

CRTC resolves issues in Gatineau access dispute - The Wire Report News
- September 06, 2019:
- <https://thewirereport.ca/2019/09/06/crtc-resolves-issues-in-gatineau-access-dispute/>

The CRTC has set guidelines for how the country's largest telecoms and the city of Gatineau should delegate responsibilities when it comes to municipal rights-of-way access, following a two-year impasse between the disputing parties.

Since April 2017, **BCE Inc.**, **Rogers Communications Inc.**, **Telus Corp.**, **Quebecor Inc.**'s Videotron, and **Cogeco Inc.** and Gatineau have been locked in a [dispute](#) on issues including what infrastructure work requires a city permit or notice, how costs for equipment relocations and city bypasses would be divided, and fees that can be charged for issuing and renewing municipal approvals. The case had snaked its way to the Quebec Superior Court, which [decided](#) in favour of the telecoms after finding some terms trampled on the federal jurisdiction over telecom.

On Friday, vested with that jurisdiction, the CRTC reviewed the specific issues within the municipal access agreement between the disputing parties and established guidelines through which it will review these access problems. The rules will help guide the parties to come to an agreement, the commission said.

On who would absorb costs related to infrastructure relocation, Gatineau proposed and was granted a "sliding scale" approach where the city would bear all of the costs in the first few years of the telecom builds — considering the benefits infrastructure brings to its citizens — but over 16 years or more, the costs would gradually slide over to the telecoms because it's harder for the city to make accurate predictions about whether a move would be needed in the future, the CRTC reasoned.

The sliding scale has been applied in previous decisions, the regulator noted. The telecoms pitched a 50/60 model, where the city would reimburse the telecoms 50 per cent of relocation costs and 60 per cent of related labour and engineering costs.

For bypass costs, which allow the city to work around telecom equipment and avoid relocation, the regulator scrapped a clause in the MAA that

stipulated the telecoms must pay for the city having to work around the carriers' equipment in the amount equal to a relocation. In its reasoning, the regulator said the city is "required to deal with the presence" of telecom equipment, which brings many benefits to the city, and cannot force the telecoms to pay the full bypass costs when there are more than one alternative and when relocation can be avoided. Otherwise, the city wouldn't incentivize care for less expensive alternative options, the CRTC said.

The telecoms were able to keep a key provision in the MAA that required them to obtain a permit or submit a notice to the city if it made infrastructure changes that are deemed "significantly" larger than what came before it. The city was asking to eliminate the adverb, thus hypothetically broadening the scope of work that would require a permit or notice.

Rogers and Videotron said they were reviewing the decision. The other telecoms did not return a request for comment.

CRTC spokeswoman Patricia Valladao said in an email that the commission will make decisions on similar future applications "in light of the public record specific to that application," when asked whether the Gatineau decision sets guidelines for all lookalike matters going forward.

Such similar matters, indeed, have surfaced before the commission and in the court system. The cities of [Hamilton](#), [Terrebonne](#) and Calgary have been embroiled in MAA disputes, with a request to review the latter's matter by the city — already [denied](#) by the CRTC — [rejected](#) by the Federal Court recently.

The decision comes after the telecoms [asked](#) the Supreme Court of Canada in August to review a case involving a Gatineau bylaw, eventually rendered invalid and subsequently revoked, that set out the MAA to which the telecoms would've been bound. In a lower Quebec court decision, the judge determined that the telecoms were not entitled to be reimbursed for costs they paid toward satisfying the defunct bylaw.

The arguments the telecoms intend to bring before the highest court in the land are not yet posted on the court's website.

Friday's decision also comes as the telecoms fight to have federally-regulated [access](#) to municipal infrastructure that they say is important for the onset of the next generation 5G network.

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