



## **ICT 2016 – 2 – Consultation Part B and Part C (Updated)**

**Prepared For:**

**UTILITY REGULATION AND COMPETITION OFFICE**

**THE CAYMAN ISLANDS**

**Primary Contact:**

**Diane McAuliffe (345) 327-6050**

**115 Printer Way**

**Georgetown, Grand Cayman**

**[Diane.McAuliffe@digicelgroup.com](mailto:Diane.McAuliffe@digicelgroup.com)**

# Table of Contents

Table of Contents..... 1

01 Responses to ICT Consultation 2016-2, Part B..... 3

02 Responses to ICT Consultation 2016-2, Part C..... 6

03 Questions for Consultation ..... 8

04 Appendix (Cross Comments)..... 28



**WE DESIGN AND BUILD**  
**A BETTER FUTURE**

# 01 Responses to ICT Consultation 2016–2, Part B

B1. Provide your view on what is the relevant process for issuing permits for the attachment of communication cables to CUC's electricity poles, including what do you consider to be a reasonable time period in which an entity such as DataLink should process the permit applications?

## **Response**

Allow Digicel to submit batches consisting of 20 to 25 poles per batch, with a monthly limit of 200 poles, ensuring we do not exceed this quantity.

Within 10 - 15 business days of receipt of a batch, Datalink will identify those which do not require make-ready works ('Green Poles') and those which do ('Red Poles').

### **For Green Poles,**

Digicel shall inform Datalink of its interest in having these pole permits issued within 7 calendar days. Considering the above Digicel believes a maximum of 23 days is a reasonable time period for issuance of green poles.

### **For Red Poles,**

DataLink and Digicel will meet within 10 business days to discuss the make-ready required, the timeframes for completing it and any alternatives.

Once agreed a quotation shall be prepared within 5 business days and issued to Digicel for payment.

If Digicel does not pay the fee within 3 months of the quotation, the permit request is treated as withdrawn; and

Within 75 business days of receipt of the fees, DataLink will complete the make-ready work and issue a permit.

Penalties for delays after 75 days shall then be applied.

While Digicel is mindful of the processes involved in the make-ready process, with the increase in planners and eventual increase in make ready contractors in Q1 2024. Reducing the 75-day period to 60 days for the make-ready process can have several benefits, including faster project completion and improved resource utilization. A more accommodating period can also lead to

reduced lead times for infrastructure deployment, ultimately benefiting both Digicel and other stakeholders involved.

B2. Provide your view on whether or not the proposed amendments to the permit application process as set out at paragraph 182 above are appropriate for issuing permits for the attachment of communication cables to CUC's electricity poles.

**Response**

Digicel generally agrees to the proposed amendments however, the costing for make-ready needs to be further analyzed and agreed by all utilities.

B3. Provide your view on whether or not the "Attachers" should be allowed to perform relevant tasks relating to the Pre-Permit Survey and Make-Ready Work, in cases where timelines in the pole attachment process are not met by DataLink.

**Response**

Digicel expresses overall support for the office's' recommendation that the pre-permit surveys can be carried out by the attaching utility, provided they possess the recommended training and certification.

To ensure the integrity of the transmission network and compliance with safety standards, Digicel emphasizes that the make-ready works relating to Electrical transmission cables should be performed exclusively by trained professionals from CUC/Datalink. This approach aims to minimize risks to public safety and the safety of employees involved in the process.

However, any make-ready work that just involve communications cables within the communications space can be done by the attaching utility.

B4. Provide your view on whether or not the Attachers should be allowed to use qualified contractors for Pre-Permit Survey and Make-Ready Work, in cases where timelines in the pre attachment process are not met by Datalink and if so, provide detailed specification of the relevant process for the use of such qualified contractors.

**Response**

Please refer to the answer provided in the previous question (B3) regarding Pre-permit surveys and Make-ready works.

By maintaining the timeline recommendations outlined in the Datalink-Logic Memorandum of Understanding (MOU) and with the agreement of Datalink, it is proposed to incorporate penalties

for any delays going forward. This approach aims to ensure adherence to the agreed-upon timelines and incentivize timely completion of the make-ready works.

B5. Provide your view on whether or not the principles governing the permit application process, including any relevant Make-Ready Work, as noted and discussed in paragraphs 178 to 195 above, should be standardized and applied across all the existing, and future, pole sharing agreements.

**Response**

Digicel agrees that the permit application process should be standardized for all existing and future pole sharing agreements.

B6. Provide your view on whether or not the relevant sections in the article referring to Make Ready Work/Installation, as specified in the existing pole sharing agreements, need to be amended and, if so, provide your view on the proposed amendments in the relevant article referring to Make Ready Work/Installation for each of the existing pole sharing agreements, as discussed in paragraphs 191 to 195 above.

**Response**

Digicel expresses broad support for the recommendations put forth by the Authorities. Additionally, Digicel acknowledges and agrees with the points raised under paragraphs 61, 63, and 64. By considering the perspectives presented, Digicel aims to ensure a comprehensive and well-informed approach.

B7. Provide your view on any other matters you consider relevant to this consultation.

**Response**

Digicel acknowledges that all relevant points have been previously addressed. However, it reiterates the position held by Datalink and the Authority regarding unauthorized attachments.

# 02 Responses to ICT Consultation 2016–2, Part C

C1. Provide your view on whether or not the current pricing formula for calculation of the “Annual Attachment Fee” is appropriate, in particular whether it leads to cost-oriented rates for pole rental services and whether it is in compliance with the FAC costing methodology.

## **Response**

The Annual Attachment Fee has to be cost based. We achieve this by ensuring that actual costs of inputs into provisioning said pole service are considered. The incremental cost approach is the proper approach because it takes into consideration all the costs utilized in producing an extra unit of service/product/good.

As opposed to a value of service pricing model which is premised on CUC/Datalinks estimation of what value it provides to its customers and attaching a cost to said value. Digicel believes that the same formula, methodology and annual attachment fees should be standardized for all attachers. Lastly, the use of CPI index to adjust the annual attachment fee is flawed and should be premised on the actual costs of provisioning said pole rental service.

C2. Provide your view on whether each of the relevant components of the pricing formula for calculation of the “Annual Attachment Fee”, including but not limited to:

- “Net Cost of Bare Pole” – defined as “the net book value of poles as of the most recent annual financial statements of the Owner Utility divided by the number of poles as of the most recent fiscal year end”,

- “Space Factor” – defined as an “allocation of the total pole height based on the actual space used by the Attachment plus an allocated portion of the unusable space on the pole”, including the following parameters which are used for calculation of the relevant “Space Factor”:

- “Unusable space on the pole”,

- “Space occupied by the Attachment”,

- “Number of Attachers”; and,
  - “Weighted average height of all poles”<sup>43</sup> or “Weighted average height of wood poles”<sup>44</sup>
  - “Annual Carrying Charge Rate”<sup>45</sup> or “20-year Levelized Fixed Charge Rate”<sup>46</sup>,
- is appropriately specified or determined in the relevant pole sharing agreements.

**Response**

Please refer to our response to Question 47.

C3. Provide your view on what charging principles should be implemented in order to ensure that the costs relating to “Make-Ready Work” are cost-oriented and in compliance with the FAC costing methodology.

**Response**

Please refer to our response to Question 51.

C4. Provide your view on whether or not pole attachments charges relating to attaching and maintenance costs should take into account any necessary adjustments based on the relevant position of each Attacher in the Communication Space, and if so, what charging principles should be adopted.

**Response**

Attachment charges or maintenance fees should not vary based on the position of the Attacher within the Communications Space.

C5. Provide your view on any other issues relating to the appropriate charges for and charging principles applied to the attachment of communication cables to CUC’s electricity poles.

**Response**

Digicel is open to any fairer arrangement whereby prices could be reduced and regulated across the board.

C6. Provide your view on whether or not DataLink should be subject to the same terms and conditions relating to the pole sharing arrangements for attachment of its communication cables



to CUC's electricity poles, including the relevant charging principles, as they apply to all the other Attachers.

**Response**

Digicel is in agreement that Datalink should be subject to the same terms and conditions as all Attachers.

C7. Provide your view on any other matters you consider relevant to this consultation.

**Response**

Given that Datalink considers itself to be separate and apart from the CUC. It is of primary importance that Datalink be subject to the same administrative and financial processes as all attachers. Datalink should not subscribe to be part of the market with other attachers then hold itself to another standard within same market.

## 03 Questions for Consultation

**QUESTION 1**

Do you agree with the proposal to require DataLink to ensure that all third-party utilities (i.e. other than DataLink) who attach communications cables to the communications space on CUC utility poles do so on non-discriminatory terms and conditions? If not, explain in detail the reasons why. Please also indicate changes, if any, you suggest should be made to the proposed requirement.

**Response**

Digicel agrees with the regulator's position on this matter. Datalink and other third-party utilities should be guided by the same non-discriminatory terms and conditions, it suggests a standardized or regulatory framework that applies to all participants in the industry. This approach promotes consistency, fairness, and a level playing field among the different entities.

## **QUESTION 2**

Do you agree with the proposal to require DataLink to provide its pole attachment services to all attaching utilities on rates, terms and conditions that are no less favourable than the rates, terms and conditions as DataLink provides the same services to itself? If not, explain in detail the reasons why. Please also indicate changes, if any, you suggest should be made to the proposed requirement.

### **Response**

Digicel agrees with the offices proposal that the rates, terms and conditions that applies to Datalink should be afforded to all Attachers and no less favourable.

## **QUESTION 3**

Do you agree with the proposal that applicants be required to provide a properly completed Pre-Permit Survey with their applications for a permit to attach a communications cable to a CUC utility pole? If not, explain in detail the reasons why. Please also indicate changes, if any, you suggest should be made to the proposed requirement.

### **Response**

By advocating for the submission of a complete Pre-permit Survey, Digicel aims to expedite the permitting process and improve efficiency. This can benefit both Digicel and other entities involved in the installation or modification of telecom infrastructure by reducing unnecessary delays and accelerating the deployment of services.

## **QUESTION 4**

If applicants were to be required to provide a properly- completed Pre-Permit Survey with their applications for a permit to attach a communications cable to a CUC utility pole, what would be, in your view, the impact on the time required to provide a quotation to the applicant? Explain in detail the basis for your view.

### **Response**

By completing the Pre-permit Surveys thoroughly and accurately, applicants aim to provide all the necessary information upfront, reducing the need for subsequent clarification or additional documentation. This can lead to a more efficient evaluation and approval process for pole applications. The time between application and quote is quite dynamic, we however expect a curtailed timeframe with the implementation of a Pre-permit survey.

## **QUESTION 5**

Do you agree with the proposal that Attaching Utilities should be required to accept, reject or otherwise respond to estimates of the Make- Ready Work charges necessary to accommodate the Attaching Utility's attachment within a specific period of time following delivery of the estimate by DataLink? If not, explain in detail the reasons why you disagree. Please also indicate changes, if any, you suggest should be made to the proposed requirement.

### **Response**

Digicel is in agreement with this proposal.

## **QUESTION 6**

What period of time should Attaching Utilities be given in order to accept, reject or otherwise respond to estimates delivered by DataLink?

### **Response**

Seven (7) calendar days should be sufficient for an attaching utility to respond to quoted estimates from Datalink.

## **QUESTION 7**

What specific changes to the terms of the Pole Sharing Agreement would you propose to implement this proposal, if it were adopted as a determination following consultation?

### **Response**

It should be stated in the MPJUA under the permit application procedure under the review period or create a new subheading called response period.

VI. "Permit Application Procedure"

Include new section -: "Response to Estimates"

Upon receipt of make-ready cost estimate from the owner utility, the attaching utility has seven (7) calendar days to respond either accepting, rejecting or request for further clarification.

## **QUESTION 8**

Do you agree with the proposal that all permits issued for poles included in the same batch application be given the same effective date, irrespective of when the pole is actually ready and

available for attachment, unless the applicant requests otherwise? If not, explain in detail the reasons why you disagree. Please also indicate changes, if any, you suggest should be made to the proposed requirement.

### **Response**

Digicel is in general agreement with the following proposal (reference paragraph 386-387) with additional explanation below in response to Question 9. Also, a tracker should be in place between Datalink and the attaching utility which should be synchronized according to a specified schedule to ensure the applied for poles and outstanding poles are properly accounted for.

### **QUESTION 9**

What specific changes to the terms of the Pole Sharing Agreement would you propose to implement this proposal, if it were adopted following consultation?

### **Response**

Addition to the Master Pole Joint Use Agreement to include a new section addressing the issuance of permits for batch applications, the review of pole availability, and the effective date of the quarterly billing cycle.

"Section X: Batch Applications and Permit Issuance

1. While we recognize that batch applications should have the same applied for date, the issuance of permits for approved applications may not carry the same date.
2. The attaching utility shall be granted the allowance to review the availability of red vs green poles within a batch application. This review aims to assess the feasibility of proceeding with the construction of certain segments of the cable while other poles within the same batch are still being worked on.
3. The review of pole availability enables transparency and accountability in determining the effective date of the quarterly billing cycle.
4. All parties involved shall maintain open communication and provide timely updates regarding the progress of pole installations within a batch application.
5. The effective date of the quarterly billing cycle shall be determined based on the completion of pole installations within the respective batch, ensuring accurate billing and allocation of costs.
6. Any disputes or concerns related to the effective date of the quarterly billing cycle shall be resolved through the established dispute resolution mechanisms outlined in the agreement."

#### **QUESTION 10**

Do you agree with the Office’s preliminary view that it should not require changes to the permit application process and to the Pole Sharing Agreements to include the provision of a “Pre-Approved Permit” prior to the issuance of a “Full Permit”?

#### **Response**

Digicel agrees with the Office that currently there is no need to create a “Pre-Approved Permit” step in the process. However, this is on the basis that that the revisions recommended in this consultation are adopted, there is no benefit in creating a “Pre-Approved Permit” and that all parties, including Datalink, have ubiquitous terms and conditions as it relates to the Pole Attachment Process and agreements.

#### **QUESTION 11**

If not, explain in detail the reasons why you disagree, and describe in detail how the changes proposed by DataLink would promote an efficient, economic and harmonized utilization of infrastructure on Grand Cayman.

#### **Response**

Please refer to response for Question 10.

#### **QUESTION 12**

Do you agree with the Office’s proposal to direct DataLink to investigate the creation of an online portal or system for the submission of pole attachment permit applications and the issuance of pole attachment permits? If not, explain in detail the reasons why you disagree.

#### **Response**

Digicel is fully supportive of the creation of an online portal system that would streamline the entire pole application process, from application to issuance. Implementing an online portal can bring several benefits and improve the efficiency of the application process for all parties involved.

Moreover, an online portal can enable faster processing times, as digital applications can be reviewed and assessed more efficiently. This can result in quicker issuance of permits and reduce administrative burdens for both the applicants and the authorities responsible for granting permits.

### **QUESTION 13**

If you agree with the Office's proposal to direct DataLink to investigate the creation of an online portal or system for the submission of pole attachment permit applications and the issuance of pole attachment permits, what should be the requirements and scope of such a system?

#### **Response**

Digicel agrees with the Office's position on this, and the specifications are answered in Question 15.

### **QUESTION 14**

Do you agree with the Office's proposal to direct DataLink to investigate the creation of an online database containing relevant information on CUC utility poles managed by DataLink? If not, explain in detail the reasons why you disagree.

#### **Response**

Digicel agrees with the Office's position on this.

### **QUESTION 15**

If you agree with the Office's proposal to direct DataLink to investigate the creation of an online database containing relevant information on CUC utility poles managed by Data, what should be the requirements and scope of such a system? In particular, what information in relation to CUC utility poles should be included and which persons should have access to the database?

#### **Response**

Digicel envisions a comprehensive database system that includes various data fields and functionalities. Here is a summary of some of the features, but not limited to:

1. Geographical Map: The system should provide a map view that allows users to visualize the location of poles and related infrastructure.
2. Location and Pole Number: Each pole entry should include its specific location information and a unique identifier, such as a pole number, for easy reference.
3. Pole Status and Age: The system should track the status of each pole, indicating whether it is active, decommissioned, or requires maintenance. Additionally, it should record the age of each pole for monitoring purposes.

4. Height: The height of each pole should be included in the database to ensure accurate information and facilitate planning for attachments.
5. Last Date of Make Ready: The system should record the date when Make Ready work was last performed on a specific pole, providing visibility into recent maintenance or modifications.
6. Utilities Authorized to Attach: Information on which utilities are authorized to make attachments to each pole should be available, ensuring clarity and compliance with regulations.
7. Easy Search Option: The system should have a user-friendly search function that allows users to quickly locate specific poles based on various criteria, such as pole number, location, or authorized utilities.
8. Multiple License per Utility: The system should support the assignment of multiple licenses to individual utilities.

Additionally, the attaching utility should assign key personnel with access to the database, and the owner utility should provide training to ensure proper use of the platform. These specifications indicate a robust and centralized database system that can help streamline operations, facilitate efficient decision-making, and promote effective collaboration among stakeholders. When implementing such a system, it's crucial to consider factors such as data security, user permissions, scalability, and integration with existing infrastructure management processes. Working closely with relevant stakeholders and technology experts can help ensure the successful development and deployment of the platform.

#### **QUESTION 16**

Do you agree the Office has the jurisdiction under sections 6 and 62 of the URC Act to require DataLink to investigate the creation of an online portal or system for the submission of pole attachment permit applications and the issuance of pole attachment permits and/or the creation of an online database containing relevant information on CUC utility poles managed by DataLink?

#### **Response**

Digicel believes that the Office has jurisdiction and agrees with the Office's position into the investigation of an online portal for the submission of pole applications and further adds that the prompt implementation of same would optimize this process for all Attachers.

#### **QUESTION 17**

Do you agree with the Office's proposal to modify the Pole Sharing Agreements to include a more explicit condition in contract that any changes to the communications facilities authorized to be attached to a pole under a permit must be reviewed by DataLink under the permit application process before the change is made? If not, explain in detail the reasons why you disagree.

**Response**

Digicel agrees with the Office's position on this.

**QUESTION 18**

Do you agree with the Office's proposal to require Attachers to report to DataLink all unauthorized attachments that have not yet come to the attention of DataLink, and must refrain from all future unauthorized attachments? If not, explain in detail the reasons why you disagree.

**Response**

Digicel agrees and has been guided by Datalinks' processes and does not have any unauthorized attachments. An attaching utility would not be privy to information unless provided by Datalink on which utility should or should not be attached to the specific poles. This info can be provided during the application process. This also allows for the attaching utility to track poles whereby make ready refunds would apply.

**QUESTION 19**

Do you agree with the Office's proposal to require DataLink to review each unauthorized attachment that comes to its attention, determine the make-ready work that would have been required if the Attacher in question had properly applied for a permit for the attachment under the Pole Sharing Agreement, and invoice the Attacher the applicable make-ready work charges? If not, explain in detail the reasons why you disagree.

**Response**

Digicel agrees with the Office's position on this.

**QUESTION 20**

Do you agree that the requirements should apply only to unauthorized attachments made after a final determination in this proceeding, or do you consider that they should apply to all unauthorized attachments, irrespective of when they were made or discovered? If the latter, describe in detail the power or jurisdiction that the Office would exercise in order to require retrospective adjustments to make-ready work charges.

**Response**



Digicel believes this should apply to all unauthorized attachments, irrespective of when they were made or discovered. Attachers that are in full compliance would then be entitled to refunds from utilities with unauthorized attachments.

## **QUESTION 21**

Are there are other remedies that the Office should consider instead, such as mandatory removal of all unauthorized attachments? If yes, describe in detail the advantages or disadvantages of such other remedies including, without limitation, the impact on existing services provided to consumers.

### **Response**

If mandatory removal is being considered, it's important to assess the potential impact on both the organization and the consumer.

Mandatory removal refers to a requirement for certain actions or items to be forcibly removed.

1. **Cost and feasibility:** Mandatory removal can impose significant costs on organizations, especially if they need to dismantle existing infrastructure or systems. This cost burden may eventually be passed on to consumers through increased prices or fees.
2. **Service disruption:** Mandatory removal may result in service disruptions for consumers, as existing infrastructure or systems are removed and replaced. This can lead to inconveniences and potential gaps in service provision.
3. **Stakeholder engagement:** Engaging stakeholders, including organizations and consumers, in the decision-making process is crucial. This ensures that their concerns, needs, and perspectives are considered, potentially leading to alternative solutions that address the underlying issues without resorting to mandatory removal

Considering these factors, it may be beneficial to explore alternative approaches, such as phased upgrades, retrofitting, or other strategies that minimize disruption and balance the needs of both organizations and consumers. Collaborative discussions among relevant parties can lead to more effective solutions that mitigate the potential negative consequences of mandatory removal.

## **QUESTION 22**

Should different considerations apply to unauthorized attachments made by ICT licensees outside of the communication space for example, in light of the danger to the safety and security of persons and of the electricity network, should they be subject to mandatory removal and/or to review under section 91 of the URC Act with a view to possible levying of administrative fines?

### **Response**

Any attachment outside of the communication space should be subject to mandatory removal with an agreed upon timeline as this not only violates the MPJUA, it creates a risk for anyone working on the poles. i.e. CUC electrical & other attaching utilities as well as public safety.

### **QUESTION 23**

In light of the current limit of one Attachment per Assigned Space set out in Appendix C of the Pole Sharing Agreements, what process do you consider should apply when an Attacher seeks to replace an existing communications facility on a pole with a new facility, without interrupting service to consumers?

### **Response**

Common practice and guidelines in the utility industry when it comes to replacing existing infrastructure.

1. When an attaching utility needs to replace its infrastructure, it is generally expected that they notify all other utilities that share the same pole or infrastructure. Providing a timeline for completion allows other utilities to be aware of the upcoming work and make necessary adjustments if needed.
2. To ensure a smooth transition and minimize disruptions, the new cable is typically placed close to the existing cable without infringing on the space allocated to other attachers. This approach helps maintain the integrity of each utility's infrastructure and avoids unnecessary interference or conflicts.
3. In the event of any service disruption/damage, the affected parties should be immediately informed so that service restoration can quickly commence. The offending party shall be liable for the full cost of the restoration.
4. Furthermore, it is generally expected that once the migration to the new infrastructure is completed, the attaching utility removes the old infrastructure within a specified timeframe. This ensures that the pole or infrastructure is not overcrowded with redundant or obsolete attachments, making it easier for future maintenance and expansions

#### **QUESTION 24**

Do you agree with the Office's proposal to ensure a permit to attach to a pole remains effective unless the right to attach contained in that permit is not exercised within no less than 200 calendar days after the date all permits in the same batch of poles have been issued? If not, explain in detail why you disagree.

#### **Response**

Digicel agrees with the Office's proposal.

#### **QUESTION 25**

Should the duration of the period to exercise the right to attach remain at 200 calendar days or should it be modified? If so, what should be the new period to exercise the right to attach? Explain in detail why and, in particular, how changing the period to exercise might promote an efficient, economic and harmonized utilization of infrastructure.

#### **Response**

Digicel agrees that the duration should remain at 200 calendar days.

#### **QUESTION 26**

Alternatively, should Article IV.F be removed from the Pole Sharing Agreements? Explain in detail why and, in particular, how removing Article IV.F might promote an efficient, economic and harmonized utilization of infrastructure.

#### **Response**

Digicel believes that Article IV.F should not be removed from the Pole Sharing Agreement. Our reasoning is that there might be extenuating circumstances that could prevent an attacher from utilizing the poles within the standard 200 calendar day timeframe and suggest that a written notice for an extension should be considered.

Digicel's viewpoint is that it would be highly illogical for a utility to pay for Make Ready services and not utilize the poles within a reasonable timeframe. Highlighting the importance of ensuring that utilities have the necessary flexibility to complete their infrastructure deployment and utilize the poles effectively.

Additionally, Digicel addresses the issue of poles within a batch having the same issuance date. They suggest that, unless specifically requested by the attacher upon review, the issuance dates for poles in a batch should not be the same. This consideration allows the attacher to potentially

connect cables even if a portion of the batch is delivered, optimizing the use of available infrastructure.

These perspectives from Digicel highlight their concerns regarding timeframes, flexibility, and efficient utilization of shared pole infrastructure. They emphasize the need for practical considerations and provisions in the Pole Sharing Agreement

#### **QUESTION 27**

Do you agree with the Office's proposal that attaching utilities be required to the Owner Utility (DataLink or CUC, as applicable) periodic forecasted attachment requirements over the next three-year period? If not, explain in detail why you disagree.

#### **Response**

The benefits of proper planning for CUC/Datalink's Pole Infrastructure may include improved coordination, efficient deployment of services, reduced delays, and enhanced overall operational effectiveness. By supporting these measures, Digicel demonstrates its commitment to fostering a well-organized and collaborative environment in the telecommunications industry.

#### **QUESTION 28**

How often should attaching utilities be required to provide the forecasts, if any, and at what level of geographic specificity?

#### **Response**

Digicel believes that forecasts can be done every six (6) months and the level of geographic specificity can be "named roadways".

#### **QUESTION 29**

Should such forecasts, if any, include only new attachments, or should all attachments be included?

#### **Response**

"All attachments should be included in the forecast, as the replacement, modification, or upgrade of cable infrastructure may necessitate make-ready works and/or pole replacements."

Considering the potential requirements for make-ready works and pole replacements during the forecast stage allows for better planning, resource allocation, and decision-making. It enables

stakeholders to proactively address any potential challenges and ensure that the necessary preparations are made to accommodate future modifications or upgrades to the cable infrastructure.

### **QUESTION 30**

Should the forecasts, if any, be binding?

#### **Response**

Digicel believes any forecast should not be binding as our environment can be quite dynamic.

### **QUESTION 31**

In light of the fact that DataLink also competes with the other attachers as an ICT licensee, what measures should be implemented, if any, in order to protect the confidential and commercially sensitive information of the other attachers?

#### **Response**

Establishing Non-Disclosure Agreements (NDAs) between Datalink and each attaching utility can help protect sensitive information and ensure confidentiality in their business relationship. The NDA should contain terms permitting the Ofreg to impose severe penalties if breached, including substantial fines and suspension of license.

### **QUESTION 32**

Do you agree with the Office's proposal that DataLink permit attaching utilities to perform pre-permit surveys prior to submitting pole attachment permit applications to DataLink? If not, explain in detail why you disagree.

#### **Response**

Digicel agrees with the Office's position on this.

### **QUESTION 33**

Do you agree with the Office's proposal that these pre-permit surveys would consist of visual surveys only and may be subject to reasonable terms and conditions such as a requirement to give DataLink reasonable advance notice of an intent to carry out a pre-permit survey? If not, explain in detail why you disagree.

**Response**

Digicel agrees with the Office's position on this.

**QUESTION 34**

Do you agree with the Office's proposal that DataLink publish the information it reasonably requires from a pre-permit survey in order for DataLink to process an application for a pole attachment permit? If not, explain in detail why you disagree.

**Response**

Digicel agrees with the Office's position on this.

**QUESTION 35**

Do you agree with the Office's proposal that Datalink provide training at a reasonable cost to the persons proposing to do the Pre-Permit Surveys, and carry out a verification process to verify compliance with the requirements? If not, explain in detail why you disagree.

**Response**

Digicel agrees with the Office's position on this.

**QUESTION 36**

Do you agree with the Office's proposal that DataLink maintain an up-to-date list of all CUC utility poles, which shall include information on the X and Y coordinates, height, CUC pole number or equivalent information, and size of communications space (where known) of each such pole, and shall provide the list upon request to ICT licensees who have executed a master joint use pole sharing agreement with DataLink? If not, explain in detail why you disagree.

**Response**

Digicel supports the suggestion for Datalink to maintain and regularly update all the utility pole information suggested by the Office. Centralizing the maintenance and updates of utility pole information can bring efficiency and consistency to the process. Including the Telco utility authorized to attach as one of the data fields in the online portal system is a practical suggestion. This addition would provide clarity and transparency regarding which Telco utility has

authorization to attach to specific poles. It can help streamline the process by ensuring that only authorized entities are making attachments and reducing the potential for conflicts or unauthorized attachments.

Implementing such features in the online portal system can contribute to better management of utility pole infrastructure, improved coordination among stakeholders, and enhanced overall efficiency.

### **QUESTION 37**

Do you agree with the Office's proposal that DataLink be required to permit third parties to perform make-ready work, including make-ready work in the electrical space or involving electrical facilities on the utility pole, provided certain conditions are satisfied? If not, explain in detail why you disagree.

#### **Response**

Digicel does not specialize in Electrical Services and recommends that this function should remain under the purview of Datalink/CUC. However, consideration should be given for make-ready works that are contained within the communication space only which can be done by third party contractors and or if Datalink is resource/operationally challenged at a point in time, permitting qualified third parties to conduct Electrical services work to underpin make ready should be permitted by Datalink.

### **QUESTION 38**

Are the proposed conditions appropriate? Are there are other relevant considerations that the Office should consider?

#### **Response**

Please refer to response on Question 37.

### **QUESTION 39**

Do you agree with the Office's proposal that upon receipt of a request to attach to a CUC utility pole, DataLink should replace the pole with one capable of accommodating up to four attachers, and that the costs of pole replacement should be shared by all attachers who have included the pole in their attachment demand forecasts. If not, explain in detail why not.

#### **Response**

Digicel agrees with the Office's position on this.

#### **QUESTION 40**

In your view, does the Office have power to mandate such a solution under the current ICT Act and Regulations? Provide your reasoning in detail.

#### **Response**

The Office has the power to make any general determination that will ensure that infrastructure sharing is based on cost-oriented rates that are reasonable having regard to economic feasibility. The Office also must ensure that such rates shall be sufficiently unbundled such that the licensee requesting the infrastructure sharing service does not have to pay for network components that are not required for the interconnection or infrastructure sharing service to be provided.

#### **QUESTION 41**

In your view, can the parties (Owner Utilities and Attaching Utilities) agree to such a solution, in the event the Office does not have the power to mandate such a solution under the current ICT Act and Regulations? Provide your reasoning in detail.

#### **Response**

Digicel's view is that the owner utility and the attacher can agree to a mutually beneficial solution.

#### **QUESTION 42**

Do you agree with the Office's alternative proposals that DataLink should first attempt to accommodate all attachment requests within the existing communications space before replacing the pole with a pole with can accommodate up to four attachers, that in such a case the requester should pay for the cost of replacing the pole with one that can accommodate up to four attachers, provided that, if a pole was installed between 1996 and 2016 and does not have a 1-foot 8-inch communications space, DataLink should bear half the cost of replacing the pole unless DataLink can demonstrate that Flow declined future use of the pole in question under the terms of the 1996 CUC-Flow Pole Sharing Agreement? If not, explain in detail why not.

#### **Response**

Digicel supports the view that Datalink should first attempt to accommodate all attachment requests within the existing communications space before replacing the pole with a pole that can accommodate up to four (4) Attachers. However, Digicel believes that Datalink should solely bear the cost of pole replacement and replenishment as the single provider of critical infrastructure in the Cayman Islands and owner of the Datalink assets that it charges attachment fees as well quarterly recurring fees.



**QUESTION 43**

Do you agree with the Office's preliminary view that it should not propose for consultation a revised definition of "standard utility pole"?

**Response**

Digicel agrees with the Office's position that consultation on this is not necessary at this time.

**QUESTION 44**

If not, explain in detail the reasons why you disagree, provide a revised definition of "standard utility pole", and describe in detail how the application of that revised definition would promote an efficient, economic and harmonized utilization of infrastructure on Grand Cayman.

**Response**

Please refer to response provided on Question 43.

**QUESTION 45**

Is DataLink pricing formula for calculation of the "Annual Attachment Fee" an appropriate pricing methodology for determining cost-oriented prices for attachment of communication cables onto CUC's utility poles, and if so, why.

**Response**

As per paragraphs 569-584, Digicel agrees, that the pricing methodology for calculating the annual attachment fees are excessively high and simultaneously increase CUC/Datalink's profit and limit the harmonized utilization of infrastructure sharing.

**QUESTION 46**

If DataLink pricing formula for calculation of "Annual Attachment Fee" is not an appropriate pricing methodology, what other methodology should be used for determining cost-oriented prices for attachment of communications cables onto CUC's utility poles.

**Response**

Digicel believes that the same formula, methodology and annual attachment fees should be standardized for all attachers. Research have shown that the annual rates in Cayman are greater than that of other territories, i.e. Canada, UK and Ireland.

## QUESTION 47

If DataLink pricing formula for calculation of the “Annual Attachment Fee” is an appropriate pricing methodology, should any changes be made in the various elements of the formula, namely:

- Net Cost of a Bare Pole,
- Space Factor,
- CUC’s Annual Carrying Charge Rate,
- Inflation, and
- Management & Overhead.

## Response

It may be advisable for Digicel to engage in further discussions with CUC to address any discrepancy and clarify the billing process for poles. Open communication and a collaborative approach can help rectify any errors, determine the correct cost structure, and ensure accurate invoicing moving forward. Digicel has assessed that the net cost of bare poles is significantly higher than expected.

Digicel believes that there are inaccuracies or unfairness in the determination of common costs and the allocation of space and associated expenses for attachers of CUC poles. To address these concerns, it would be advisable for attaching utilities to engage in discussions with CUC to clarify the specifications and methodologies used in the determination of common costs and the allocation of pole space. A collaborative approach and open dialogue may help in resolving these issues and establishing a fair and equitable cost-sharing arrangement.

Digicel believes that if CUC is already covering the full costs of the poles and generating a return through electricity rates, it may be unfair for Datalink's telecommunications customers to subsidize CUC. Addressing this issue would require a careful examination of the financial arrangements, cost allocation methodologies, and regulatory frameworks in place for pole attachments. It may involve evaluating the fairness of cost sharing, the extent to which telecommunications customers are contributing to CUC's returns, and the appropriate distribution of costs and benefits among stakeholders.

Digicel believes that the maintenance/administrative cost elements were derived using the net book value (i.e. that is the historical cost of CUC’s total assets less depreciation, amortization and any other depletions) of CUC’s total assets.

In principle, CUC’s admin/distribution costs should not be included in prices paid for attachment to poles...as these costs would have been driven by CUC’s demand for poles as opposed to the utilization of said poles by attachers. None of these costs have anything to do with actually providing ‘space’ on a pole for pole attachments because any utility would incur these costs ‘regardless of the presence of pole attachments

In layman's terms, the cost drivers for CUC's access charges for attachment to their poles should be premised on the incremental cost of providing said access

#### **QUESTION 48**

Provide your view as to whether or not Datalink's pricing formula has any effect on the prices electricity users pay to CUC and/or the potential profitability of CUC's business operations resulting from the provision of access to its utility poles, including any evidence you have to support your view.

#### **Response**

Digicel does not have sufficient data or operational insight at this time to provide our view on this question.

#### **QUESTION 49**

Provide your view as to whether or not Datalink's ability to access CUC's utility poles at no charge has the effect of limiting either the efficient and harmonized utilization of infrastructure or the promotion of competition in the provision of ICT services or ICT networks.

#### **Response**

Digicel's highlights valid concerns regarding the potential impact of Datalink having free access to CUC poles. The arrangement could indeed influence the efficient and harmonized use of infrastructure, as well as competition in the market.

- a) Infrastructure Use and Efficiency: If Datalink is given free access to CUC poles, it may have an advantage over other attachers who must pay for the use of the same infrastructure. This could create an imbalance and potentially lead to congestion and inefficiencies in pole usage.
- b) Fair Competition: Fair competition is essential for a healthy market. If Datalink receives free access to poles while other attachers must pay, it might distort the competitive landscape, potentially favouring Datalink over other players in the telecommunications industry.
- c) Impact on ICT Service Providers: Datalink's status as an infrastructure provider to ICT Service Providers might raise concerns about potential conflicts of interest if it were to offer competing ICT services. Free access to infrastructure could give Datalink a competitive advantage over other ICT service providers in the market.

To address these concerns, it's important for regulatory authorities and stakeholders to carefully assess the implications of such arrangements and ensure a level playing field for all attachers. Fair and transparent regulations that govern pole access, pricing, and competition can help create an environment that fosters innovation, fair competition, and efficient infrastructure usage.

Engaging in dialogue between telecommunications companies, infrastructure providers, and regulatory bodies can help identify balanced and equitable solutions to address these concerns. The goal should be to promote healthy competition, efficient infrastructure utilization, and an equitable playing field for all participants in the telecommunications industry.

#### **QUESTION 50**

Provide your view as to whether or not Datalink's charges for Make-Ready work are cost-orientated, including a detailed explanation supporting your view.

#### **Response**

As referenced in paragraph 595, Digicel is also unable to determine if Datalink's charges for MR work are in fact cost oriented.

Without detailed invoicing and set structure on charges for similar types of MR works, it would be difficult to determine the pricing methodology utilized.

#### **QUESTION 51**

If your view is that Datalink's charges for Make-Ready work are not cost-orientated, provide your view as to what approach should be taken to ensure the non-recurring charges for Make-Ready work are cost-orientated.

#### **Response**

Digicel has observed a significant increase in the cost of Make Ready (MR) works for poles over the past year. We have noticed that the average cost per pole within a batch has risen significantly in recent times. It is our view that there should be regulations as it relates to MR works and by following the four (4) charging principles: Non-Discrimination, Transparency, Cost-Relatedness and User Consultation can ensure fairness, equity and compliance.

#### **QUESTION 52**

Do you agree with the Office's proposal that Article VII of the Pole Sharing Agreements should be amended as described in the preceding paragraph? If not, explain in detail why not.

#### **Response**

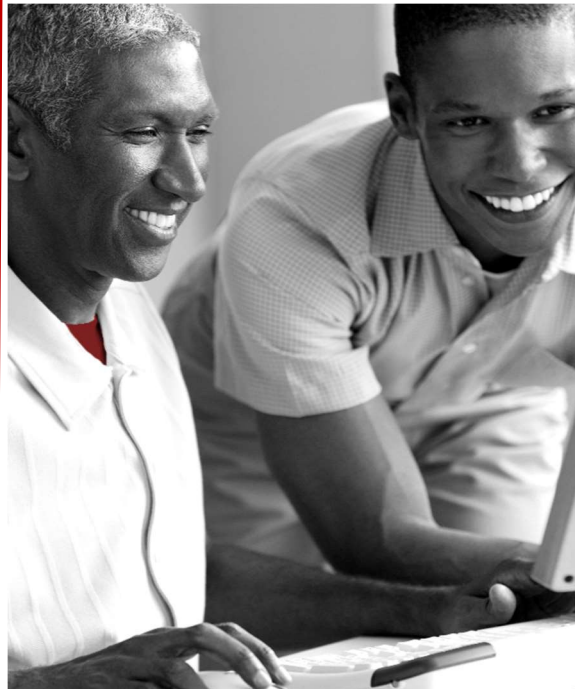
Digicel agrees with the Office's position on this.

# 04 Appendix (Cross Comments)

Questions	Comments
<p>Q3/Q4. Do you agree with the proposal that applicants be required to provide a properly completed Pre-Permit Survey with their applications for a permit to attach a communications cable to a CUC utility pole? If not, explain in detail the reasons why. Please also indicate changes, if any, you suggest should be made to the proposed requirement.</p>	<p>Digicel wishes to emphasize that contrary to Datalink’s response, we have been guided by the MPJUA agreement between Datalink and Digicel, and have been fully compliant in all of our attachments.</p>
<p>Q6. What period of time should Attaching Utilities be given in order to accept, reject or otherwise respond to estimates delivered by DataLink?</p>	<p>Digicel, after carefully considering the responses suggest a shorter response time for Attaching Utilities. A response time of 7 to 10 business days seems to be more favorable to Attaching Utilities than the three-week period proposed by Datalink.</p>
<p>Q7. What specific changes to the terms of the Pole Sharing Agreement would you propose to implement this proposal, if it were adopted as a determination following consultation?</p>	<p>Digicel is not in agreement with the proposed upfront application fee by Datalink.</p>
<p>Q8. Do you agree with the proposal that all permits issued for poles included in the same batch application be given the same effective date, irrespective of when the pole is actually ready and available for attachment, unless the applicant requests otherwise? If not, explain in detail the reasons why you disagree. Please also indicate changes, if any, you suggest should be made to the proposed requirement.</p>	<p>Digicel is in agreement with Datalink’s response to this question.</p>
<p>Q28. How often should attaching utilities be required to provide the forecasts, if any, and at what level of geographic specificity?</p>	<p>Digicel maintains that Bi-annual forecast would be sufficient.</p>
<p>Q29. Should such forecasts, if any, include only new attachments, or should all attachments be included?</p>	<p>Digicel generally agrees with the forecast being only new attachments.</p>

Alternative Point of contact:

Name, Title	Kevin Mullings, Technical Lead, CEO Office and Admin
Email:	<a href="mailto:Kevin.Mullings@digicelgroup.com">Kevin.Mullings@digicelgroup.com</a>
Tel:	(345) 327 6003
Address:	115 Printer Way, Georgetown, Grand Cayman
Website:	<a href="http://www.Digicelgroup.com">www.Digicelgroup.com</a>



**THANK YOU**

FOR ENGAGING US