

**BEFORE THE CANADIAN RADIO-TELEVISION AND
TELECOMMUNICATIONS COMMISSION**

PART 1 - Raftview Communications Ltd



COMMENTS

OF

TELUS COMMUNICATIONS COMPANY

August 25, 2014

Table of Contents

Introduction.....	2
Raftview’s Position.....	3
Background.....	4
TELUS’ Argument.....	5
Conclusion	14

Introduction

1. TELUS Communications Company (“TELUS” or the “Company”) is in receipt of an Application filed by Raftview on July 23, 2014 pursuant to Part 1 of the *CRTC Rules of Practice and Procedure* (the “Rules”).
2. TELUS has also discovered the Interventions of Mascon Cable Systems, Keta Cable Inc., Ucluelet Video Services Ltd., Seaview Communications Ltd. and Canadian Cable Systems Alliance Inc. (“CCSA”) on the Commission’s website (none of which were sent to TELUS), that support Raftview’s Application. The interveners allege that they have been overbilled for charges related to service poles not owned by TELUS (privately owned poles)¹.
3. As a point on procedure, these interventions filed by other cable companies assert their own relief, separate from Raftview’s Application. However, these interventions do not constitute Part 1 applications under the Rules. It would be procedurally unfair for the Commission to grant any relief requested by the interveners as a result of Raftview’s Application. TELUS requests that the Commission advise all interveners that seek relief to file their own applications under Part 1 of the Rules, allowing TELUS a suitable opportunity to respond. In any event, TELUS advises the Commission that it is already undertaking discussions with each of the interveners separately on the issues that they have raised, so any such Part 1 application are premature at this time.
4. Raftview does not request any specific action on the Commission’s part, other than asking the Commission to resolve an ongoing dispute with regard to TELUS’ service pole audit. In light of Raftview’s admission that its Application has “shortcomings”² and it lacks a full understanding of the regulatory processes established for Part 1 applications, TELUS requests the opportunity for further

¹ Mascon Cable Systems intervention filed August 1, 2014; Keta Cable Inc.’s intervention filed Aug. 15, 2014, Ucluelet Video Services Ltd. Intervention filed Aug. 18, 2014 and Seaview Communications Ltd. Intervention filed Aug. 19, 2014.

² Paragraph 1, Raftview Communications Ltd. Part 1 Intervention, July 23, 2014.

reply should Raftview raise matters or make statements in its reply to TELUS' Answer that are contrary to Section 27(2) of the Rules.

5. The following comprises TELUS' Answer to Raftview's Application pursuant to Section 25 of the Rules.
6. Failure by TELUS to address, in this Answer, any assertion made by Raftview in its Application and the cable operators in their Interventions should not be construed as agreement or acquiescence with that assertion where such agreement or acquiescence would be inconsistent with the interests of TELUS.

Raftview's Position

7. In its Application, Raftview alleges unacceptable charges by TELUS for service pole use and that TELUS has "stretched the intent of 2011-406 to include privately owned and maintained poles that should not be part of their [TELUS'] inventory"³ and that TELUS is claiming ownership of any pole where facilities are attached.
8. As a first point, in its Application, Raftview places no evidence or argument on the record supporting its allegation that TELUS is claiming ownership of customer-purchased service poles. All Raftview offers the Commission is a questionable characterization of a conversation with a TELUS staffer. Even the broadest interpretation of the TELUS staffer's comments does not imply ownership claims. The TELUS staffer was discussing how, as will be discussed later in this submission, the Company assumes administrative and maintenance responsibilities on service poles when TELUS attaches to these poles.
9. On the argument about unacceptable charges, to support its argument that service poles on private property attract zero or little cost to the Company, Raftview offers a PDF file of a quote from a supplier for hooks amounting to \$0.33. The implication of the quote and accompanying discussion is that this represents the

³ Paragraph 13, Raftview Communications Ltd. Part 1 Intervention, July 23, 2014.

total cost that TELUS incurs in the administration and maintenance of each service pole – an implication that is seriously inaccurate and reflects a minimal understanding of the extensive proceeding that led to the Commission’s determinations on support structure costs. TELUS will describe below the costing approach for service poles and why its charges are consistent with the Commission’s past decisions.

Background

10. Telecom Decision CRTC 2010-900 (“Decision 2010-900”) and Telecom Decision CRTC 2011-406 (“Decision 2011-406”) very clearly step through the costing exercise for establishing a tariff rate for service pole attachment. These Decisions describe, both in the body of the Decisions and the Appendices, the various cost components considered in order to determine a mainline and service pole rate. Based on these Decisions, Raftview’s suggestion that the only cost TELUS, or any other Incumbent Local Exchange Carrier (“ILEC”) in Canada, incurs is the cost of a hook for the administration and care of service poles is completely wrong and misinformed.
11. Even though Raftview has previously filed a CRTC application against TELUS⁴, the Company understands that Raftview, being a small cable company, does not have the regulatory resources of larger telecommunications and broadcasting companies. However, that is no justification for Raftview’s misinformed Application, because it is required to pay rates in accordance with TELUS’ tariffs.
12. In addition, as a member of the CCSA, Raftview has access to that organization’s regulatory expertise. In fact, the CCSA was a very active participant in Telecom Notice of Consultation 2009-432 and the follow-up to Decision 2010-900. Most recently, the CCSA intervened in a proceeding initiated by Shaw Communications Inc. with regard to the administration of TELUS’ tariff for Support Structure Service.

⁴ Raftview Communications Inc., complaint filed against TELUS Communications Inc., August 27, 2003, filed pursuant to Part VII of the former *CRTC Telecommunications Rules of Procedure*.

13. This is not the first time that cable companies have suggested that service poles represent little or no cost for the ILECs. In Comments filed by Bragg Communications Inc., the CCSA, Cogeco Cable Inc., Quebecor Media, Rogers Communications Inc., and Shaw Communications Inc., (the “Cable Companies”) respecting Telecom Notice of Consultation CRTC 2009-432, the Cable Companies claimed that:

Service poles are generally located in rural areas and are essentially used to support drop wires from the main lines to the homes of subscribers, often in a location free of vegetation. The relative weight of drop wires causes almost no stress on the poles. Consequently, the maintenance required for service poles is minimal, or non existant (*sic.*)

14. In Decisions 2010-900 and 2011-406 the Commission held otherwise and recognized that there are costs associated with the administration and maintenance of service poles. Raftview is simply attempting to revive an argument that was settled some four years ago.

TELUS’ Argument

15. At the outset, TELUS refutes Raftview’s allegations that TELUS claims ownership of service poles provisioned by a customer⁵. TELUS will demonstrate that it has correctly considered these service poles as chargeable poles pursuant to Decision 2011-406 and TELUS’ Support Structure Service Tariff, CRTC 21461, Item 404 (“Tariff Item 404”).

1. Service Pole Charges Are Based on Equitable Treatment of Licensees

16. While Support Structure Service Licensees, such as cable television undertakings, use service poles to provide broadcasting and telecommunications services to customers, not all Licensees use service poles and some only attach to mainline poles to carry services between locations.

⁵ CRTC 21461, Item 406.2.18, Construction Charges,.

17. Prior to Decision 2011-406, users of only mainline poles essentially subsidized service pole Licensees who enjoyed an effective rate of zero for these poles. Therefore, the Commission has permitted charges for service poles to ensure equitable treatment of all Licensees. Accounting for service poles and mainline poles and the total associated support structure service costs is the costing methodology the Commission determined appropriate to properly apportion costs among all users of the Company's Support Structure Service.

2. Difficulties in Determining Service Pole Ownership

18. In its Application, Raftview implies that pole placement, whether on private or public property, should form the basis of whether or not TELUS owns a pole and thereby be permitted to apply the service pole tariff rate. Below, TELUS provides reasons why Raftview's position is both incorrect and unworkable.
19. First, from a practical perspective, over the course of the expected life of a service pole, the ownership of the property on which the pole is located could experience numerous ownership changes. The fact that a service pole is located on private property does not make it obvious who purchased or placed the pole. Resolving proof of purchase and payment for each service pole located on private property would be an administrative burden for all parties.
20. As an example, the width of public roads often extends well beyond the travelled portion of the road and can frequently extend ten metres or more on either side of the centre line. As such, often a pole that appears to be on private property is, in fact, on public land. Again, determining whether a pole is on public or private property would involve a significant amount of resources expended by the Licensees and TELUS. In any event, such an exercise is irrelevant.

3. Precedents and Historical References Demonstrate that Ownership of a Pole Is Not Relevant to Whether It is Subject to ILEC Tariffs

21. TELUS wishes to draw attention to the following applicable references in order to validate its position that service poles, regardless of ownership and location placement are chargeable items, no different than mainline poles:
- a. Telecom Decision CRTC 95-13, Access to Telephone Company Support Structures;
 - b. Tariff CRTC 21461, Item 404, Support Structure Service;
 - c. Telecom Decision CRTC 2010-900, Review of the large incumbent local exchange carriers' support structure service rates; and
 - d. Telecom Decision CRTC 2011-406, Follow-up to Telecom Decision 2010-900 - Service pole rate and markup issues.

Each of these references is discussed below.

Telecom Decision CRTC 95-13, Access to Telephone Company Support Structures, establishes cost recovery principles

22. Through various proceedings that concluded with Telecom Decision 95-13 (“Decision 95-13”), the Commission recognized, amongst many other issues including placement of facilities and pricing, that it was reasonable for ILECs to be required to provide access to their support structures where spare capacity is available.
23. The Commission noted further in Decision 95-13 that:
- ...it is in the public interest to minimize the number of support structures (poles and conduit) through joint use of those structures, **regardless of their ownership**. Moreover, the Commission expects that maximizing the use of support structures (in terms of the number of companies using each structure) will help facilitate interconnection and interoperability between Canadian carrier and cable television undertaking⁶ [emphasis added].
24. The foregoing recognizes the fact that ILECs, through either ownership or control of support structures, are required to provide Support Structure Service to cable television undertakings or other Canadian carriers, for the placement of their

⁶ Telecom Decision CRTC 95-13, *Access to Telephone Company Support Structures*.

facilities. This has been the application of TELUS' support structure tariff for nearly 20 years.

25. On the question of the applicable costs to calculate rates for support structure attachments, Decision 95-13 also reaffirmed the Commission's long-standing position that ILECs should be allowed to recover fixed or embedded costs to provide service as follows:

If a telephone company constructs or reinforces support structures for the use of a customer, the Commission considers it reasonable that charges based on the costs incurred continue to apply⁷.

26. In Decision 95-13, the Commission described the costing approach to be used by the ILECs in the proceeding as follows:

The Commission remains of the view that rates for support structures should, at a minimum, exceed the causally attributable Phase II costs. In the Commission's view, the identification of those causal costs is dependent on whether the telephone companies would be required to make additional investment, or advance planned investment, in order to serve the requirements of the cable television undertaking or telecommunications carrier seeking access to support structures. If no additional investment is required, and no advancement is required, the costs associated with the structures themselves can be viewed as fixed.

27. Furthermore, in Telecom Order CRTC 2009-731, the Commission determined that the ILECs are to provide cost information that is consistent with the methodology specified in Telecom Notice of Consultation 2009-432. In the Notice of Consultation, the Commission held that the ILECs are to use the pricing approach adopted in Decision 95-13. And second, the ILECs are to follow the Support Structure Costing Template detailed in Order 2009-731.⁸

28. The advantage of the top-down costing method of Decision 95-13 is its simplicity - a straight-forward allocation of total costs that TELUS incurs, spread across all poles, regardless of the differing service pole attributes found in the field (i.e.

⁷ Telecom Decision CRTC 95-13, *Access to Telephone Company Support Structures*.

location on/off property, rural vs urban poles, etc.). The methodology of Decision 95-13 involves taking the total embedded costs (asset depreciation amount) and allocating the costs to a cost per pole resulting in one uniform rate for mainline and service poles.

29. Differentiated allocations of embedded costs across mainline versus service poles would be onerous at best, likely arbitrary or even impossible to assign, and would not be aligned with the methodology in Decision 95-13 where the Commission found that a pole is a pole. The net result, preferred by the Commission, is a lower average rate across all poles, regardless of type, rather than a higher rate for mainline poles and a lower or even zero rate for service poles.
30. Separating a subset of poles based on ownership or placement location and attributing a lower or zero rate to those service poles would result in a higher monthly pole attachment rate in respect of the remaining 'allowable' poles from which costs are recoverable (i.e. since the total costs do not change). Further, licensees on the remaining 'allowable' poles would be unfairly penalized, because they would be paying for access to mainline and service poles while others do not.
31. In any event, as previously noted, the time and resources necessary to determine pole ownership and location of over 100,000 service poles in British Columbia would outweigh any benefit of increasing the existing and approved pole rate for mainline poles and excluding or establishing a zero rate for a subset of service poles. Such an exercise is extremely onerous, time-consuming and costly. There should be no basis for the Commission to order such an activity, when the precedents clearly show that all service poles should subject to tariff.

The Tariff CRTC 21461, Item 404, Support Structure Service and other applicable tariffs make clear that rates are payable even if the support structures are not owned by TELUS

⁸ Telecom Order CRTC 2009-731, Review of the large incumbent local exchange carriers' support structure service rates – Requests from cable carriers, November 27, 2009.

32. Germane to Raftview's Application is the responsibility of TELUS and other ILECs to administer support structures in accordance with approved tariffs. TELUS' Tariff Item 404 contemplates the rates, terms and conditions of service for Support Structure Service. Of particular note, and in compliance with Decision 95-13, the Service Description from Tariff Item 404 states:

Support Structure Service provides, where Spare Capacity is available, a cable television undertaking or a Canadian carrier access to **Company owned or controlled Support Structures** for the placement of its Facilities. [emphasis added]

33. Tariff Item 404, together with the Support Structure Agreement License ("SSLA") between TELUS and a Licensee, establishes rights and obligations as between those parties. As Tariff Item 404 reads, the ownership of a pole is not a determining factor as to TELUS' ongoing obligation and responsibilities to provide Support Structure Service on poles and ensure continuity of services to the customers of both TELUS and its Licensees.
34. As noted by the Commission in Telecom Order CRTC 2000-13 and then again restated in Telecom Decision CRTC 2004-29, "The onus is on the support structures owner to manage the structures for itself and other users"⁹.
35. In a letter to TELUS dated September 7, 2001¹⁰ the Commission confirmed that TELUS is responsible for providing service, including cabling, right up to a service provider demarcation point.
36. TELUS' CRTC 1005 Item 97, Customer's Premises (commonly referred to as the Construction Charges Tariff) ("Tariff Item 97") states that the Company will furnish and own all wires, cable or other transmitting media up to and including the Company's service provider demarcation point on the property owner's premises.

⁹ Paragraph 33 of Telecom Order CRTC 2000-13, *Rates set for access to telephone companies' support structures* and Paragraph 26 of Telecom Decision CRTC 2004-29, *Access to TELUS Communications Inc.'s support structures in the City of Kamloops*.

¹⁰ See Attachment 1 filed in confidence with the CRTC.

For single-family dwellings, TELUS' service provider demarcation point shall be the TELUS-provided network interface device (NID)¹¹.

37. The network interface device in TELUS territory in British Columbia is generally located at a point either immediately outside or inside the wall of the customer premise and serves as the network demarcation point. TELUS has the ongoing responsibility to maintain this equipment, even though the location of the equipment might be on private property.
38. Tariff Item 97 was in effect until February 2010 and thereafter amalgamated with Alberta tariffs to form General Tariff CRTC 21461, Service and Other Charges, Tariff Item 406, Construction Charges, which states at Item 406.1 and Item 406.2.17, respectively:

In areas in which it has exchange distribution facilities, the Company shall furnish all transmission facilities and equipment on public property and shall furnish all transmission facilities on private property up to the Network Interface Demarcation Point as established by the Company. ;

and

The Company shall retain ownership and be responsible for the maintenance of transmission facilities...on private property up to the Network Demarcation Point....[emphasis added]

Telecom Decision CRTC 2010-900, Review of the large incumbent local exchange carriers' support structure service rates confirms cost recovery principles

39. Decision 2010-900 approved revised rates for support structure service for each of Bell Aliant, Bell Canada, MTS Allstream, TELUS and Télébec. As a consequence of Decision 2010-900, the Commission also initiated a follow-up proceeding regarding service pole rates and a possible mark-up on Phase II support structure costs.

¹¹ Tariff CRTC 1005, Item 97.A.1. – Customer Premises (Construction Charges).

40. In Decision 2010-900, the Commission recognized that ILECs incur costs for service poles and that the absence of a service pole rate did not adequately compensate ILECs for their obligation to provide support structure service to Licensees.

41. Specifically, the Commission noted at paragraph 50 of Decision 2010-900 that:

Consistent with the ILECs' tariffs, the Commission considers that pole rates should not recover service pole costs. However, the Commission notes that the **ILECs incur service pole costs and that third parties use ILEC service poles**. The Commission considers that the current effective service pole rate does not adequately compensate ILECs for third-party use of service poles and should be revised, using the 95-13 pricing methodology, to permit recovery of service pole costs.¹² [emphasis added]

42. In its cost study submitted as part of the proceeding that led to Decision 2010-900 establishing a rate of \$1.44/pole/user/month, TELUS included embedded costs for all poles, both service and mainline poles.

All ILECs expressed the view that they should be allowed to recover service pole costs. Bell Aliant, Bell Canada, **and TCC included service pole costs in their cost estimates for poles**. Bell Canada *et al.* submitted that service pole costs are real and that service poles benefit the third parties that use them. Cable carriers submitted that the application of the 95-13 pricing methodology to poles does not provide for specific compensation for service pole costs [emphasis added].¹³

43. In other words, the cost per pole used to set rates is a result of the total TELUS-incurred mainline and service pole costs spread over a denominator of total poles, including service poles.

44. Only TELUS-incurred costs to perform maintenance and repair work on all poles, whether on private or public property, were submitted as part of the cost study. There is no vast distinction between service poles and other poles and

¹² Paragraph 50, Telecom Decision CRTC 2010-900, *Review of the large incumbent local exchange carriers' support structure service rates*, December 2, 2010.

¹³ Paragraph 49, Telecom Decision CRTC 2010-900, *Review of the large incumbent local exchange carriers' support structure service rates*, December 2, 2010.

maintenance activities, for example, apply equally to service poles. Some examples of the work and costs incurred on service poles include removing old poles, ground work associated with pole removal, attaching guy wires, placing stub poles, safety related activities, and transferring TELUS and Licensee cable.

45. The cost of a pole not purchased and/or placed by TELUS was not included in the cost study submitted to, and approved by, the Commission.

Decision CRTC 2011-406, Follow-up to Telecom Decision 2010-900 - Service pole rate and markup issues recognizes a uniform pole rate

46. Following the Commission's preliminary view in Decision 2010-900 that ILECs should be able to recoup embedded costs related to support structures, for all poles including service poles, the Commission approved a service pole rate equivalent to the pole rate in Decision 2011-406.
47. The Commission agreed that ILECs incur ongoing administrative costs associated with service poles and considered that they would also incur some lost productivity costs for service poles.

Notwithstanding that pole rates reflect certain factors specific to poles' embedded costs, the Commission notes that the embedded cost for poles and service poles is the same. It therefore considers that each ILEC's pole rate would be an appropriate rate for its service poles.¹⁴

48. In view of costing submitted as part of the record of proceeding that led to Decision 2010-900, the Commission confirmed its preliminary view and approved a service pole rate for each ILEC, equivalent to each company's respective pole rate approved in Decision 2010-900. In the case of TELUS, this equates to \$1.44/pole/user/month. Based on the above, for Raftview to state that TELUS' costs associated with Licensee attachments are limited to the costs of the \$0.33 hook is plainly wrong and contrary to past Commission determinations on this issue.

¹⁴ Paragraph 16, Telecom Decision CRTC 2011-406, *Follow-up to Telecom Decision 2010-900 - Service pole rate and markup issues*, July 4, 2011.

Conclusion

49. In conclusion, the responsibility for the administration and maintenance of service poles and attachments to service poles rests with TELUS. Contrary to Raftview's assertion, pole ownership is irrelevant to the application of the pole charge in TELUS' Support Structure Service Tariff.
50. As with mainline poles, TELUS has real and measurable costs associated with the administration and maintenance of service poles that have been placed by customers on private property. As explained in this submission, the invoicing of Raftview, the cable operators and other Licensees in British Columbia for service poles is simply the application and enforcement of TELUS' approved Tariff Item 404.
51. Raftview's claim that the only cost TELUS incurs with respect to service poles is the small cost of strand hooks reflects a misunderstanding of how the Commission determines the allocation of total costs associated with the ILECs' support structure service. In this submission TELUS has described the costing methodology prescribed by the Commission and used by the Company when setting pole rates.
52. TELUS has explained how any rating approach other than a common rate for all poles would result in substantial administrative inefficiencies and costs for the Licensees and TELUS.
53. In light of the discussion above, TELUS requests that the Commission deny Raftview's Part 1 Application and confirm TELUS' position that it is correct in applying a service pole rate pursuant to its Support Structure Service Tariff Item 404, for access to Company owned or controlled poles and as contemplated and approved by the Commission in Decision 2011-406.

** End of Document **