



Case in Brief: ***Telus Communications Inc. v. Federation of Canadian Municipalities***

Judgment of April 25, 2025 | On appeal from the Federal Court of Appeal
Neutral citation: 2025 SCC 15

The Supreme Court confirms that the CRTC does not have the power to grant telecom carriers access to public places for their 5G small cell antennas.

This appeal is about legislation that gives the Canadian Radio-television and Telecommunications Commission (CRTC) the power to grant telecom carriers access to public places for the purpose of constructing, maintaining and operating their “transmission lines”. Under sections 43 and 44 of the *Telecommunications Act*, known as the “access regime”, the CRTC can set the terms of access when the carrier and the relevant public authority do not agree on terms.

In 2019, the CRTC initiated a broad review of mobile wireless services and related laws. Reducing barriers for mobile wireless infrastructure, including 5G infrastructure, was a topic of this consultation. Various parties, including several carriers, provided comments about obtaining access to different types of infrastructure in order to deploy mobile wireless networks.

The consultation raised the question of whether the CRTC has the power under the access regime to regulate carrier access to public property for 5G small cell antennas. Whereas previous-generation mobile wireless networks relied on approximately 13,000 large cell antenna towers across Canada to transmit intelligence from wireline networks to users’ devices like cell phones, complete 5G connectivity across Canada will require an estimated 250,000 to 300,000 small cell antennas. Because 5G small cell antennas are mounted on structures such as telephone poles, lamp posts, bus shelters, or buildings, many of which are located on municipally owned public property, the deployment of 5G infrastructure across Canada will require carriers to access public property to install, maintain and operate 5G small cell antennas.

The CRTC’s interpretation of “transmission line” in the access regime led it to conclude that it did not have the power to determine carriers’ access to 5G small cell antennas situated on public property. It said “transmission line” did not include 5G small cell antennas or any wireless infrastructure for two reasons. First, the ordinary meaning of the term “transmission line” and other parts of the Act showed that Parliament intended to refer only to wireline infrastructure when it used this term. Second, a narrow interpretation of “transmission line” was appropriate given other legislation, such as an approval process for the placement of antenna systems under the *Radiocommunication Act*. The CRTC’s decision was appealed by a carrier to the Federal Court of Appeal, which confirmed the CRTC’s interpretation of “transmission line”.

Several carriers appealed to the Supreme Court of Canada, seeking a declaration that “transmission line” includes 5G small cell antennas. The Court has dismissed their appeal.

A “transmission line” for the purposes of the CRTC’s power to grant access to public places includes physical, linear infrastructure, not antennas.

Writing for a majority of the court, Justice Moreau said that the CRTC does not have jurisdiction under the access regime to determine access to 5G small cell antennas situated on public property.

As she explained, the ordinary meaning of “transmission line” and the text of sections 43 and 44 of the *Telecommunications Act* have a strong physical and linear connotation that readily applies to wireline infrastructure like wires or cables, but not to antennas. Likewise, the broader context of the Act, including other defined terms and the Act’s legislative history, supports the narrower interpretation.

The general policy objectives of the Act, such as facilitating the orderly development of telecommunications, do not require the interpretation of “transmission line” that is the most advantageous to the carriers. Parliament intended to leave access to these sites up to good faith negotiation between carriers and the relevant public

authorities such as municipalities. Parliament's balancing of the carriers' interests against those of public authorities must be respected.

Breakdown of the decision: ***Majority:*** Justice [Moreau](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Rowe](#), [Kasirer](#), [Jamal](#) and [O'Bonsawin](#) agreed) | ***Dissenting:*** Justice [Côté](#) would have allowed the appeal (Justice [Martin](#) agreed).

More information: [Decision](#) | [Case information](#)

Lower court rulings: [Appeal](#) (Federal Court of Appeal)
