

24 October 2022

Daniel Ebanks
Manager- ICT Infrastructure
Utility Regulation & Competition Office
PO Box 10189
Grand Cayman KY1-1002
85 North Sound Road
Cayman Islands

Dear Sirs,

Re: C3 Response to RFI's for ICT Consultation 2016-2

RFI's all parties:

Provide a copy of all pole sharing agreements currently in force. Advise, if applicable, whether a new pole sharing agreement is being negotiated.

- C3 Pole Sharing agreement is attached. It was executed 13th July 2022.

Confirm the pole attachment fee currently (2022) paid or charged, as applicable. Specify the frequency of payment, and whether the fee is charged per pole or per attachment.

- Our present rate is CI\$6.82 per quarter/ CI\$27.28 per annum per attachment

Identify all changes to the pole attachment fee paid or charged, as applicable, between 2017 and 2022, inclusive, and the date(s) any changes came into effect.

- Pole attachment fee charged in 2017 was CI\$12.28 per annum, this annual fee remained the same until Q1 2021, when the fee increased to CI\$26.64 per annum a 216% increase. Q3 2021 it increases 2.7% to CI\$27.36 per annum.

Provide any additional information or documentation that may be relevant to the issues being addressed in this proceeding, including a detailed explanation of why they are relevant.

- In the latest version of the MJPUA signed on 13 July 2022, Appendix A, Item 4 the Net Cost of a bare pole is CI\$774.70,

It is C3's view that the 2019 Version of the Master joint Pole Use Agreement is severely slanted in the Owner Utilities favor with some commercial terms unacceptable. We will outline those below and hope

that the Regulator will consider our points. Below are the commercial points that we think need to be reconsidered.

1. Attaching Utility must bear cost of expansion

Art. II.I requires the Attaching Utility to pay for the cost of additional capacity needed to accommodate its Facilities on the relevant poles. We do not believe it is reasonable for Attaching Utility to bear the whole cost — as the Owner Utility will benefit going forward from the greater capacity (both for its own use and further sharing of that infrastructure with third parties). It would be very much appreciated if DataLink could reconsider its position on this point.

It is C3's view that if it is to bear cost of this additional pole that the Owner Utility used a pole factor based on pole height of no more than 25-30', the ICT attaching utilities can attach no higher than 21'6" so there is no need for the Owner Utility to install a 35', or higher pole, and if so they should bear the difference for installing a taller pole.

2. Make-ready work, charges, and refunds

- a. Art. II.I requires the Attaching Utility to pay for the cost of additional capacity needed to accommodate its Facilities on the relevant poles. We do not believe it is reasonable for Attaching Utility to bear the whole cost — as the Owner Utility will benefit going forward from the greater capacity (both for its own use and further sharing of that infrastructure with third parties). It would be much appreciated if DataLink could reconsider its position on this point. This clause refers to the new In-Span poles that DataLink have begun to charge attaching utilities. It appears that CUC are installing poles the same height as the rest of the pole lines along the route and are attaching to the poles, yet it seems that the attaching utilities are bearing all the cost for the poles.

3. Annual Attachment Fee

- a. The annual attachment fee shall be CI\$26.57 per attachment. The fee is determined by a calculation based off the Net Bare Cost of Owner Utilities net book value of poles as of the most recent annual financial statement. We don't see why DataLink would use the Net Bare Cost based off CUC's book value of all CUC poles. The attaching utilities are only allowed to attach at a maximum height of 25', CUC use various poles of all sizes, the weighted average used in Appendix A is 38'6" with many poles as high as 75'. These poles are to support CUC infrastructure needs and not required for any of the attaching utilities to attach any of their fibre cables any higher than the assign space from 18'6" to 21' 6". If for some reason an attaching utility were granted permission by Owner Utility to attach at the top of the pole, then it could be argued that CUC net book value should be used. It is C3's opinion that the net value used to calculate the pole attachment fee should be based on a pole no taller than 25-30'. By using a high value on the bare cost of the poles are reducing the return on the

CUC poles, making it seem that CUC is getting an acceptable return on their asset from pole attachment fees, if the cost of the bare pole was based on a pole 25-30' or less and a lower class the net bare cost of the pole would be significantly reduced and C3's present return on the poles would increase significantly. The Regulator needs to determine if CUC is allowed to create a profit centre from Telecom attachments on its poles or simply a cost recovery model. At the least a FLLRIC model should be adopted for this infrastructure as well.

- b. C3 also does not see why the MJPUA agreement has an annual escalation clause tied to the CPI of the Cayman Islands, this annual escalation will result in the high cost to deliver its service overtime and if a catastrophic event such as Hurricane were to destroy a percentage of CUC poles the annual attachment fees could skyrocket. C3 hopes CUC/ DataLink will reconsider both these clauses especially as it will overall result in high fees for Telecom services in the Cayman Islands overtime which are unnecessary. The Owner Utilities Poles primary role is the delivery of electrical services to the consumers of Cayman, providing attachments for Telecom providers to deliver their services should not be looked at as another profit center for CUC. At the very least any upward adjustment should require the Regulators' approval every 3-5 years and not automatic.

Yours faithfully,



Randy Merren
Managing Director