

ITEM	7
MANAGER'S REPORT NO.	43
COUNCIL MEETING	93/06/28

TO: CITY MANAGER  
 FROM: CITY SOLICITOR  
 RE: FEDERAL LEGISLATION TO REGULATE TELECOMMUNICATIONS  
 PURPOSE: To respond to Council's request for information.

DATE: JUNE 18, 1993

Recommendation:

1. This report is for the information of Council.

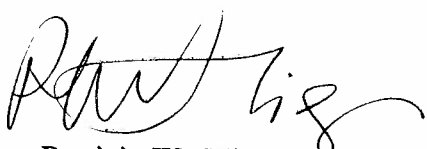
REPORT

Council requested a report from staff on a new federal statute, the Telecommunications Act, which has passed all readings in the House of Commons and is being considered by the Senate.

The U.B.C.M. is concerned that municipalities were not consulted about a section of the Act that gives the C.R.T.C. powers to allow a telecommunications company to construct a transmission line even though the municipality in which the line is located has not consented to the construction.

Comparison of the new legislation with existing legislation (Section 329 of the Railway Act) reveals that the C.R.T.C. enjoys that power now and the section highlighted by the U.B.C.M. does not appear to be a significant change.

Section 48(4) of the Telecommunications Act and section 329 of the Railway Act are attached for reference. Note that reference to a telephone company in the Railway Act has been interpreted to include a cablevision company.



Patricia W. Flieger  
 City Solicitor

PWF:sb  
 Attach.

c.c. Director Administrative & Community Services

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Clause 48

Application by carrier

(4) Where a Canadian carrier or distribution undertaking cannot, on terms acceptable to it, obtain the consent of the municipality or other public authority to construct a transmission line, the carrier or distribution undertaking may apply to the Commission for permission to construct it and the Commission may, having due regard to the use and enjoyment of the highway or other public place by others, grant the permission subject to any conditions that the Commission determines.

Access by others

(5) Where a person who provides services to the public cannot, on terms acceptable to that person, gain access to the supporting structure of a transmission line constructed on a highway or other public place, that person may apply to the Commission for a right of access to the supporting structure for the purpose of providing such services and the Commission may grant the permission subject to any conditions that the Commission determines."

*Chemins de fer*

Chap. R-3

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(b) above, across or adjacent to any private way, entrance or lane used for vehicular traffic,

and no company shall affix or maintain any wires at any lower height than that so determined by the Commission, nor shall the company erect more than one line of poles along any highway. R.S., c. R-2, s. 318.

b) au-dessus, en travers ou en bordure de tout chemin privé, avenue ou ruelle utilisés pour le passage de véhicules.

Une compagnie ne peut fixer ni maintenir de fils à un niveau plus bas que celui que la Commission a indiqué, ni ne peut ériger plus d'une ligne de poteaux le long d'une voie publique. S.R., ch. R-2, art. 318.

Consent of municipality

329. (1) Notwithstanding anything in any Act of Parliament or of the legislature of any province, or any power or authority conferred thereby or derived therefrom, no telegraph or telephone line within the legislative authority of Parliament shall, except as provided in this section and sections 330 to 332, be constructed by any company on, along, across or under any highway, square or other public place without the legal consent of the municipality having jurisdiction over the highway, square or public place.

Consentement de la municipalité

Leave of Commission

(2) If any company cannot, in respect of any telegraph or telephone line, obtain consent from a municipality, or cannot obtain the consent otherwise than subject to terms and conditions not acceptable to the company, the company may apply to the Commission for leave to exercise its powers, and with the application shall submit to the Commission a plan of the highway, square or other public place showing the proposed location of the lines, wires and poles.

(2) Si une compagnie ne peut, à l'égard d'une telle ligne, obtenir le consentement de cette municipalité, ou ne peut obtenir ce consentement qu'à des conditions qui ne sont pas acceptables par la compagnie, celle-ci peut demander à la Commission l'autorisation d'exercer ces pouvoirs, et en faisant cette demande elle soumet à la Commission un plan de cette voie publique, de ce square ou de cet autre lieu public, en indiquant l'emplacement projeté de ces lignes, fils et poteaux.

Permission de la Commission

Powers of Commission

(3) The Commission may refuse or may grant an application in whole or in part, may change or fix the route of the lines, wires or poles, and may by order impose any terms, conditions or limitations in respect of the application that it deems expedient, having due regard to all proper interests.

(3) La Commission peut refuser ou accorder cette demande, en totalité ou en partie, et elle peut changer ou fixer le tracé de ces lignes, fils ou poteaux, et, par ordonnance, imposer à cet égard les conditions ou restrictions qu'elle juge convenables, en tenant compte de tous les intérêts légitimes.

Pouvoirs de la Commission

Exercise of powers

(4) On an order being made, and subject to any terms imposed by the Commission, the company may exercise its powers in accordance with the order, and shall in the performance and execution thereof, or in the repairing, renewing or maintaining of the lines, wires or poles, conform to and be subject to the provisions of section 327, except in so far as those provisions are expressly varied by order of the Commission. R.S., c. R-2, s. 318.

(4) Cette ordonnance une fois prise, la compagnie peut, sous réserve des conditions imposées par la Commission, exercer ces pouvoirs en conformité avec l'ordonnance, et dans l'accomplissement et l'exécution de cette ordonnance, ou dans la réparation, le renouvellement ou l'entretien de ces lignes, fils ou poteaux, elle doit se conformer et elle est assujettie aux dispositions de l'article 327, sauf dans la mesure où ces dispositions ont été expressément modifiées par ordonnance de la Commission. S.R., ch. R-2, art. 318.

Exercice des pouvoirs

