

CANADA
PROVINCE OF NOVA SCOTIA
COUNTY OF CUMBERLAND

IN THE MATTER OF the Canada Evidence Act;

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IN THE MATTER OF the certification of Indian Band
By-Laws pursuant to Section 86 of the *Indian Act*, R.S.C.
1985 Chapter I-5

STATUTORY DECLARATION

I, Beverley Clarkson of Moncton, Province of New Brunswick, do solemnly
declare as follows:

1. That on this date I was Director of Lands and Trusts Services, Atlantic Regional Office of Indian and Inuit Affairs;
2. The incumbent of the position of Director, Lands and Trusts Services has the powers of superintendent as set out in the Indian Act by virtue of a Ministerial declaration dated November 25, 1987, with respect to "superintendents" under Section 2(1) of the *Indian Act*.
3. That I have reviewed the attached copy of Miawpukek First Nation By-Law No. 99-22-11, being a by-law regulating the taxation of telephone companies on Reserve, having been enacted by the Miawpukek Band Council on November 22, 1999;
4. My review has determined that the attached copy of By-law No. 99-22-11 represents a true copy of the original. Consequently, it has been stamped as such and I have put my initial on each single page to reflect this finding;
5. Pursuant to section 86 of the *Indian Act* I hereby certify the attached by-law as a true copy.
6. I make this solemn declaration conscientiously believing it to be true and knowing it to be of the same force and effect as if made under oath and by virtue of the *Canada Evidence*.

Declared before me at
Amherst, Nova Scotia this
25 day of May A.D. 2000


Beverley Clarkson, Director
Lands and Trusts Services

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Miawpukek First Nation, in the Province of Newfoundland, at a meeting held on the 22nd day of November 1999.

- **Miawpukek First Nation**
Telephone Companies Taxation By-law No. 99-22-01

Dated at Ottawa, Ontario this 09 day of February 2000.

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ORIGINAL

MIAWPUKEK FIRST NATION

BYLAW NO. 99-22-11

Telephone Companies Taxation Bylaw

WHEREAS, pursuant to section 83 of the *Indian Act*, R.S.C. 1985, c.I-5, a band may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for taxation for local purposes of land, or interests in land, in the reserve including rights to occupy, possess or use land in the reserve;

AND WHEREAS it is the practice in the Province of Newfoundland for telephone and telegraph companies to pay a tax upon a percentage of the gross receipts within a local jurisdiction;

BE IT THEREFORE RESOLVED, that the council of the Miawpukek Band adopt the following bylaw in an express exercise of its rights under section 83 of the *Indian Act*.

SHORT TITLE

1. This bylaw may be cited as the "Telephone Companies Taxation Bylaw".

DEFINITIONS

2. In this bylaw

"band" means the Miawpukek Band;

"council of the band" means the council of the Miawpukek Band;

"customer" means a person who uses or purchases any kind of service from a telephone company;

"gross receipts" means all regularly recurring revenue arising from telephones and other equipment used by customers on the reserve and shall include revenue from long distance calls billed to customers on the reserve; and there shall be a deduction from "gross receipts" of any amounts related to uncollectible accounts on the reserve or amounts paid to other telephone or utility companies for the use of their equipment or in settlement with other telephone companies for long distance services;

"person" includes a corporation, partnership, agent or trustee, their heirs, executors, administrators or legal representatives;

"reserve" means the reserve(s) of the band as defined in the *Indian Act*, section 2(1), and special reserve(s) pursuant to section 36;

"Surveyor of Taxes" means the person appointed by the council of the band as the Surveyor or Taxes pursuant to this bylaw;

"telephone company" includes a corporation, person or association of persons owning, controlling or operating a telephone system or line on the reserve or providing long distance telephone service through property, other than personal property, located on the reserve.

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EXEMPTIONS

3.(1) The property or interest of a telephone company wholly owned by the band or any member of the band is exempt from taxation.

(2) The council of the band may, by resolution, enter into an agreement with any person to exempt that person from taxation pursuant to this bylaw, in whole or in part, where the council of the band considers such agreement and exemption to be in the best interest of the band.

ASSESSMENT AND TAXATION

4.(1) The on-reserve property interests of a telephone company shall be assessed on the basis of the gross receipts of that company from the reserve.

(2) Every telephone company owning, controlling or operating a telephone system or line on the reserve, shall provide the Surveyor of Taxes with a detailed statements by March 1st in each year, showing the gross receipts of the company from the reserve for the previous year ending on December 31st.

(3) The on-reserve property interests of a telephone company assessed pursuant to section 4(1) of this bylaw are taxable at the rate of five (2.5%) of the receipts of the telephone company in the previous year.

(4) Taxes payable under this bylaw are a debt due to the Miawpukek Band by the telephone company.

(5) The gross receipts tax provided for in this bylaw shall be in lieu of all other tax which may be imposed on the telephone company's interest on the reserve.

ADMINISTRATION

5.(1) The council of the band shall by resolution appoint a Surveyor of Taxes.

(2) The Surveyor of Taxes shall be responsible for the administration and implementation of the provisions of this bylaw.

(3) The Surveyor of Taxes shall prepare a report to the council of the band on or before April 1st in each year. The report shall include:

(a) A summary of the statements made under section 4(2);

(b) The amount of tax to be levied against each telephone company pursuant to section 4(3) for the current year; and

(c) The recommendation of the Surveyor of Taxes with respect to the administration of this bylaw.

(4) Upon approval by the council of the band of the report made pursuant to section 5(3), the Surveyor of Taxes shall forthwith issue a Tax Notice to the telephone companies owning, controlling or operating a telephone system or line on the reserve.

(5) Taxes are due and payable twenty-one (21) days after the Tax Notice is posted.

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(6) In addition to and separate from any penalty or enforcement that may be imposed under this bylaw, interest shall run on all taxes that are due and payable at the rate of one and a half percent (1.5%) interest per month.

TAX COLLECTION

6.(1) If the taxes imposed under this bylaw remain unpaid after December 31st of the year in which they are levied, the council of the band may bring an action in a court of competent jurisdiction to collect the debt.

(2) Taxes due and payable are a special lien and encumbrance on the reserve interests of a telephone company.

IMPOSITION PROVISION

7.(1) The Surveyor of Taxes shall notify, forthwith, each telephone company owning, controlling or operating a telephone system or line on the reserve that this bylaw is in effect, by registered mail.

(2) Every telephone company owning, controlling or operating a telephone system or line on the reserve shall commence tracking gross receipts from the reserve, for the purpose of preparing the report required under section 4(1), sixty (60) days after the notice under section 7(1) is mailed until December 31st of that year.

(3) For the first year that a tax is imposed under this bylaw, the tax shall be 2.5 percent (2.5%) of the gross receipts of each telephone company pursuant to section 7(2).

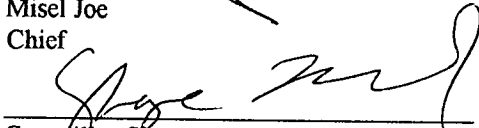
APPEALS

8. An appeal, by a telephone company or the council of the band, of the basis upon which the calculation of a gross receipt was made, pursuant to section 4(2), or an appeal of the amount or tax levied pursuant to section 4(3), shall be made by way of action in a court of competent jurisdiction.

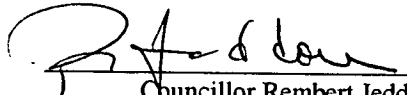
This bylaw is hereby enacted by council at a duly convened council meeting held on this 22nd day of November, 1999.



Misel Joe
Chief



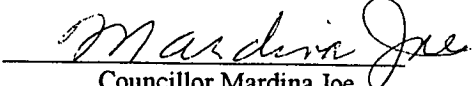
Councillor Shayne McDonald




Councillor Rembert Jeddore



Councillor Brian Kelly




Councillor Mardina Joe



Councillor Gerard Joe

Councillor John N. Jeddore


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