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Your File#:
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March 28, 2007

Mr. Robert Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

Dear Sir:

RE: Part VII Application by Shaw Cablesystems Limited seeking an order granting access to highways and other public places in Wheatland County, Alberta

1. Further to the CRTC's letter of February 22nd, 2008 and Shaw Cablesystems Limited ("Shaw") reply letter of the same date, Wheatland County (the "County") wishes to indicate its support to the CRTC's direction for further negotiations of the Municipal Access Agreement ("MAA") and to reply to the allegations of Shaw.
2. It is the County's position that the Alberta One Call issue will not be settled during negotiations and is a matter that will require the assistance of the CRTC. In regards to the other issues in the MAA, it is the County's position that such issues are negotiable and is looking forward to continuing its good faith discussions and negotiations with Shaw.
3. Unfortunately, due to scheduling conflicts, the County and Shaw have not had an opportunity to meet with Shaw to discussion Shaw's other concerns with the terms and conditions of the MAA. The County and Shaw have scheduled a negotiations meeting on Monday, April 7th, 2008 to negotiate these further issues. After this meeting and forthwith, the County proposes that the CRTC be notified of the outcome of this meeting, including those issues settled on and those still in dispute that require the CRTC's assistance.
4. In the interim until an MAA is agreed to between the parties and in order to ensure servicing to its residents, the County has reiterated to Shaw that they still have the ability to gain access to the County's rights of way pursuant to its Right of Way Access Bylaw No. 2007-

83. This will ensure that Shaw has time to install their necessary equipment for servicing the 2 to 3 spec homes in the Lakes of Muirfield development that one developer may have completed for occupancy by the end of April. It is our understanding that another developer may have some spec homes available for occupancy by the end of May at the earliest.

BACKGROUND OF NEGOTIATIONS

5. The County confirms that it and Shaw have undertaken discussions regarding Shaw's Part VII Application and access to the County's rights of way for the Lakes of Muirfield development. These discussions began with Shaw's request on January 2nd, 2008 to meet with the County on a confidential, closed door basis, without legal counsel. Acting in good faith, the County was agreeable to meeting with Shaw. However given that the matter was in litigation before the CRTC, it was the County's position that such discussions take place on the record to ensure any cooperative measures are made aware to the CRTC. In addition, in order to protect the County's interests, the County indicated to Shaw that any proposed resolutions are subject to the County's solicitors' review and County Council approval.
6. On January 23rd, 2008, Wheatland County Executive Committee – which included the Reeve Ben Armstrong, Deputy Reeve Shirley Reinhardt, County Manager Jennifer Deak and County Landman Steve Nedoshytko (the County) – met with Terry Medd, Vice President Operations of Shaw. During these open discussions, Shaw focused much on its attention on the issue of the membership and use of Alberta One Call versus DIGSHAW. It was clear from this meeting that the main issue of concern for Shaw is the Alberta One Call membership (given Mr. Medd's acknowledgment in this meeting that the reason for the Part VII Application was because of the Alberta One Call membership condition and that Shaw would not agree to the Alberta One Call membership term). It was clear from this meeting that the County and Shaw are not likely to resolve this issue without the assistance of the CRTC. For your reference, we have attached the County's minutes from this meeting.
7. However, at this meeting there was no significant discussion regarding Shaw's other concerns with the County's MAA and the other matters in its Part VII Application. At this meeting, the County requested Mr. Medd to provide a list of the other issues with the MAA so that the County and Shaw could negotiate these smaller issues. Mr. Medd agreed to this proposal.
8. On January 28th, 2008, the County received Shaw's proposed Memorandum of Understanding to provide it access to the County's rights of way prior to negotiating and finalizing a Municipal Access Agreement. The Memorandum seeks approval for access to all of the County's rights of way and other public property on limited terms and conditions (not just those necessary for the Lakes of Muirfield development), a joint submission for

suspension of the Part VII Application, and an agreement to continue negotiations regarding the MAA.

9. Upon review of this proposal, the County rejected Shaw's proposed Memorandum of Understanding. It is the County's opinion that unless the County backs down with its position on the Alberta One Call membership and accepts DIGSHAW, this issue will not be resolved. Based on the representations of Mr. Medd on January 23rd, 2008, it is the County's opinion that the Alberta One Call membership is the main issue of concern with Shaw and the reason for the Part VII Application.
10. As an act of good faith and to encourage further negotiations, the County proposed a counterproposal with Shaw that the County's MAA be signed in its current form subject to the CRTC deciding the issue of Alberta One Call and as a sign of good faith, Shaw withdrawing the other grounds of its Part VII Application. This letter of February 6th, 2008, provides Shaw with the County's position and was to bring forth further discussion on the terms and conditions of an acceptable MAA. It is the County's position that this is a reasonable proposal given Shaw's willingness in the summer of 2007 to sign the County's original Work and Access Agreement, which contained the same or similar wording of conditions of consent to access the rights of way as the County's MAA (see the County's Answer to the Part VII Application for more details on the above).
11. Rather than provide the County with a list of issues that were negotiable or agreeing the County's counterproposal, Shaw in its letter of February 18th, 2008 rejected the County's counterproposal and took a step backwards from its position on January 23rd, 2008 and refused to discuss or negotiate the smaller issues of concern with the MAA as stated in the Part VII Application. Furthermore, Shaw provides disparaging remarks to the County, alleging wrong legal advice and interpretation of the law, when no such argument or position in the County's earlier correspondence with Shaw indicates any incorrect interpretation of the law. This, in our view, is a clear attempt by Shaw to bully the County into accepting Shaw's position as being the only reasonable resolution, which in our opinion, is clearly not an act of good faith.
12. The County was pleased to receive the CRTC's letter of February 22nd, 2008 indicating the suspension of the Part VII Application for the purpose of allowing for good faith negotiations on the issues of the MAA. This is exactly what the County has been attempting to achieve through its discussions with Shaw throughout the last few months.

CONCLUDING COMMENTS

13. The County has taken the position during the discussions to date with Shaw that the Alberta One Call issue remains to be a significant issue of dispute and the one matter that is not likely to be resolved between the parties. In regards to the other issues in dispute, the County and Shaw have attempted on numerous occasions to set a date for negotiations. However, due to scheduling conflicts on both sides, the earliest date upon which both parties and their legal counsel could meet is Monday April 7th, 2008.
14. In response to a request by Shaw, the County is preparing a letter to it indicating its position of Shaw's proposed revisions, including those issues that the County is willing to further discussion. This letter is expected to be forthcoming in the next week, prior to the scheduled meeting with Shaw.
15. The County is agreeable to continuing good faith negotiations regarding the terms and conditions of the MAA, subject to the CRTC deciding on the issue of Alberta One Call. It is for this reason that the County encourages an extension of the CRTC's suspension of the Part VII Application and order for such good faith negotiations to take place.

Sincerely,
On Behalf of Wheatland County,

BROWNLEE LLP
PER:


FOR: BARRY A. SJOLIE
LIR/

Cc: Wheatland County
Attention: Jennifer Deak, Chief Administrative Officer

Shaw Cablesystems Limited
Attention: Jean Brazeau, Vice-President Telecommunications Regulatory Affairs

Alberta One Call Coporation
Attention: Robert R. Chisholm, President

Alberta Association of Municipal Districts and Corporations
Attention: Gerald Rhodes, Executive Director & Donald Johnson, President

Rural Utilities and Safety Association
Attention: Bryan Bepalko, President

Alberta Damage Prevention Council

Attention: Lee Travis, Chairman

Alberta Public Works Association
Attention: Darwin Durnie, President

Alberta Roadbuilders and Heavy Construction Association
Attention: Dennis Locking, Member of Board