

**POLE ATTACHMENT TELECOMMUNICATIONS INDUSTRY
WORK GROUP INTERROGATORIES
APRIL 2017**

INFINITY BROADBAND LTD. (t/a C3)

Infinity Broadband Ltd. (t/a C3) wishes to extend our gratitude to The Utility Regulation and Competition Office (t/a OfReg) in conducting the Pole Attachment Work Group Sessions and to allow for Cayman Islands Telecommunication operators to provide the following information to improve each Licensees commitment to deliver island wide Fibre coverage to the Cayman Islands.

C3 expects OfReg to determine principles for fair allocation of costs and pricing and ensure all Licensees abide to the decided appropriate attachment methodology and rates.

With the above, a harmonized competitive market is created and delivered to the overall consumer both residential and commercial.

Make Ready Resource Certification

1. What are the qualifications or certifications that CUC's or DataLink's third-party contractors must have in order to perform work for CUC or DataLink on CUC's utility poles?

1.1 Are they held by the contractor or by the contractor's employees or both?

DataLink confirmed Terms & Conditions to be met by Third Party Contractors must be the following:

- Qualified
- Approved
- Under direct contractual control by CUC

DataLink communicated the Utility Poles are the private property of CUC and sole purpose is to deliver electricity. CUC will not permit the transfer of electrical works unless the above criteria are met.

To-date DataLink currently utilizes the services of CUC / UMC Cayman Ltd. (UMC) to complete all Make-Ready deployments.

It is not confirmed whether DataLink / CUC / UMC is accredited under a regulated body i.e. National Electrical Safety Code (NESCC) or whether continued training development programs are offered to ensure up-to-date qualifications for both CUC and UMC employee's.

C3 requests confirmation on the following:

- CUC / UMC accredited regulated body
- Only certified / qualified employees are permitted to work on poles
- CUC supervision during UMC make-ready deployments
- Appropriate Liability Insurance (both public and employee) programs
- Annual Re-Certification Developmental Training Programs are adhered
- Additional accredited third party contractors be recognized to complete make-ready

2. How do these contractors obtain these qualifications or certifications?

2.1 Does CUC offer or require any internal training courses or orientation programs before these contractors or their employees are permitted to work on CUC's utility poles?

Please refer to C3's response in Question 1 above.

3. Are there any other stipulations which are imposed by CUC or DataLink on these contractors, for example, types of insurance or types of tools or other equipment they must use?

C3 requires confirmation the appropriate insurance policy for both Public and Employee Liability are compliant and all tools and deployment procedures / techniques are adhered to the applicable accredited regulated body.

C3 requires confirmation of the accredited regulated body CUC / UMC adheres to.

4. Do these contractors or their employees have to obtain any other authorizations or permits in order to perform work on CUC's utility poles (other than the usual trade or business licensing or immigration and work permits?

DataLink confirmed approved third party contractors are ONLY permitted to work on CUC's utility poles (criteria stipulated in Question 1.).

5. Who supplies the materials that the contractors use to do work for CUC or DataLink?

5.1 If the contractors supply their own materials, does CUC or DataLink specify the standards for such materials?

C3 references Interconnection and Infrastructure Sharing Regulations 2003;

Regulation 6 – following general principles and guidelines shall apply to the provision of interconnection and infrastructure sharing services

- reasonable rates and terms and conditions no less favourable than provided to itself
- rates be determined in a transparent manner
- costs be sufficiently unbundled only to pay for required services rendered
- rates be cost-oriented

Regulation 10 – responders' charges for interconnection or infrastructure sharing shall be

- determined in a transparent manner subject to confidentiality
- non-discriminatory applying equivalent conditions, services provided to itself

C3 requires confirmation all materials and services are either provided by CUC or approved accredited regulated vendors based on the Interconnection and Infrastructure Sharing Regulations cited above. All items should be listed, fully transparent, based on cost and specifically non-discriminatory.

The above will ensure fair and equal costs amongst all Telco Attachers as well create a competitive tendering process should additional third-party contractors be able to enter this market to assist in the Make-Ready deployments.

C3 expresses alternative solutions:

- allow other Telco Attachers to use independent utility approved / accredited contractors to perform all make-ready and communication channel deployments

Permit Application Process

1. Consider whether the timeframe in the permit application process should be expressed in Business Days or Calendar Days?

To expedite the permit application process C3 requests Calendar Days, although assurance from DataLink would be required to not incur additional over-time costs applicable to weekend labour.

2. Consider whether the timeframes in the permit application process should only apply to applications with a maximum of attachments?

2.1 If so, what should be the maximum number of permits per application be?

DataLink realized upon contractual agreeing with the relative Telco providers in Cayman the obligation of fibre island wide coverage was eminent.

DataLink states they were required by the former OfReg named ICTA to offer Pole Attachment Agreements to Cayman's Telco Attaching Utilities regardless of current infrastructure and space limitations.

DataLink confirmed they do not have the authority to grant the attachment permits, only the parent company CUC can authorize the attachment permits to the poles. What then is the time differential? Are there efficiencies to be gained eliminating the middle-man DataLink?

The first agreement was signed with C3 in 2005 with subsequent agreements with all remaining Telco providers during 2012, why was DataLink not proactively planning their infrastructure to facilitate this requirement? Had this been strategically planned, the challenges currently faced would be non-existent. Had proper capital expenditures and planning been properly formulated and exercised accordingly over DataLink's fiscal years, current costs would not be over-stated causing break-even timelines grossly unacceptable to the Telco providers?

DataLink charged Reservation Fees to the Attaching Utility, please explain what the justification for these funds was? It would be different had these funds been allocated in preparing the poles for the make-ready and preparation of attachments. An opportunity cost wasted on all counts.

DataLink has presented Permit Application timelines (if fully maximized) of 165 business days, an estimated 7.6 months. Consumers are not willing to wait for connectivity of services for nearly 8-months as DataLink provides, of which C3 bears the burden of consumer frustration and financial / operational shortfalls.

Terms & Conditions – Permit Applications

Batch Review / Survey	2 weeks	(10 days)
Meet to discuss MR Scope	2 weeks	(10 days)
Licensee Decision	up to 3 months	(60 days)
MR works after deposit received	15 weeks	(75 days)
Permit Issued	2 weeks	(10 days)

This process is ineffective and inefficient. Based on this model, DataLink requires maximum application of 300 poles per month to complete an island wide fibre coverage within three years. DataLink is currently operating and completing 100 to 150 poles only, half of the expected rate whilst consumers past Spotts heading East eagerly wait for fibre connectivity.

The Federal Communication Commission (FCC) remedied an order once applicants have paid estimated make ready charges, pole owners must complete make ready works within 60 days recognizing exceptions for large orders or conditions outside of the utilities' controls such as emergencies.

Examples of jurisdiction's follow with the 60 to 90 days to complete make ready works:

Nashville Electric Space	60 days
Vermont Public Utilities Commission	60 days
Utilities Telecom Council	< 60 days, but often takes 60 – 90 days to complete
Code of Federal Regulations	60 days

C3 requests OfReg to seriously analyze this element as this bears a critical challenge to the overall telecommunication services to both residential and commercial customers.

3. What other requirements (if any) should the proposed permit process include?

CUC and DataLink should consider additional third party contractors to assist in completing the permit application make ready process.

C3 offers our assistance in expediting the process by adding additional accredited resources to our team to facilitate with deployment with no objections under CUC supervision.

Fibre and Pole Roll-Out in the Cayman Islands

1. Consider the appropriate location of the boundary line?

C3 is not able to consider the appropriate location of the boundary line at this time until further clarification on the proposed infrastructure is clearly defined.

Further clarity is required as followed:

- Network Design / Operations Management / Deployment / Integration into C3 network
- Business Continuity / Liability
- Ownership of Network beyond Boundary Line
- Costing of Network Usage
 - CAPEX to deploy the network
 - Share per Telco provider

- Monthly Recurring Costs
2. Consider whether 36 months is an appropriate length of time to complete the pole make-ready and the fibre optic network roll-outs west of the boundary lines?

DataLink's confirmed operational Terms & Conditions:

- Make Ready permit process application of 165 business days
- Make Ready maximum subscription for 300 poles per month
 - Current DataLink run rate of make ready poles is 100 to 150 per month
- Permits applied in batches of no more than 25 poles each Telco provider
- Make Ready charges of 100% payment required in advance to any works being completed
 - Fixed Make Ready charges per pole paid in advance
 - Fixed charge applicable to Flow and Logic

C3 believes under the above DataLink Terms & Conditions, 36 months will not be an achievable length of time to complete a fibre optic network west of the boundary lines.

C3 requests OfReg aggressively pursue DataLink to adjust and improve their operational conditions to facilitate the mandated requirements for the Telco providers in delivering island wide fibre optic coverage.

DataLink must improve Make Ready timelines reducing the confirmed number of days from 75 to an industry norm of 60 days (or better). If DataLink is unable to deliver completed Make Ready by the 60th day, the attaching requestor assumes control of the Make Ready and may hire third party approved contractors to complete the make ready works.

Since 2012 all Telco providers have committed to a Pole Attachment Agreement with DataLink (inclusive of Novation's) with little progress.

Five years has passed and less than a third of Grand Cayman has been deployed with fibre optic coverage due to DataLink's constant challenges of inefficiencies and lack of common business knowledge.

DataLink's current guidelines set above, East End residents will not be receiving fibre optic products for another ten years.

C3 requests stronger regulated process be adhered i.e. stringent timelines, agreed and consistent agreements and processes to only improve the current state of inefficiencies consistently faced.

3. Consider whether the deadlines set out under the common pole make-ready roll-out process are reasonable and appropriate?

3.1 What information is reasonably required by DataLink from the licensees in order to determine any necessary make-ready work and costs?

The 36-month timeline for the common pole make ready process nor DataLink's current Process Application are not acceptable.

Neither option is effective nor efficient to assist with Cayman Telco providers to deliver on their mandated deliverance of island wide fibre optic coverage.

4. Determine the factors which should be considered in developing the pole make-ready payment schedule?

C3 requests that the make ready process be considered in principle with the same guidelines as Infrastructure Sharing.

C3 references Interconnection and Infrastructure Sharing Regulations 2003;

Regulation 6 – following general principles and guidelines shall apply to the provision of interconnection and infrastructure sharing services

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C3 further requests the consideration of the following:

- establish / define a schedule of charges for the most common categories of work
- link payment schedule for make ready to actual performance rather than requiring 100% full payment in advance
 - percentage of completion payment schedule
- make ready payments be distributed by four to respectfully recognize all ICT Licensees
 - C3, DataLink, Flow and Logic
- Reimbursement of make ready fees be in recognized in perpetuity

C3 currently experiences inconsistent invoicing which we have raised and requested further information from DataLink i.e. pricing inconsistency / variances, estimated versus actual variances.

DataLink refrains from aiding in our request and recently informed an administration fee of 15% will be incurred to compensate for the additional information.

C3 requests that interest on late invoice payments be waived until DataLink's invoicing is consistent with Regulation 6 of the Interconnection and Infrastructure Sharing Regulations (2003).

5. Consider whether the new attachment roll-out obligation and associated deadlines for areas west of the boundary line are reasonable and appropriate?

C3 stands the deadlines are not appropriate nor reasonable.

6. Consider the factors the Industry should consider in determining whether Make-Ready Work is caused by the common pole make-ready process or by an individual licensee's request?

C3 requests OfReg to standardize the make-ready process in-line to the current Infrastructure Sharing Regulation (2003). Datalink cannot arbitrarily deviate from OfReg's regulations.

7. Consider whether the allocation of DataLink's resources between common pole make-ready and ad-hoc make-ready work is reasonable and appropriate?

- 7.1 Consider in particular the impact of the proposal to use qualified third-party contractors where DataLink cannot meet a deadline under the Master Pole Joint Use Agreement, if that proposal is adapted at the conclusion of the Working Group process, on the allocation of DataLink's resources to the common pole make-ready?

C3 requests liberalization to accredited third party contractors be sourced to assist to expedite the overall make ready process.

C3 requests DataLink abide to with the Infrastructure Sharing Regulation (2003).

Standard Utility Pole

1. Consider whether the current definition of "Standard Utility Pole" is appropriate?

C3 requests a "Standard Utility Pole" be defined and agreed to ensure all calculations and models are equally conformed and distributed fairly communicating the appropriate activity, allocation of space and identification of attachee.

CUC definition of a Standard utility pole in their agreement is not appropriate. This may be CUC standard Electrical pole but as stated in the Working Group Several by their representatives, CUC

Main Agreement with the Cayman Islands Government states “CUC shall not build its electricity infrastructure explicitly for the purpose of accommodating such non-electric infrastructure”. The 40 foot pole is a standard pole required for CUC to provide electrical service to its customers, not for the Telco to service their customers. CUC is adapting their pole to allow them to develop another revenue stream of their electrical poles. Therefore the definition of a Standard pole for this application should be a pole that is capable of allowing all four licensee to attach while exceeding the minimum height needed to cross the roads presently 18’6” above ground.

2. Should the Industry consider adapting a definition that is based on the minimum clearance for electrical facilities of 25 feet, instead of the absolute length of the pole?

C3’s understanding is the minimum clearance for electrical facilities is 25-feet, although we continue to receive charges of make ready works transferring electrical facilities to their respective height above 25-feet.

DataLink states these charges are appropriate due to the electrical facilities take precedence and CUC is not obligated to deliver on the communication corridor, hence will continue to charge on these types of transfer to complete make ready works.

C3 disagrees with DataLink and no charges should be appropriated to C3 when activities related to the Electrical Networks below the 25-feet are deployed in order to achieve make ready completion.

3. Consider the implications of retaining the current definition?

The current definition of Standard pole is acceptable but a definition for the Standard Telco only pole should be added to the new Pole Attachment Agreement.

C3 requests OfReg act to ensure DataLink respect and adhere to all applicable standards and not continue with a monopolistic attitude claiming they are above the standards and creating addendums to their benefit.

- National Electrical Safety Code (NESC)
- Interconnection and Infrastructure Sharing Regulations 2003

- 3.1 Should an Attaching Utility be required to pay for the replacement poles which are shorter or taller than the 40-foot pole referenced in the “Standard Utility Pole”, if a new pole is required in order to accommodate the Attaching Utility’s requirements?

C3 states no. All replacement pole costs should be absorbed by CUC / DataLink as it is their responsibility to ensure an infrastructure compliant to their regulated standards. The make ready costs, if applicable should be allocated to the attaching entity.

If the present pole isn't tall enough to accommodate the attaching utilities requirement and there is no other alternative but to install a new pole then all attaching utility that are either on the pole or applied to attached should contribute, but it should consider whether the pole it is being replaced is at the end of its useful life of 30 years or if the electrical requirements in that area will require the pole to be replaced by CUC. If either of this circumstances shall apply in 2-4 years then CUC should contribute an agreed portion of the cost of the replacement pole.

On mid-span poles, CUC should install Telco only poles and as such bill that cost of these poles directly to attaching utilities, and should be no taller than 25' and since they are not design to support electrical cables they could be Class 7 poles, if CUC decided to install a standard electrical pole the attaching utilities shall only pay the cost related to install a Telco only pole.

The recommendation of a class 7 pole ultimately delivers a cost reduction versus a 40-foot pole.

4. Consider the implications of adapting a new definition?

A definition for a Standard Telco pole should be adopted "a pole no taller than 25' which is owned by the ICT licensed utilities that is used sole for the distribution of communication services and is capable of supporting three or four attaching utilities".

4.1 What proportion of the cost of a new pole should an Attaching Utility pay, if a new pole is required in order to accommodate the Attaching Utility's requirement but if the pole is taller than is required for the Attaching Utility's specific requirements?

Please refer to C3's response in Question 3 above.

If the pole is a Standard Telco pole as defined in question 4 above then the attaching utilities should contribute 100% of the cost of the new pole. Circumstances where a Telco only pole cannot be installed and new Standard Pole is required the Owner Utility should consider remaining useful life of the pole and a formula for determining the cost applied that would determine the cost the attaching utility would pay.

4.2 In the event that there are electrical facilities located below 25 feet on a pole, should an Attaching Utility be required to pay Make-Ready Charges associated with moving those electrical facilities?

C3 states no.

CUC / DataLink is non-compliant to their standard and should not expect the attaching utility to update their infrastructure.

C3 stresses the importance and agreement of a "Standard Utility Pole" to mitigate inappropriate and unnecessary charges.

The simple answer would be "no", but since it seems that it was not until 2014 that CUC adopted the standard that all electrical facilities must be located above 25', it may not be appropriate make that determination. Any poles that were install after 2014 when the 25' standard was adopted the Owner Utility should be responsible for the cost to move all electrical facilities below 25'.

Cable & Wireless was the first attaching utility, their allotted space was 18'6" to 20' on the pole, a full 18" on the pole. It would therefore be entirely reasonable to state that any Electrical Facilities below 23' should not have been placed there and that the CUC should be responsible for the entire cost to move these electrical facilities, clearly anything below 23' would have required make-ready to meet the safety requirements of 40" between attaching utilities cables and CUC electrical cables or customer weather-heads.

4.3 How should the change in minimum clearance in 2014 be addressed?

C3 reiterates the standard is LAW. CUC / DataLink cannot at will addendum the standards to their benefit and we the Telco industry subsidize CUC's new infrastructure whilst continue earning a healthy profit.

See response to question 4.2 above.

Charging Principles

C3 has several concerns on DataLink's costing / pricing models and requests OfReg to conduct full analysis to ensure DataLink is compliant to our regulated Interconnection and Infrastructure Sharing Regulations 2003.

C3 references Interconnection and Infrastructure Sharing Regulations 2003;

Regulation 6 – following general principles and guidelines shall apply to the provision of interconnection and infrastructure sharing services

- reasonable rates and terms and conditions no less favourable than provided to itself
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A. Net Cost of a Bare Pole

1. The net book value of poles and the number of poles in the calculation of the Net Cost of a Bare Pole is said to include all poles?

- 1.1 Consider whether the factoring of all poles, which would include various pole types i.e. wooden, aluminum, etc. and poles that may be unable to take attachments, is appropriate?

CUC's infrastructure was built to provide electricity to the residents / businesses of the Cayman Islands. The last sentence of Clause 25.8 of CUC Main Electrical Agreement states "CUC shall not build its electricity infrastructure explicitly for the purpose of accommodating such non-electric infrastructure". OfReg should not allow CUC to factor the bare cost of all poles or even a standard utility pole, CUC poles were clearly installed for their services. A standard pole for the Telco attaching utilities to carry all four attaching utilities should be used as a cost for which all calculations are based. OfReg should consider the following as standard bare pole for Telco attachers, it must be high enough to meet the standard space allocation as per CUC recommendation of 9-inches between each attaching utility (in this case 4 attachers), that would therefore suggest the pole should only be 21 feet tall from ground to the top of the pole. A typical Telco pole would be a 25-foot Class 7 to 9 pole, CUC typical pole is 35 to 45 feet and is a Class 2 or 3 pole. These poles are required to carry CUC infrastructure and are not required for Telco poles.

Using netbook value bases on CUC standard bare pole to calculate the cost for Telco would therefore not be appropriate.

Net Cost of Bare Pole is overstated.

Telco attach at one point within a 3-foot communication corridor, to allocate the cost of a full pole is inappropriate.

B. Space Factor

2. Consider whether the methodology and values used in the calculations of each component of the Space Factor Formula, are specified correctly, in particular:

2.1 Clarity on whether the Space Occupied is per Attachment (in which case there could be multiple attachments within the assigned 9-inch space) or Attaching Utility (in which case the variable would be 9-inches)?

2.2 The calculation of the Unusable Space?

2.3 The calculation of the Weighted Average Pole Height?

2.3.1 Which pole heights can actually allow for attachments, and is this accounted for in the calculation of the weighted average pole height?

2.4 Is the 2/3 (two-thirds) allocation factor in the space factor formula (by which the unusable space multiplied) and appropriate fraction to allocate to Attaching Utility, given the weighted average pole height, the actual communication space and the use of the pole for the non-communication uses?

2.5 What impact (if any) should attachments on the pole, other than CUC's electrical supply or an ICT Licensee's use of the communication space i.e. street lighting or CCTV – have on the space factor formula or any other element of the formula for the calculation of the annual pole attachment fee?

C3 believes several elements within the Space Factor formula are problematic.

The costs are incorrect and inappropriate due to the allocation of space specifically to the 3-foot communication corridor, Telco attachers are subsidizing CUC's infrastructure.

A 9-inch space between each attaching utility should be the minimum space allowed and it should be the only attachment in that space. Placing another bolt into this 9inch space will further reduce the integrity of the pole, clearly the pole will be weakened and in high winds condition could have a catastrophic failure at that point.

C3 disputes the purpose of "Unusable Space" as this allocation bears no justification to the Space Factor formula because this space would exist regardless if the communication corridor existed or not. This factor is a means for DataLink to offset costs.

C3 stresses unnecessary costs exist and require OfReg to authorize DataLink to comply with the Interconnection and Infrastructure Sharing Regulations 2003; specifically, section 6 where DataLink is noncompliant to nearly all guidelines:

- a) good faith
- c) reasonable rates
- d) transparent
- g) costs incurred due to the request
- h) rates to be cost-oriented
- i) not include loss of compensation
- k) reasonable and non-discriminatory

C3 will comment on the subsequent sections Annual Carrying Charge, Return on Equity, Inflation, and Management & Overhead Allowance in a combined response.

C3 disputes DataLinks attempt to create unnecessary pricing structures and claim agreed costing and pricing models are accurate and a necessity to offer based on DataLink's statement required by the regulator (at that time ICTA) a Pole Attachment Agreement regardless of the actual space on the current CUC infrastructure.

The sections listed currently exist in both entities, DataLink and CUC. The methodology presented to the Telco providers are fictitious and unnecessary. The sole reason for DataLink's existence is to avoid double-taxing for both DataLink under the Electrical Authority and CUC under the OfReg Authority.

DataLink states Return on Equity and Inflation Rate are calculated accordingly within their pricing models, when confronted during the Work Groups DataLink responded "...our parent company demands a profitable return...", basically admitting a non-compliant act to the Infrastructure Share Regulation Section (6)(h) sharing rates shall be cost-oriented.

C3 believes the charges listed takes full advantage of the Cayman Islands Telco industry. DataLink claiming an ROE of 15% is extremely aggressive, considering zero capital investment, minimal risks

and what administrative charges incurred are supposedly shared with its Parent Company CUC. As well incorporating an annual Inflation Rate into their pricing models clearly indicate an organization of unreasonableness. The majority of these costs and profits have been recovered through CUC's financial structure of which zero disclosure has been presented to the Telco providers on what attempt of financial forecasting i.e. Capital Expenditures or Profitability Forecasting to incorporate the expected expansion and deliverance of the Communication Corridor. The initial Pole Attachment Agreement was signed with C3 in 2005, twelve years later and only one third of Grand Cayman is build and able to provide fibre optic services.

C3 wishes to request account analysis to verify all calculations are accurate and consistent to the pricing models presented. C3 has on numerous occasions requested further detailed input from DataLink and the continuous reply states they are not required to offer granular information on costing or pricing. This indeed creates noncompliance to the Infrastructure Sharing Regulation. On one occasion, DataLink replied in an email stating any further detailed queries an additional administrative charge of 15% will be incurred.

C. CUC's Annual Carrying Charge Rate

3. Are there any factors within the Annual Carrying Charge Rate Formula (such as depreciation, management and overhead allowance) that may already be taken into account in the calculation of the Net Cost of a Bare Pole?
4. Consider whether the methodology used to calculate the Annual Carrying Charge Rate is based on appropriate principles?
 - 4.1 Are there factors within the Annual Carrying Charge Rate formula that are already accounted for in the calculation of factors within the Attachment Fee Formula i.e. administrative expenses and depreciation?
 - 4.2 Have any of the expense factors within the Annual Carrying Charge Rate formula already been recovered by way of CUC's charges to its electricity consumers?
 - 4.2.1 Consider whether CUC's administration, maintenance and depreciation expenses are correctly allocated to the Annual Carrying Charge Rate?
 - 4.3 Return on Equity is used as a measure of the return on capital?
 - 4.3.1 Is ROE an appropriate measure for the required return on capital in this instance, and if so, what is an appropriate value to accept as a reasonable ROE?

4.3.2 Should ROE be replaced by cost of capital for CUC's regulated business, as agreed with the ERA and reviewed annually, and if not, what is the reason why the required return on capital should defer when the relevant assets i.e. poles are used for both CUC's regulated business and for attachment of Communications Facilities?

4.3.2.1 Is there another measure that should be considered?

D. Inflation Adjustment

4.4 Is an inflation adjustment factor an appropriate component in the Annual Attachment Fee Formula?

4.4.1 Consider whether the impact of inflation has already been taken into account in the calculation of other elements of the Annual Attachment Fee Formula, such as in the Net Cost of a Bare Pole, as well as factors in the Annual Carrying Charge Rate Formula?

4.4.2 Is the ROE (or the Cost of Capital) determined at normal or real values, and if so, determine whether there is a double-counting for inflation in the proposed Annual Attachment Fee Formula?

E. Management and Overhead Allowance

4.5 Consider the appropriate percentage of management and overhead allowance to be factored into the calculation of the Annual Attachment Fee Formula?

4.5.1 Consider whether management and overhead costs have already been factored into other elements of the Annual Attachment Fee Formula i.e. administrative expense as an element of the Annual Carrying Charge Rate?

Reservation Fees

1. Consider whether or not the Reserved Space Payment is an appropriate charging principle to be applied to the Attaching Utility?

C3 states Reserved Space Payment is inappropriate and unnecessary. The agreement secures the point of attachment on the pole and necessary make ready prepares for the attachment to be completed, hence the closure of the transaction (Telco attaching) and the commencement of the attachment fee.

C3 states there is no exclusivity concept as the agreed contractual commitment assigns the point of attachment. What benefit is there with C3 to pay the reservation fee? DataLink and C3 have already committed to an agreement and if funds are to be required for securing of the attachment, those funds should be applicable to future make ready works. There are zero returns for C3 and 100% monopolistic / anti-competitive monetary gains for DataLink. In any other economic transaction, an exchange of funds delivers an object of worth (tangible or intangible). Reservation Fees defined by DataLink deliver zero worth to C3. Both entities have already committed contractually to a Pole Attachment Agreement.

The discussion would be different had the reservation fees be applied as security on future make ready works. From a proactive scenario, this would be beneficial for both parties as DataLink would be able to prepare in advance i.e. resources, equipment, inventory, etc. and the Telco would be more inclined to aggressively pursue their fibre build knowing the make ready subsidy is applied, ultimately assisting in cash flows.

1.1 Upon what basis is such charging principle reasonable and justifiable (or unreasonable and unjustifiable)?

C3 states the reservation fee would be reasonable and justifiable had the funds been allocated and recognized to future make ready works, otherwise under current conditions DataLink's reservation fee is an anti-competitive method which is unjust and unreasonable.

When you purchase or construct a home, the contractor requests for security deposits / fees which ultimately is applied to the final sale price of the home. These upfront fees assist the contractor to prepare for the upcoming works to deliver the agreed home.

DataLink does not appropriate those funds to future make ready nor even preparing the poles for make ready, therefore what is the gain to the Telco other than a straight cash injection into DataLink's bank account. Have DataLink explain the justification of the Reservation Fee and what the funds are expected to provide.

DataLink's Reservation Fee structure C3 gains zero benefit; there is no purpose of this monetary exchange to C3.

C3 requests DataLink present other jurisdictions which implemented this structure?

1.2 Considering the following purpose statement in the Master Pole Joint Use Agreement:

“(B) Both parties to the Agreement recognize that there are a number of **advantages to sharing the distribution supporting structure for the attachment of each party’s aerial cables and associated equipment.** These advantages include a reduction in the burden placed upon public and private rights-of-ways, lower costs for real property development and highway alterations, and a more favourable aesthetic impact. Additionally, both parties agree that, wherever possible, there is an **overall cost saving to both parties by eliminating the placement, maintenance and operation costs due to the addition of a second line.**

(C) It is proposed that the parties enter into this agreement to **allow each other party to share distribution supporting structure with the other party.**”

What is the basis for the sections related to the Reserved Space Payment and the Total Minimum Annual Payments to apply to Communications Utility but not to DataLink, as an Attaching Utility?

2. If the Reserved Space Payment is an appropriate charging principle, consider the appropriate formula to be used in calculating such fee?

2.1 If the Reserved Space Payment is considered to be an appropriate charging principle, should the Attaching Utility be required to pay such fees in relation to poles which do not currently meet the definition of a “Standard Utility Pole”?

C3 states the Reservation Fee unreasonable and unjustifiable.

3. Consider if the accumulated Reserved Space Payments should be deducted from the Annual Attachment Fee, once an Attaching Utility makes an attachment, and therefore, fully utilizes the Reserved Space?

C3 states an economic transaction, an exchange of funds delivers an object of worth (tangible or intangible).

4. Consider whether or not the Total Minimum Annual Payment is an appropriate charging principle to be applied to the Attaching Utility?

4.1 Upon what basis is such a charging principle reasonable and justifiable (or unreasonable or unjustifiable)?

C3 states no charge based in dealings with DataLink are reasonable or justified.

Last conversation in reviewing a set of invoices, DataLink replied in an email stating any further administrative queries or additional information requested will incur an additional 15% administrative fee.

C3 requests an understanding how negotiations of good-faith can be achieved when a blatant monopolistic bullish reply is received!

Closing Statement

In conclusion:

C3 and other Telco providers do not benefit from DataLink's current business models as:

- Costs are not in adherence to the Interconnection and Infrastructure Sharing Regulation (2003)
 - Transactions not recognized in good faith
 - Cost and Pricing Models are not reasonable
 - Cost and Pricing methodologies are no transparent
 - Incurrence of costs only exist due to a request
 - All transactions are cost-oriented
 - Rates are not to include compensation for a loss
 - Terms & Conditions are not reasonable and non-discriminatory

C3 requests aggressive action from OfReg to enforce DataLink to comply with the Interconnection and Infrastructure Sharing Regulations (2003) ultimately creating:

- Greater efficiencies
- Proper cost allocations and pricing / rates
- Economic and cost effective stability
- Achievable timelines to deliver to the consumer of Cayman fibre optic island wide coverage

Due to the inconsistencies presented during the Work Group Sessions, actions, responses reported and documented from DataLink continued monopolistic standards, C3 requests our current Pole Attachment Agreement be nullified and OfReg grant C3 to pursue fibre build by means of UMC (approved CUC third party contractor) until OfReg's determination is completed.

What is at stake is the overall consumer satisfaction, the ability to receive fibre optic services and products within a harmonized competitive market.