGHTS-OF-WAY
BY
UTILITY AND TELECOMMUNICATIONS
COMPANIES**

**APWA ONTARIO CHAPTER
ANNUAL GENERAL MEETING
TORONTO, ONTARIO
1 FEBRUARY 2000**

Approved by the Utility and Public Right Of Way Committee on August 3, 1999
Approved by the Government Affairs Committee on September 21, 1999
Adopted by the APWA Board of Directors on September 22, 1999

APWA Position Statement

PUBLIC RIGHTS-OF-WAY MANAGEMENT

Position

With the surge in new communications providers, deregulation of electric and gas industries, the need to upgrade aging water, sewer and drainage facilities coupled with enhanced environmental requirements, it is vital that public agencies retain authority to execute their statutory obligations and duties related to the public rights-of-way. In this fiduciary capacity, the responsible public agency must have the authority to regulate and manage public rights-of-way to ensure its efficient use through the development and implementation of effective policies, practices and regulations.

It is the position of the American Public Works Association that regulations developed by the Federal Communications Commission as well as legislation at the state and federal level, should uphold the authority of public agencies to manage the public rights-of-way and to receive fair and reasonable compensation for it's use. This includes the ability to:

- Establish permit, location, inspection, and pavement restoration controls
- Encourage cooperation among and develop scheduling and coordination mechanisms for all right-of-way users
- Obtain and maintain accurate information for locating existing and new facilities in the public rights-of-way
- Hold responsible parties accountable for the restoration of the public rights-of-way
- Charge and receive compensation for the use of the public rights-of-way

Issue and Rationale

The number of communications providers working in the public rights-of-way (PROW) has increased dramatically causing significant demands to be placed on all users of the PROW and on the publicly funded infrastructure as well. Public Agencies strive to keep public rights-of-way in a state of good repair and free of unnecessary encumbrances. Right-of-way obstruction contributes to lost business and is a cause of frustration for everyone that must avoid utility¹ construction projects or change travel or shopping plans because of them. Many elected officials have chosen to be good stewards of the public rights-of-way by adopting reasonable ordinances that allow them to:

- Manage the PROW on behalf of their citizens regarding public health, safety, and convenience.
- Manage the surface of the PROW to ensure the structural integrity, availability, safety and a smooth street surface for the traveling public.
- Manage the space below the surface to ensure safe and economical access to the Public Agencies' water, storm drain and sanitary sewer systems.
- Manage the space below the surface to ensure safe and economical access for all current and future users of the rights of way.
- Manage the space above the surface by managing the placement of overhead facilities to minimize safety hazards, to minimize the impact on community aesthetics and to promote development.

Each utility provider installs a separate system in its own unique location within the right-of-way. The systems are installed on existing pole lines, in narrow trenches, or conduits bored (augured) into place, which result in the street surface being repaired with “ribbon” like patches or smaller rectangular patches. Repeatedly cutting and repairing streets adversely impacts the life of a street. The adverse impact is particularly severe where there are multiple parallel or intersecting pavement cuts which reduce the structural integrity of the paved surface and the stability of its subgrade.

Multiple street openings or obstructions also have a detrimental economic consequence for residents and businesses that face frequent disruption. Construction, repair, and maintenance of utilities in the public rights-of-way entail extrinsic costs to the public in addition to right-of-way management costs such as the administrative demands, traffic control, and inspections. These extrinsic costs are typically not captured on the books of the municipalities in a readily identifiable fashion.

One of the cost categories that has been analyzed in some depth is the so-called disruption costs. The disruption cost is the economic penalty imposed as the result of the adverse impact on the citizens of a city and others who are required to alter travel routes and times resulting from right-of-way obstructions. These costs can be easily identified with a quantitative value given to them.

Other economic costs that are not identifiable in a public agency budget are the loss of business to merchants, air pollution, noise pollution, dust, lack of access to homes and offices, changing bus routes due to loss of access to streets, alleys and sidewalks and the general frustration of the public. These costs are real and substantial.

Background

In 1996 Congress passed the Telecommunications Act of 1996 which gave broad latitude to communications providers to install and market communications systems in communities across the country. The emphasis of the Act was on providing the greatest opportunities for communications providers to develop and expand. The Federal Communications Commission has been promulgating regulations under the Act. At the same time the courts continue to rule on cases between communications providers who want faster and cheaper access to their customer base and local governments who are obliged to use taxpayer dollars to provide public services, including the maintenance of roads and management of the public rights-of-way.

The right to obtain and use land for public benefit has been a long-standing tradition and is provided for by law. The concept of using a portion of the street right-of-way for providing both public and privately owned utilities has been a recognized action in the public interest for more than a century. The dynamic nature and constantly changing demands of society have continually increased the need for the movement of people and goods as well as access to utility services. Public corridors or strips of land known as public rights-of-way are normally acquired and developed by public agencies for transportation routes, water supply, waste disposal, power distribution, means of communications and similar services for the common good of the public with all uses generally being authorized and directed by public agencies. These agencies have the statutory obligation to regulate and manage the use of public rights-of-way in the interest of public safety and convenience. They also must provide for the operation and protection of public facilities.

Population as well as business growth is continuing to occur at rates often faster than can be accommodated by infrastructure capacity creating congestion in a limited resource, the public rights-of-way. This congestion is occurring, either temporarily by work crews or long term by the placement of above or below ground utilities. The budgets of public agencies are often directly impacted by the installation, repair and maintenance of facilities which cause traffic obstruction, underground congestion and pavement degradation. Pavement cuts for the placement of new facilities or access to existing structures have become a persistent problem.

¹ Utility --- privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water, or any other similar commodity, including any fire or police signal system or street light system, which directly or indirectly serves the public.



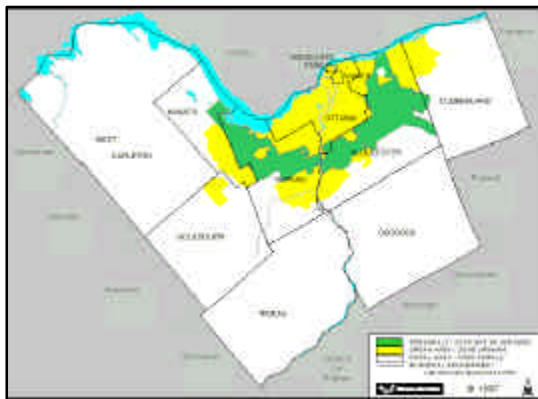
USE OF PUBLIC RIGHTS-OF-WAY BY UTILITY AND TELECOMMUNICATIONS COMPANIES

APWA ONTARIO CHAPTER
ANNUAL GENERAL MEETING
TORONTO, ONTARIO
1 FEBRUARY 2000

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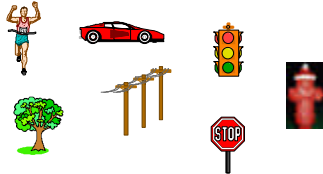


REGION OF OTTAWA-CARLETON PUBLIC RIGHTS-OF-WAY

- 12 MUNICIPALITIES (1 ON 1 JAN 2001)
- 750,000 POPULATION
- 1,000,000 METRO
- 1,250 KMS OF REGIONAL ROADS
- 5,700 TOTAL KMS IN THE REGION
- 3,100 LN-KMS OF REGIONAL ROAD
- 2,757 SQUARE KMS

PUBLIC RIGHTS-OF-WAY - MULTIPLE USES

- PEDESTRIANS
- VEHICLES
- SHADE TREES
- SIGNS/SIGNALS
- STREET LIGHTS
- ELECTRIC WIRES
- COMMUNICATIONS (TELEPHONE, CABLE TV ETC)
- SANITARY SEWERS
- STORM SEWERS
- WATER MAINS
- GAS LINES
- PIPELINES
- STREET FURNITURE
- MANY OTHERS

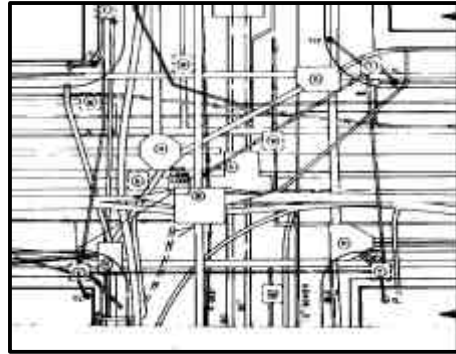


PUBLIC RIGHTS-OF-WAY MANAGEMENT

- BALANCE
- ESSENTIAL AND COMPETING DEMANDS
- R-O-W MANAGEMENT PRACTICES AND POLICIES
- HEALTH
- SAFETY
- WELFARE
- ECONOMICS
- FINITE RESOURCE
- BENEFIT OF ALL USERS



PUBLIC RIGHTS-OF-WAY MANAGEMENT



KENT STREET AND SLATER STREET - OTTAWA

PUBLIC RIGHTS-OF-WAY MANAGEMENT

**BACKHOE STRIKES
24-INCH GAS MAIN
IN CHICAGO
LINE MISMARKED**



PUBLIC RIGHTS-OF-WAY MANAGEMENT

1838

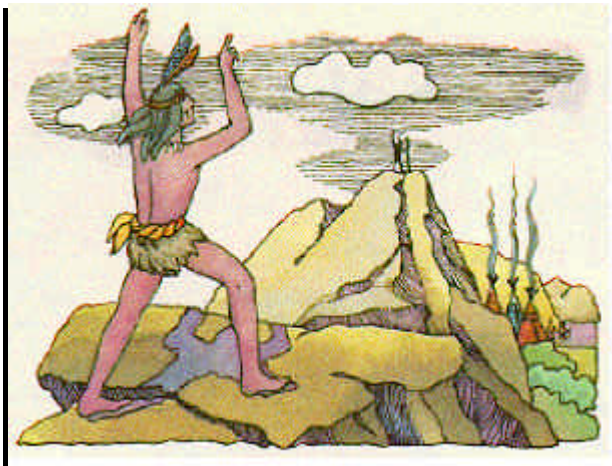
“What hath God wrought?”



Telegraph



Samuel F.B. Morse



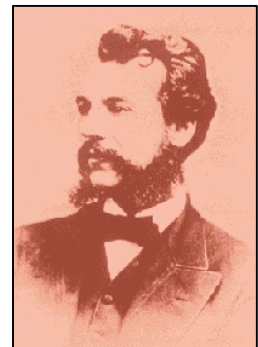
PUBLIC RIGHTS-OF-WAY MANAGEMENT

1876

**“Mr. Watson, come here,
I want you!”**



The telephone



Alexander Graham Bell

PUBLIC RIGHTS-OF-WAY MANAGEMENT



LAYING FIRST TRANS ATLANTIC CABLE-1858

PUBLIC RIGHTS-OF-WAY MANAGEMENT

- MONOPOLY
- DEREGULATION (22 TELECOMS)
- TECHNOLOGICAL CONVERGENCE
- MUNICIPAL AWARENESS
- FISCAL REALITIES
- PRO-ACTIVE
- COST RECOVERY
- REVENUE GENERATION

PUBLIC RIGHTS-OF-WAY MANAGEMENT INCREASED COSTS

- ADMINISTRATION
 - PLANS REVIEW
 - CO-ORDINATION
 - PERMITS
 - INSPECTION
 - RECORDS
 - LEGAL
- RELOCATION/ADJUSTMENTS
- "WORK AROUND"
- SHORTER STREET LIFE
- TRAFFIC DISRUPTION
- EXPOSURE OF WORKERS AND PUBLIC TO RISKS



PUBLIC RIGHTS-OF-WAY MANAGEMENT



DECORATIVE CROSSWALK - WASHINGTON

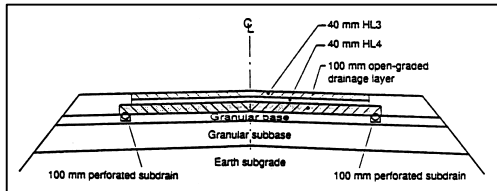
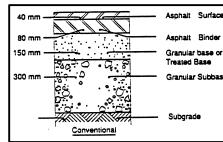
PUBLIC RIGHTS-OF-WAY MANAGEMENT



UTILITY TRENCHING DAMAGES ROADS

PUBLIC RIGHTS-OF-WAY MANAGEMENT

PAVEMENT STRUCTURE



PUBLIC RIGHTS-OF-WAY MANAGEMENT PAVEMENT DEGRADATION COSTS

Time since last Resurfacing (years)	Economic life cycle loss (minimum) due to utility trenching (per m ²)
2 or less	\$24.00
>2 to 4	\$20.00
> 4 to 7	\$16.00
>7 to 10	\$10.00
More than 10	\$ 4.00

Pavement Life cycle costs due to utility trenching in Ottawa-Carleton



TRENCHLESS TECHNOLOGIES

PUBLIC RIGHTS-OF-WAY MANAGEMENT

“Working around” telecommunications duct banks on Elgin Street in Ottawa - 1999



PUBLIC RIGHTS-OF-WAY MANAGEMENT

- STATUTORY RIGHT
- MUNICIPAL CONSENT
- TERMS AND CONDITIONS

PUBLIC RIGHTS-OF-WAY MANAGEMENT MUNICIPAL ACCESS AGREEMENT

- CONSENT
- BY-LAWS/STATUTES
- TERM/EXPIRY
- PLANS REVIEW
- WORK TO SATISFACTION
- STOP WORK PROVISIONS
- PROTECTION OF TREES AND OTHER PROPERTY
- AS-BUILTS
- PUC MEMBERSHIP
- 24 HOUR CONTACTS
- THIRD PARTY NOTIFICATION
- WORKMAN'S COMP
- INSURANCE/INDEMNIFICATION
- REPORTING
- DISPUTE MECHANISM
- PAYMENT OF FEES/COMPENSATION

OTTAWA-CARLETON RIGHTS-OF-WAY

- GENERIC AGREEMENT (UPDATE 20 JULY 1999)
- DARK AND LIT FIBRE COMPENSATION
- EXCESS CAPACITY
- GEODETIC REFERENCE
- ENVIRONMENTAL RESPONSIBILITY
- ABANDONED PLANT PROVISIONS
- ENCOURAGE USE OF EXISTING PLANT

OTTAWA-CARLETON'S PUBLIC RIGHTS-OF-WAY POLICY

- SIX REPORTS TO COUNCIL
- REGIONAL COUNCIL 9 SEPTEMBER 1998
- THREE REQUIREMENTS
 - FCM PRINCIPLES
 - WILLING TO NEGOTIATE MAA
 - DISCLOSE THIRD PARTIES
- AGGRESSIVE APPROACH
 - TIME LINES
 - NO PERMITS

OTTAWA-CARLETON'S PUBLIC RIGHTS-OF-WAY

- BELL CANADA
- LEDCOR (WORLDWIDE FIBER)
- AT&T CANADA
- ROGERS CABLE
- TELUS
- CONSTANCE BAY TV
- GROUP TELECOM
- VIDEOTRON
- EARLY IN GAME (18 AND 22)
- GAS INDUSTRY

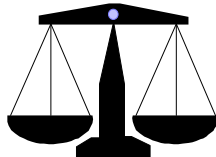
PUBLIC RIGHTS-OF-WAY MANAGEMENT MAA

- MULTIDISCIPLINARY EFFORT
- PROPERTY
- LEGAL
- FINANCE
- ENGINEERING
- INFORMATION TECHNOLOGY



PUBLIC RIGHTS-OF-WAY MANAGEMENT

- CRTC VANCOUVER/LEDCOR CASE (www.crtc.gc.ca)
- ONTARIO ENERGY BOARD (www.oeb.gov.on.ca)
- US COURT CASES
- FCC (www.fcc.gov)



PUBLIC RIGHTS-OF-WAY MANAGEMENT

WHAT IS RIGHT-OF-WAY "USE"?

- AERIAL
- SURFACE
- UNDERGROUND
- OWNED
- LEASED
- SWAPPED
- IRU
- WHETHER IN SOMEONE ELSE'S SUPPORT STRUCTURES OR NOT



PUBLIC RIGHTS-OF-WAY MANAGEMENT

AERIAL FIBRE

Stringing fibre optic cable along the Trans Canada Highway near Sudbury in November 1999



PUBLIC RIGHTS-OF-WAY COMPENSATION



ITS NOT ONLY ABOUT THE MONEY!

- PUBLIC RIGHTS-OF-WAY MANAGEMENT
 - HEALTH
 - SAFETY
 - WELFARE
 - BENEFIT ALL USERS AND COMMUNITY
- COST RECOVERY VS SUBSIDIZATION
- FEES VS TAXES
- ADDITIONAL USE OR LICENCE FEES
- COMPENSATION MODELS
- OTTAWA-CARLETON'S OEB SUBMISSION

UTILITY AND PUBLIC RIGHT-OF-WAY (UPROW) COMMITTEE



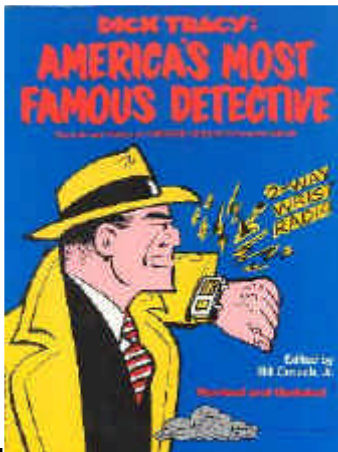
- APWA PET COMMITTEE
- UTILITY/TELECOM/PUBLIC AGENCY MEMBERS
- 28 ISSUES
- 3 SUBCOMMITTEES
- POSITION STATEMENT
- HOUSTON SUMMIT NOV 99
- NATIONAL/REGIONAL/LOCAL FORUMS
- SHADOW UPROW AT CHAPTER LEVEL
- APWA'S WEB SITE www.apwa.net

PUBLIC RIGHTS-OF-WAY MANAGEMENT

"WIN-WIN"



- TECHNOLOGICAL REVOLUTION
- ECONOMY AND COMMUNITY
- NEEDS ARE NOT MUTUALLY EXCLUSIVE
- FAIR AND REASONABLE
- EDUCATION
- COMMUNICATION
- CO-OPERATION
- RESPECT



THANK YOU

**AMERICAN PUBLIC WORKS ASSOCIATION
UTILITY AND PUBLIC RIGHTS-OF-WAY COMMITTEE
ANNUAL REPORT 1998-1999
SEPTEMBER 21, 1999**

**Leonard Krumm, Chair
Liaison**

John MacMullen, Staff

BACKGROUND:

The Utility and Public Rights-of-Way Committee (UPROW) was appointed in April of 1998 after a task force identified 30 major right-of-way management issues and recommended the creation of a new P/E/T Committee to work on these issues. Since that time UPROW has been working for the membership by delivering products and creating mechanisms for enhancing a mutual understanding of management of the public rights-of-way. This is being accomplished by providing guidance in the area of planning and coordination, best practices for construction and restoration, and examples of right-of-way management.

The Committee members are Paul Devaney, Telcordia Technologies; Tom Jackson, Georgia Power Company; Diane Linderman, City of Richmond; Lorne Ross, Region of Ottawa-Carleton; and Leonard Krumm, City of Minneapolis. The Committee conducts its business by holding monthly teleconference calls which are also attended by the chairs of its three subcommittees: Mark Macy, Construction Practices; Walt Pegram, Planning and Coordination; and John Cunningham, Public Right-of-Way Management.

Throughout the past year and one-half the Committee has used the original task force report as a guideline for writing its business plan and conducting business. The Committee has been focused on policy issues and product management while the three sub-committee chairs are concentrating on the previously identified issues. The 30 issues were reduced to 28 issues and then divided into three main categories; Construction Practices, Planning and Coordination, and Rights-Of-Way Management. They are also charged with identifying other issues that they consider appropriate.

CURRENT ACTIVITIES:

- The committee is working on a grant proposal for APWA to revise and expand the Federal Highway Administration (FHWA) publication number FHWA-SA-93-049, *Highway/Utility Guide*. FHWA approval of this grant will allow APWA to be a major contributor to the management of the public rights-of-way.
- Right-of-way management documents are being obtained, analyzed and posted on the APWA web site as examples for the membership to use in their own situation.
- The Committee was contacted by the US Government's Federal Laboratory Consortium for Technology Transfer and assisted in the development of a Statement of Need for new underground infrastructure location technology. This will be an ongoing project in the next twelve months as potential technologies are suggested and evaluated.

- Committee members have met with representatives of the National Research Council of Canada to evaluate their proposed pavement restoration project and advised them about issues critical to our membership.
- Three technical sessions for the 2000 International Public Works Congress and Exposition are being developed.
- Discussions are being conducted with the president-elect of the International Right-of-Way Association to explore working together on areas of mutual concern.
- Committee members are planning and coordinating a summit meeting between the members of the Urban Forum and executives of the communications industry for the purpose of establishing "Common Ground-Peaceful Coexistence between Public Agencies and the Telecommunications Industry."
- A recently completed right-of-way management survey is being reviewed and evaluated to help determine next years priorities.

ACCOMPLISHMENTS:

- In conjunction with the One-Call Systems International Committee, the UPROW Committee has initiated a quarterly newsletter and published its first two issues.
- The UPROW Committee has been active in obtaining items for posting on the web site. As of early August over two-dozen papers, model ordinances and sample documents relating to managing public rights-of-way had been posted in the Resource Center area on APWA's web site. An additional 30 to 40 documents have been obtained in hard copy format and will be posted to the web site upon conversion to electronic formats.
- The Committee has also developed three technical sessions for this year's Congress and will support both a Roundtable and Peer Discussion Forum in Denver. A Business Plan for 1999-2000 has been developed and approved.
- An APWA Policy Statement supporting the right of local governments to exercise control over public rights-of-way has been drafted and submitted to the GAC.
- The Committee has also been asked to work with NATOA and other associations interested in managing public rights-of-way.
- The Committee held its spring meeting in the Washington, D.C. office. In-addition to conducting normal Committee business meetings were held with a senior staff members of the Federal Communications Commission and the Federal Highway Administration.
- Committee members responded to all general member inquiries and requests.
- The Construction Practice Subcommittee completed a review of several traffic control manuals and has recommended sections that they feel represent the "best practices" in each area.
- Four right-of-way management articles were written for the APWA Reporter.

SUPPORT:

The mission and goals of this committee would not get started much less completed if it weren't for the efforts of the people listed here.

SUBCOMMITTEE MEMBERS: The members of the subcommittees (rosters attached) are the backbone of the Committee. It is through their efforts that the 28 major issues are being addressed and the presentations are being made at congress.

RICHARD RIDINGS: Richard keeps us focused by reminding us about the "APWA big picture". He has been a positive influence on the Committee and especially valuable during the times that the committee was struggling with its mission. He keeps pushing us to do more than we think is possible.

DENNIS ROSS: Dennis is the clutch hitter that the Committee goes to for solutions to the unique problems. Quite often he provides some guidance and then provides direction by asking key questions that let us find our own solutions.

SARAH LAYTON: Sarah has been extremely helpful because she forced the Committee to do what it doesn't like to do, draft policy. Through her efforts a right-of-way management policy was written and forwarded to the Government Affairs Committee.

JOHN MACMULLEN: Mac has been the workhorse of the Committee. It has been through his efforts that the list of accomplishments was completed and that the current activities of the Committee continue to move forward at a respectable pace.



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Memorandum

Date: November 5, 1999

To: Common Ground Summit Attendees

From: John MacMullen

Re: Right-of-Way Management Resources Available on the Internet

The American Public Works Association and several other organizations are using the Internet to make resource materials on right-of-way management available to interested individuals, agencies and firms. The following is a brief listing of some of these sites:

- <http://www.apwa.net/resourcecenter/row.htm> – APWA ROW Management Resource Center page. This site contains links to other resource sites on the Internet, model ordinances and franchise agreements, studies and papers.
- <http://www.mrsc.org> – Municipal Research & Services Center of Washington home page. This site contains ordinances, links to other Internet sites, and reviews of federal court cases written by city attorneys.
- <http://munitelecom.org> – Municipal Telecommunications Strategies Program home page. This site serves as the portal to *The Journal of Municipal Telecommunications* and provides links to numerous other Internet sites.

In addition to the materials available for download from the APWA Resource Center other studies, papers and publications are available in hard copy format. For further information on these materials see the enclosed Publications Catalog or contact John MacMullen at APWA National Headquarters.

APWA Your Source for Information on Public Works

y, November 30, 1999

NATIONAL POST

Here's one reason to blame your busted shocks on the Internet



Associated Press

Drivers in Washington are spending more time with their cars in repair shops, cyclists are bouncing off their bikes and winter threatens to be awful for commuters -- all because of a law passed by Congress. As a result, telecommunications companies have been digging up the streets of Washington in the race to go high-tech. "It's a life-threatening situation," said Mark Gross, who manages Quick Messenger Service. "Just the other day, I witnessed a moped rider for one of our competitors go down really hard." And drivers on four wheels have had problems as well. "For the past year, it seems like my car is in the shop all the time," said Sheila Hankley as she manoeuvred her Mercedes-Benz around trenches and patches on one downtown road. "I've needed my alignment adjusted, and my muffler fell off." Other parts of the United States have had similar experiences. "Telecom companies intruded on our cities," complains Leonard Krumm, director of field services for Minneapolis. "We weren't prepared at all." In Washington, 12 firms are now installing fibre-optic cable under streets and permits are pending for many others, according to the city's public works department. The telecommunications companies are digging trenches to install fibre-optic cable for high-speed Internet use and other services. Businesses say this is essential because fibre optics carry more data at a higher speed than existing copper-wire technologies. The rush to wire cities started after Congress passed the 1996 Telecommunications Act. It requires cities to allow companies to install fibre-optic cable, although cities can set regulations governing the work. Some drivers say it's just not worth the trouble.

