

Toronto Hydro Pre-Incorporation Municipal Access Agreement

(City Council at its regular meeting held on October 3, 4 and 5, 2000, and its Special Meetings held on October 6, 2000, October 10 and 11, 2000, and October 12, 2000, amended this Clause:

- (a) by adding to Recommendation No. (2) embodied in the confidential report dated September 18, 2000, from the Chief Administrative Officer, the words “and for greater certainty, the contemplated agreement shall apply to any new fibre laid by the Toronto Hydro Telecom subsidiary for its use or use by any third party for telecommunications purposes”, so that the recommendations embodied therein shall now read as follows, the balance of such report to remain confidential, in accordance with the provisions of the Municipal Act, having regard that it contains information related to the security of property interests of the municipality:*

“It is recommended that:

- (1) approval be given to enter into a Pre-Incorporation Municipal Access Agreement with the Toronto Hydro Corporation Telecommunications subsidiary, or, failing the establishment of such subsidiary by December 31, 2000, with the Toronto Hydro-Electric System Limited, to authorize the installation, maintenance, use and operation of telecommunications fibre optics cable, conduits and related facilities within the public highways, encompassing existing plant and the current use of rights-of-way solely for telecom purposes, and new cable installations or builds for telecom purposes, excluding those used solely for the internal business purposes of electricity distribution by Toronto Hydro-Electric System Limited and not used for the purpose of leasing dark fibre or providing telecommunications services to the public;*
- (2) the Pre-Incorporation Municipal Access Agreement be in accordance with the terms and conditions as generally set out in this report and such other terms and conditions as may be satisfactory to the Commissioner of Works and Emergency Services, the City Solicitor and Toronto Hydro officials, and, for greater certainty, the contemplated agreement shall apply to any new fibre laid by the Toronto Hydro Telecom subsidiary for its use or use by any third party for telecommunications purposes;*
- (3) effective upon the date of approval of this report by City Council, Toronto Hydro Telecommunications shall commence to give the required sixty (60) days notice of the Per Permit fee for lease renewals, or new leases, applicable to the use of the legacy fibre system;*
- (4) effective upon the date the agreement is signed by Toronto Hydro Telecom (or with Toronto Hydro-Electric System Ltd.) and the City of Toronto, the Per Metre fee shall apply to New fibre installations or facilities used solely for telecommunications purposes as defined in this report; and*

(5) *the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.”; and*

(b) *to provide that the following Clause be deleted from the draft agreement:*

“Fifth, the City shall agree to not grant access to the public ROW to any other party for telecommunications purposes on economic terms and conditions more favourable than the terms in the Toronto Hydro Telecom MAA. If the City, after the effective date of the MAA with the Company, does grant access to another party on more favourable terms and conditions, these shall be applied to Toronto Hydro Telecom on the same effective date of the agreement with said other party.”;

and the following Clause be inserted in lieu thereof:

“The parties and the City acknowledge the need for competitive equity between entities engaged in the business of providing similar telecommunications services and entities seeking access to the public highway for that purpose.”)

The Policy and Finance Committee recommends the adoption of the Recommendation of the Telecommunications Steering Committee embodied in the confidential communication (September 18, 2000) from the City Clerk, respecting Toronto Hydro Pre-Incorporation Municipal Access Agreement, which was forwarded to Members of Council under confidential cover; and further, that in accordance with the Municipal Act, discussions pertaining thereto be held in-camera having regard that the subject matter relates to the security of the property of the municipality.

(City Council at its regular meeting held on October 3, 4 and 5, 2000, and its Special Meetings held on October 6, 2000, October 10 and 11, 2000, and October 12, 2000, had before it, during consideration of the foregoing Clause, the following confidential communication (September 18, 2000) from the City Clerk, such communication now public in its entirety:

Recommendation:

The Telecommunications Steering Committee on September 18, 2000, recommended to the Policy and Finance Committee, and Council, the adoption of the confidential report (September 18, 2000) from the Chief Administrative Officer.

Background:

The Telecommunications Steering Committee had before it a confidential report (September 18, 2000) from the Chief Administrative Officer respecting Toronto Hydro Corporation Telecom Subsidiary, Pre-Incorporation Municipal Access Agreement for Telecommunications Facilities in Municipal Rights-Of-Way, such report to be considered in camera having regard that the matter relates to the security of the property of the municipality, in accordance with the Municipal Act.)

(City Council also had before it, during consideration of the foregoing Clause, a confidential report (September 18, 2000) from the Chief Administrative Officer, such report to remain confidential in accordance with the provisions of the Municipal Act, given that it concerns matters of the security of a property interest of the municipality, save and except the following recommendations embodied therein:

Recommendations:

It is recommended that:

- (1) approval be given to enter into a Pre-Incorporation Municipal Access Agreement with the Toronto Hydro Corporation Telecommunications subsidiary, or, failing the establishment of such subsidiary by December 31, 2000, with the Toronto Hydro-Electric System Limited, to authorize the installation, maintenance, use and operation of telecommunications fibre optics cable, conduits and related facilities within the public highways, encompassing existing plant and the current use of rights-of-way solely for telecom purposes, and new cable installations or builds for telecom purposes, excluding those used solely for the internal business purposes of electricity distribution by Toronto Hydro-Electric System Limited and not used for the purpose of leasing dark fibre or providing telecommunications services to the public;*
- (2) the Pre-Incorporation Municipal Access Agreement be in accordance with the terms and conditions as generally set out in this report and such other terms and conditions as may be satisfactory to the Commissioner of Works and Emergency Services, the City Solicitor and Toronto Hydro officials;*
- (3) effective upon the date of approval of this report by City Council, Toronto Hydro Telecommunications shall commence to give the required sixty (60) days notice of the Per Permit fee for lease renewals, or new leases, applicable to use of the legacy fibre system;*
- (4) effective upon the date the agreement is signed by Toronto Hydro Telecom (or with Toronto Hydro-Electric System Ltd.) and the City of Toronto, the Per Metre fee shall apply to New fibre installations or facilities used solely for telecommunications purposes as defined in this report; and*
- (5) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.)*