

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR MANITOBA)

BETWEEN:

TELECOMMUNICATION EMPLOYEES ASSOCIATION OF
MANITOBA INC. - INTERNATIONAL FEDERATION OF
PROFESSIONAL AND TECHNICAL ENGINEERS LOCAL 161,
COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF
CANADA LOCAL 7, INTERNATIONAL BROTHERHOOD OF
ELECTRIC WORKERS, LOCAL UNION 435, HARRY RESTALL, ON
HIS OWN BEHALF AND ON BEHALF OF CERTAIN RETIRED
EMPLOYEES OR THE WIDOWS/WIDOWERS THEREOF OF
MANITOBA TELECOM SERVICES INC., MTS COMMUNICATIONS INC.,
MTS MOBILITY INC. AND MTS ADVANCED INC., and LARRY TRACH,
ON HIS OWN BEHALF AND ON BEHALF OF ALL UNIONIZED EMPLOYEES
OF MANITOBA TELECOM SERVICES INC., MTS COMMUNICATIONS INC.,
MTS MOBILITY INC., MTS ADVANCED INC. and ALL UNIONIZED
EMPLOYEES OF MTS MEDIA INC. WHO WERE TRANSFERRED TO
YELLOW PAGES GROUP CO. PURSUANT TO A SALE ON OCTOBER 2, 2006,

Applicants
(Respondents)

- and -

MANITOBA TELECOM SERVICES INC., and MTS ALLSTREAM INC.
(as successor to MTS COMMUNICATIONS INC., MTS MOBILITY INC.,
And MTS ADVANCED INC.)

Respondents
(Appellants)

AFFIDAVIT OF JOHN M. CHRISTIE
*(Filed Pursuant to Section 40 and Paragraph 58(1)(a) of the Supreme
Court Act and
Rule 25 of the Rules of the Supreme Court of Canada)*

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KRIS M. SAXBERG /
D. TOMAS MASI**

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Ottawa Agents for the Respondents

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(Appellants)

AFFIDAVIT OF JOHN M. CHRISTIE

I, John M. Christie, of the City of Vancouver, in the Province of British Columbia,
Consulting Actuary,

MAKE OATH AND SAY AS FOLLOWS:

1. I am the President of Christie Consulting Inc., an actuarial consulting firm located in Vancouver, British Columbia and, as such, have knowledge of the facts to which I herein after depose.

2. I have been a professional actuary for 43 years and have worked throughout for major actuarial firms until establishing my own firm in 1998.

3. I have specialized in pension plans, including public sector pension plans. I have been extensively involved in various committees of the Canadian Institute of Actuaries (the national governing body for actuaries), including as a Committee Member for liaison with government authorities on pension matters (1980-83); as a Member of the Executive Committee, Vice President, responsible for pension committees (1988-90); as Chair of the Task Force on Pension Plan Surplus (1990-91) and, as Chair on Emerging Issues Committee (1991-94).

4. Attached as **Exhibit "A"** to my Affidavit is a copy of my Curriculum Vitae.

5. I have read the Manitoba Court of Queen's Bench decision in TEAM et al v. MTS et al, Queen's Bench File No. CI 99-01-14589 dated January 19, 2010; as well as the Manitoba Court of Appeal decision in MTS et al v. TEAM et al, Court of Appeal File No. AI 10-30-07355 dated February 10, 2012 ("MTS case") and I am familiar with the issues in those decisions.

6. In my opinion the issues in dispute in the MTS case raise significant matters of interest and concern in the realm of pension plans; particularly as they relate to the transition of public sector pension plans or portions thereof, to private sector pension plans. Similar issues will arise in the future and will be of concern to actuaries and other professionals involved in the business of pension plans on a wide scale.

7. I have examined the public sector pension plans in eight jurisdictions in Canada, involving approximately 3,413,000 members and approximately \$363 billion in assets.

8. While no doubt the majority of public sector plans will remain, I am of the opinion that there will be future public sector pension plan spinoffs across Canada involving a wide range of occupations and jurisdictions; particularly, given the current economic state of most, if not all, jurisdictions in Canada.

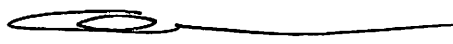
9. Attached as **Exhibit "B"** to my Affidavit is my report which sets out my review of the public sector plans; the potential future spinoffs of public sector plans; and the issues which may surface, including how changes in risk bearing responsibility should be reflected in any new plan spinoff from existing public sector plans.

10. I make this Affidavit *bona fide* and in support of the Leave Application brought on behalf of the Applicants.

SWORN/AFFIRMED before me in)
the City of Vancouver, in the Province)
of British Columbia, on the 4th)
day of April, 2012)
)
)
)



John M. Christie



A Notary Public in and for the
Province of British Columbia

QUENTIN J. ADRIAN
Barrister & Solicitor
5660 Yew Street
Vancouver, B.C. V6M 3Y3
Ph: 266-7811

John M. Christie

Curriculum Vitae

University Education	1962-66	Glasgow University, Scotland M.A. with First Class Honours in Political Economy and Statistics
Professional Qualifications	1969 1969 1969	Fellow, Faculty of Actuaries in Scotland Fellow, Canadian Institute of Actuaries Associate, Society of Actuaries
Employment	1966-69	Scottish Amicable Life Assurance Society (Glasgow) Actuarial Student
	1969-74	B.J. Vincent Company Limited (Toronto) Vice President and Actuary
	1974-76	Charles A. Kench and Associates Limited (Toronto) Consultant
	1976-81	William M. Mercer Limited (Toronto) Consultant, Associate (1978), Principal (1980)
	1981-89	William M. Mercer Limited (Vancouver) Principal, Director (1987) Responsible for all training activities in Canada (1987-89)
	1990-97	Alexander Consulting Group Limited (Vancouver) Principal Chair, Professional Standards Committee (1990-94)
	1997-1998	Aon Consulting Inc. (Aon acquired Alexander) Senior Vice President
	1998 -	Christie Consulting Inc. President

Other Offices

		Canadian Institute of Actuaries
	1979-85	Member, Pension Standards Committee (now called Committee on Pension Plan Financial Reporting), Chair (1983-85)
	1980-83	Member, Committee for liaison with government authorities on pension matters
	1983-87	Member, Public Relations Committee, Chair (1985-87)

This is Exhibit "A" referred to in the affidavit of JOHN M. CHRISTIE sworn before me at VANCOUVER in the Province of British Columbia this 9th day of APRIL 20 12

A Commissioner for taking Affidavits for British Columbia

QUENTIN J. ADRIAN
Barrister & Solicitor
5660 Yew Street
Vancouver, B.C. V6M 3Y3
Ph: 266-7811

1985-88 Member of Council (Board)
1988-90 Member of Executive Committee
Vice President, responsible for pension
committees
1990-91 Chair, Task Force on Pension Plan Surplus
1990-97 Member, Committee on Discipline
Vice Chairperson and Secretary (1992-1997)
1991-94 Chair, Emerging Issues Committee

1997-2003 Facilitator, Fellowship Admissions Course

1999-2000 Member, Task Force on Volunteer Management

2000-02 Member, Committee on Volunteer Initiatives

2004-10 Member, Committee on Rules of Professional
Conduct
2007-11 Member, Investigation Team Panel

**Other
Memberships**

International Actuarial Association
International Association of Consulting
Actuaries
Canadian Pension and Benefits Institute

Publications

Development and Monitoring of Professional
Standards in Canada.
Paper presented to International Association of
Consulting Actuaries, 12th Conference,
Auckland, New Zealand, 1990.

Expert Witness

Provided expert reports and testimony in

British Columbia Supreme Court
Saskatchewan Court of Queen's Bench
Ontario Superior Court
Nova Scotia Supreme Court

Federal Court of Canada

This is Exhibit "B" referred to in the
affidavit of JOHN M. CHRISTIE
sworn before me at VANCOUVER
in the Province of British Columbia
this 4th day of APRIL 2012

A Commissioner for taking
Affidavits for British Columbia

April 4, 2012

Brian J. Meronek, Q.C.
D'Arcy & Deacon LLP
2200 - One Lombard Place
Winnipeg, Manitoba
R3B 0X7

QUENTIN J. ADRIAN
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5660 Yew Street
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Dear Mr. Meronek,

TEAM et al. v. MTS et al.

As requested, I am pleased to provide my opinion on the major public sector defined benefit plans across Canada that may be affected by issues similar to those being disputed in the above action.

I have read the Trial and Appeal Court decisions in the above matter. I am familiar with many existing public sector pension plans across Canada and have researched the major public sector plans with which I was not familiar.

In my opinion, the issues being disputed in the above captioned action are significant in the sense that they may well arise in many other spinoffs from existing public sector plans. These spinoffs may be from one public sector plan to another, from a public sector plan to a Crown corporation plan or from a public sector plan to a private organization. The issues are the same in each case.

The table on the following page summarizes the number of members and assets in the major public sector pension plans in Canada that may have future spinoffs. 3.4 million members are covered by these plans. They contain \$ 363 billion in total assets¹. These members and assets form a significant part of all employment related plans in Canada.

¹ This table is illustrative of the size of public sector pension plans in the public sector in Canada. It is not intended to suggest the magnitude of members or assets which may be susceptible to a spinoff from the current status.

	Jurisdiction	Members	Assets (\$millions)
1	Federal	550,000	\$ 135,000
2	British Columbia	398,000	\$ 49,000
3	Alberta	302,000	\$ 29,000
4	Saskatchewan	49,000	\$ 4,000
5	Manitoba	130,000	\$ 12,000
6	Ontario	600,000	\$ 97,000
7	Quebec	1,353,000	\$ 33,000
8	Nova Scotia	31,000	\$ 4,000
Total		3,413,000	\$ 363,000

Governance

In past spinoffs to other public sector plans or to Crown corporations, the exporting plan has usually been careful to maintain any existing member entitlements in plan governance, whether these existed in the written plan documents or as a result of past practices followed by the parties. In many cases, for example in the Federal jurisdiction for the spinoffs to Canada Post and the Local Airport Authorities, the member entitlements in governance were enhanced as a result of the spinoffs. In some past spinoffs, particularly to private sector organizations, the member entitlements in governance were reduced in exchange for the new employer assuming a greater share of the risk.

Funding

Several Crown Corporations in Manitoba participate in the Manitoba civil service plan and, if any of these Crown Corporations are spunoff, they will experience the same issues. In addition, some other public sector plans provide for the same funding mechanism as the Manitoba civil service plan.

Many of the Quebec public sector plans provide a similar funding mechanism as the Manitoba civil service plan. For example, the two main Quebec public sector pension plans are the Government and Public Employees Retirement Plan (RREGOP) for unionized employees and the Pension Plan of Management Personnel (PMPP) for non unionized employees. In both of these plans, costs are shared equally between members and the employer. The member contributions are deposited in a real fund invested in marketable securities while the employer share is paid on a pay as you go basis in a similar way to the Manitoba civil

service pension plan. In the booklet for the PMPP, the fund of invested assets is referred to as the "Members' Fund". If any parts of these plans are spunoff, they will experience the same issues.

Most other public sector plans are now funded by accumulating real assets from employer and employee contributions in a separate pension fund.

Most public sector plans and plans spunoff from them provide for some sharing of the cost of the plans between the employer and the employees. This cost sharing typically includes both the current service cost and any actuarial surplus or actuarial deficit. Often the costs are shared on a 50/50 basis between the employer and the plan members. Sometimes a fixed ratio of employer to member cost sharing has been established with the employer bearing more than 50% of the cost.

Where the spinoff has been to a completely private sector employer, as with MTS, it is more common for the employer to assume the responsibility for future actuarial surplus and actuarial deficits in exchange for some other concession to employees.

However, regardless of the precise method of funding - fixed employee contributions or employee contributions changing with actuarial valuation results - the same issues arise.

Future spinoffs

Future spinoffs from the public sector plans are highly likely and will be determined by the various governments in power from time to time in different jurisdictions. Current economic pressures are influencing governments towards downsizing the public sector. Much of this downsizing could occur through spinoffs from the existing public sector plans.

My review of public sector plans across Canada indicated no uniform pattern.

For example, in the power industry, BC Hydro had its own plan, was split in two by the creation of BC Transmission Corporation and is now being put back into a single plan. Ontario Hydro was split into Ontario Power Generation (OPG) and Hydro One with the intention of fully privatizing each of them. Neither has been fully privatized. OPG sold Bruce Power to a completely private organization. The Ontario Hydro pension plan was split to follow these reorganizations.

Manitoba Hydro employees are still included in the Manitoba civil service pension plan and form about 25% of the members of that plan. During the

last year, there was considerable political debate about the possibility of privatizing Manitoba Hydro.

In reviewing the economic functions performed by the public sector, no uniform pattern is obvious. For example, some police and firefighter groups are included in the BC Municipal Plan and in the Ontario Municipal Employees Retirement System (OMERS) while others, such as the police departments in Regina, Winnipeg, Toronto and Montreal, have their own separate pension plans. Health care, public auto insurance, workers compensation, public transit, universities and colleges and gaming are other sectors that are contained in the main public service pension plan in some jurisdictions, but are in separate pension plans in other jurisdictions. Where one jurisdiction includes a certain group of employees in the main public service pension plan and another jurisdiction provides a separate pension plan for the same group of employees, a future spinoff in the first jurisdiction is quite possible.

Conclusion

In my opinion, the issues in dispute in this action are likely to have an important influence in future public sector pension plan reorganizations.

Existing public sector pension plans across Canada cover a very large number of plan members and hold large amounts of assets. These plans cover members in a wide range of occupations. In some jurisdictions, an occupation is covered in the main public sector plan, in other jurisdictions the same occupation is in a separate plan. The potential for a future spinoff of that occupation from the main public sector plan is high.

Many issues will arise in future spinoffs that are similar to the issues in this dispute, beyond the simple maintaining of levels of pension benefits. Parties will be confronted with issues relating to the proper application of changing cost sharing structures and risk bearing responsibilities, which beg such questions as:

- (a) How should existing cost sharing structures and practices be reflected in the new plan?
- (b) How should any changes in the risk bearing responsibilities in the new plan be reflected in the terms of the new plan?

In my opinion, guidance from the Supreme Court of Canada in this action will be of critical value to the many parties who will be involved in future similar spinoffs.

I confirm that I am the person fully responsible for the contents of this report.

Yours truly,

A handwritten signature in black ink, appearing to read "John M. Christie". The signature is written in a cursive, slightly slanted style.

John M. Christie, F.C.I.A.