Attached please find my comments on the Consultation on Amendments to Industry Canada's Antenna Tower Siting Procedures.

I am submitting both text and six attachments.

My comments and recommendations are being submitted in a positive and constructive manner and in accordance with Canada Gazette Notice DGSO-001-14, published on March 1, 2014.

The Industry Canada notice states: "Soon after the close of the comment period, all comments will be posted on Industry Canada's Spectrum Management and Telecommunications website." The notice also states: "All comments will be reviewed and considered by Industry Canada in order to arrive at the final procedures."

I look forward to the posting of my comments and to seeing how my comments are considered by Industry Canada.

It would be most appreciated if Industry Canada would confirm receipt of my submission.

Sincerely,

James M. Riordan
Breckenridge, Quebec
Canada Gazette, Part 1
Gazette Notice No. DGSO-011-14
Publication Date in Canada Gazette: March 1, 2014

Consultation on Amendments to
Industry Canada’s Tower Siting Procedures

Input by: James M. Riordan MSc.

INTRODUCTION

If there is a singularly important lesson I’ve learned over the past year, it is that regulators cannot afford to make decisions in closed rooms without public input.

Maybe just as significant, never underestimate how thoughtful the input of Canadians can be, or to open up the conversation to them. They will teach us what more we need to do and how we can do it better.

Mr. Jean-Pierre Blais, Chairman, Canadian Radio-television and Telecommunications Commission, November 4, 2013

“Industry Canada is seeking comments on the specific updates noted above, and also welcomes comments on any other suggested changes to CPC-2-0-03…”

The recommendations made herein are based on practical, hands-on, experience with the implementation of Industry Canada’s Client Procedures over a period of more than two years. The recommendations result from direct participation in the application of the procedures from a public perspective. The recommendations also benefit from seeing the application of the procedures through the eyes of a former federal public servant who has 28 years experience representing the Government of Canada in consultations with the private sector, non-government organizations, other governments and the general public.

CONTEXT

The experience with Industry Canada’s Client Procedures relates to the application of CPC-2-0-03 on two projects: GA612-03 and GA612-04.

The projects involved the identification of a site for an 82-metre communications tower in a rural area of Quebec, specifically the Breckenridge sector in the Municipality of Pontiac, not far from Ottawa. The site ultimately approved by the federal Industry Minister is Hurdman Heights, a centuries-old working farm in a unique geographic area that is valued by the municipality and its citizens.
The municipal council was “firmly” opposed to using the Breckenridge site for the tower and passed three council resolutions opposing use of the site. The Mayor and council recommended alternative sites, including municipal lands and, expressed a willingness to continue to work with the proponent to identify a more appropriate site for the tower. Local citizens also opposed installing the tower on the geographically unique panorama known as the “Gateway to the Pontiac”. Citizens were committed to engaging in respectful and constructive dialogue with the proponent and the municipality to identify a mutually beneficial site for the tower.

The Government of Quebec, through its Commission for the Protection of Agricultural Land (CPTAQ) has made it clear that the protection and preservation of agricultural land is a priority. The CPTAQ rejected several proposals to use agricultural land for non-agricultural purposes in this precise area of the Municipality of Pontiac.

In the end, the proponent declared an impasse, which was contested by the municipality and, in accordance with CPC-2-0-03, the process moved from Public Consultation to Dispute Resolution, wherein Industry Canada made the “final decision” regarding the site.

When approving the Hurdman Heights Farm site for an 82-metre telecommunications tower, the federal Industry Minister also declared “inter-jurisdictional immunity” from Quebec's land-use legislation.

It is within this context that recommendations to improve Industry Canada’s Client Procedures (CPC-2-0-03) are being made. Each recommendation is followed by a rationale, most of which include examples of how the Client Procedures have functioned in practice.

PUBLIC NOTIFICATION

Recommendation 1:
In rural communities, the number of homeowners the proponent must notify will be based on the average number of homeowners contacted during public consultations for urban and sub-urban sites.

Industry Canada’s procedures require proponents to notify property owners “located within a radius of three times the tower height” that a site is being proposed for an antenna tower. While this approach may be appropriate in urban and suburban locations, from a public consultation perspective, it is not effective in rural areas,

For example, a tower project (GA612-03) was proposed for installation at 160 Chemin Braun. I am a neighbor and homeowner living at 170 Chemin Braun and
was not informed of the proposal by the proponent. There were three addresses “located within a radius of three times the tower height”. (Attachment 1: Area 3X tower height) Those notified by the proponent included the person from whom the property for the tower was to be leased by the proponent, i.e. the lessor and, the lessor’s parents at a nearby address. Also “located within the radius of three times the tower height” was a nature preserve, managed by Nature Conservancy Canada, headquartered in Montreal. Nature Conservancy Canada did not receive notification from the proponent that an 82-metre tower was proposed for construction on the nature preserves property line. The proponent indicated that the notice may have been lost.

When sites for antenna towers are being proposed in rural locations, the area of notification of nearby homeowners should be expanded. This should include the requirement for the proponent to notify a specific number of homeowners or landowners in the area surrounding the proposed antenna site. This could be accomplished in consultation with the local municipality.

**Recommendation 2:**
**As part of public notice, proponents are required to install billboards on sites proposed for telecommunication towers.**

A billboard is an inexpensive way for proponents to clearly identify both the site and the purpose of the proposed tower. This would allow broader notification of those living in the community and would better enable local people to respond to the proposal.

The billboard should contain relevant information about the proposed tower including: the height of the tower, the area the tower installation will occupy at ground level, the maximum number of antennas that will be installed on the tower, the quantity and density of lights that will be installed and, the amount and type of camouflage that will be provided on the site. The billboard should also identify the services the tower installation will provide and to who and, the date when the tower will be erected.

**Recommendation 3:**
**Once a proposed site is identified, the proponent must not shift the site for the telecommunication tower.**

In the case of project GA612-04 the proponent installed survey stakes indicating where the tower was to be built on Hurdman Heights Farm. When the tower was constructed, the location of the tower shifted 100 metres from where the survey stakes had been placed.

At the time, the Aylmer Bulletin reported the same thing happening with a tower site in the Aylmer Sector of Gatineau, Quebec. According to the newspaper
article, the community was informed that a tower was to be installed in one location and when the tower was constructed the location had shifted.

For project GA612-04 the site was on the same lot that had been identified in one of the proponent’s public notices. But, it wasn’t at the same location that had been identified with surveyor’s stakes i.e. the place where the community expected the tower to be constructed. This is another example of why billboards would be a useful way for the proponent to clearly identify the proposed site.

**Recommendation 4:**
**Proponents must identify the location of a proposed site in a way that is understandable and identifiable by members of the local community.**

In the public notice for project GA612-04 the proponent identified the location of the site with a lot number.

*Notice of Intent: Videotron Ltd. wants to install a 82 metre self-supporting radiocommunication antenna system on lot 2 756 016 south of Elm Road in the municipality of Pontiac.* (Attachment 2)

In rural areas, sites can be identified by addresses, road names and intersections. But, lot numbers are not a way for local citizens to locate a site. The proponent’s use of a lot number to identify the proposed site raised questions regarding the proponent’s intent. Was a lot number being used so that interested parties would not be able to locate the proposed site?

A written complaint to the Industry Minister resulted in the proponent for project GA612-04 re-issuing the public notice. The second notice included a clear address and a small map illustrating where the proposed site was located.

However, even with the second public notice there was confusion. The proponent made the effort to be clear about where the site was proposed, with an asterisk and the project number on the map. However, some members of the public thought the site was indicated by the proponent’s logo which appeared, in the notice, on another part of the map.

In addition to the requirement for the proponent to identify an understandable site location, this is yet another example of why a billboard installed at the proposed site is an appropriate way for proponents to publicly identify the proposed site for a telecommunications tower.

**Recommendation 5:**
**The procedures require proponents of antenna systems and towers to “…place a notice in a local community newspaper circulating in the proposed area.”**
Experience with project GA612-03 was as follows: On January 26, 2010, the proponent placed a public notice in a newspaper located in a community 50 km away, “The Equity” in Shawville, Quebec. Readers must pay for “The Equity”, while the community, in which the site was proposed, has a biweekly bilingual newspaper, “The Pontiac Journal”, that is delivered, free of charge, to every household in the municipality.

Had the proponent consulted with the municipality or with interested parties, the local bilingual newspaper, “The Pontiac Journal”, would have been identified as the most effective way to reach people in the community. Industry Canada’s Client Procedures should operate in a manner in which local means “local”.

**Recommendation 6:**
*In bilingual communities, proponents must publish public notices in both official languages.*

Industry Canada’s Client Procedures do not require proponents to place public notices “in both official languages”. The region in which the public notice for tower project GA612-03 was being made is bilingual. Yet, the proponent placed the initial public notice in the “Equity”, an English newspaper, in one language.

After a written complaint to the Industry Minister that the public notice was not placed in a “local” newspaper, the proponent moved the public notice to “The Pontiac Journal” a local newspaper. On May 5, 2010 the second public notice appeared in a bilingual community newspaper, in one language only.

**Recommendation 7:**
*Industry Canada’s Client Procedures require proponents to have a website to provide the public with general information about telecommunications and specific details about proposed tower sites.*

The proponent should be required to maintain a website that provides the public with general information about telecommunications and detailed information about proposed sites for antenna towers.

Detailed information on the proponents website should include: the height of proposed towers, the amount of land the installation will occupy, the maximum number of antennas the tower will house, the intensity of the tower lighting and, the amount and type of camouflage that will be provided on the tower. The website should also identify the services the tower installation will provide and to who and, the date when the tower will be erected.

Providing the public with understandable information about what is being proposed will allow the public to review the information and respond to the open and transparent public consultation process in an informed manner.
Proponents of proposed sites would benefit in that they can provide detailed information to a broad range of interested people electronically.

**Recommendation 8:**
*Industry Canada’s Client Procedures require proponents to accept comments on proposed sites electronically.*

In this day and age it is remarkable that a major telecommunications company, which provides internet services to the public, would receive comments only by mail. In the case of these two projects, the proponent only accepted letters that were sent to a post office box.

In this public consultation on amendments to the siting procedures, Industry Canada is providing the public with both options. Send comments to an email address: spectrum.operations@ic.gc.ca or mail comments to an address at Industry Canada. Proponents of telecommunication towers should operate the same way, especially considering these are telecommunication companies.

**Recommendation 9:**
*When a proponent is aware that more than one communication tower will be proposed for installation in a rural municipality, the proponent must meet with the municipality and the public to present a plan that describes the company’s full intentions, and identifies sites for all the towers proposed for that municipality.*

In the Municipality of Pontiac, Quebec, it was evident from the outset that more than one tower would be proposed. Instead of preparing a plan for all of the towers, the proponent proposed one site located at the bottom of the municipality. A year later, another site for a tower was proposed for the top of the municipality. It is expected that the proponent will be proposing a third site for a tower in the middle of the municipality.

This, one-at-a-time approach creates more work for municipal council and more stress across the municipality as various interests mobilize to respond to locations of proposed towers. It is expected that it is also more work for the proponent, as each tower proposal has to be explained to a new group of interested people and, for Industry Canada as the public reacts to what is being proposed. A single plan for all three towers would have been more efficient for all concerned.

Prior to the “final decision” on the Hurdman Heights Farm site, two other towers of equal size (82 metres) were installed on the borders of the Municipality of Pontiac. One was erected at the intersection of Chemin Baillie and Chemin Perry in the Aylmer Sector of Gatineau. This tower was installed by Rogers and is within view of site GA612-04, approximately 3 km away. The other was also
erected in the Aylmer Sector at the opposite end of Chemin Perry at Chemin Boucher, approximately 6 km from the Hurdman Heights Farm site (GA612-04).

One of the reasons the proponent put forward for insisting on the Hurdman Heights Farm site is that other sites proposed by municipal council would result in a “dead zone” in the neighbouring community of Aylmer. Community members were convinced that the erection of the new tower on Chemin Perry and Chemin Boucher, in the Aylmer Sector, would have addressed the “dead zone”.

When contacted about this Industry Canada replied, the Industry Minister made the decision to site the tower on Hurdman Heights Farm and “the department considers the matter closed.”

**Recommendation 10:**
When multiple antenna towers are being proposed in a geographic area, e.g. in bordering municipalities, proponents of the towers have a responsibility to inform the municipalities they are working with about developments in neighbouring communities.

At a minimum, municipal councils in Gatineau and the Pontiac should have been informed, by the proponents, that in addition to the towers being proposed within their jurisdiction, plans were in motion to have other communication towers installed along the boundaries of the two municipalities.

It would also be helpful to local land use authorities and communities for proponents to explain how the multiple towers interact with one another to improve telecommunication services.

**RESPONDING TO THE PUBLIC**

**Recommendation 11:**
Industry Canada’s Default Public Consultation Process requires proponents of sites for antenna towers to meet face-to-face with interested parties during the public consultation process

Industry Canada’s Client Procedures state: “Responding to reasonable and relevant concerns may include contacting a party by telephone, engaging in a community meeting or having an informal, personal discussion. The proponent is expected to engage the public in a manner it deems most appropriate....”

In July 2010, the proponent for project GA612-03 wrote:

“Again, we invite you to participate in the process of finding the solution with the lowest impact on the region. We are certain that your knowledge of the area, its history and special characteristics will help us find the best solution, for the benefit of the community.”
This was encouraging to those wanting to work with the proponent to find a solution. During projects GA612-03 and GA612-04 requests were made by the public to the proponent for a public session during which, information could be provided by the company and questions could be asked by the public. Letters to the proponent stated that as a community we were interested in positive and respectful dialogue for identifying a mutually beneficial site for the tower.

The proponent responded in writing to the requests stating that Industry Canada’s Public Consultation process does not require proponents to meet with the public.

“It is important to note that Industry Canada’s Client Procedures Circular (CPC-2-0-03) does not provide any obligations to hold public meetings.”

(Letter from proponent, January 13, 2011.)

Evidently, the Client Procedures favour the proponent. The procedures do not require public consultation but gives the proponent the opportunity “to engage the public in a manner it deems most appropriate…”

During project GA621-04, I was asked to meet informally with the proponent. My response was that a meeting with the concerned public would be more appropriate. The proponent assured me that if I met with company representatives, a community meeting would follow. Instead, the proponent obtained information from me and another “local voice”. That information was used to the advantage of the proponent and to the disadvantage of the community. The promise by the proponent of a community meeting was not respected. The proponent never had a meeting with the local community.

Around the same time, in a community in Pointe Claire, Quebec, a remarkably different proponent agreed to work with the community to resolve issues. Rogers Telecommunications agreed to participate in a mediated consultation with members of the community. A working group, including five local residents, was formed and a professional was hired to help the parties arrive at a mutually beneficial conclusion regarding the location of antennas in their community.

“The mandate of the group is to work together to reach a consensus on a mutually acceptable solution to Rogers’ network coverage improvement project in the Beck Park area.”

On November 7, 2011 a letter was written to the Industry Minister, describing the mediated consultation underway in Pointe Claire and asking the Minister to recommend to the proponent that the same approach be used in the Municipality of Pontiac. In a letter dated December 7, 2011 Industry Canada replied:
“The decision released on November 7, 2011, allows Videotron to proceed with the construction of their tower....This being said we would invite you to contact Videotron to obtain additional information or clarification on their plans.”

It is extraordinary that working under the same “Client Procedures” one proponent would be inclusive and realize a positive result, while another can hide behind technicalities and refuse to meet with the public, achieving its objective at the expense of what the local municipality and community wanted, i.e. the protection of a landscape that is highly valued by the community.

**Recommendation 12:**
That CPC-2-0-03 is amended to provide a real, open and transparent public consultation process.

Local citizens believe they are legitimate stakeholders. After all, it is local citizens who are directly affected by antenna tower installations and will be for the rest of their lives. In these two cases, while members of the community wanted to be stakeholders in the process, Industry Canada did not ensure that they were. In this experience, neither the proponent nor the federal department treated “local voices” as stakeholders. Lessons can be learned from the application of the Client Procedures and from other sources.

In November 2013, Mr. Jean-Pierre Blais, Chairman, Canadian Radio-televisión and Telecommunications Commission delivered a speech in Ottawa. The speech can be found at [http://www.crtc.gc.ca/eng/com200/2013/s131104.htm](http://www.crtc.gc.ca/eng/com200/2013/s131104.htm)

These are excerpts from the speech in which Mr. Blais strongly encourages public participation in the development of Canada’s communication system.

> “Public consultation” is the key to ensuring Canadians are at the centre of their communication system, and that the system itself is responsive to their expectations. Indeed, the public demands much more. And the public interest commands no less.

> This is consistent with the CRTC’s approach to reaching out to Canadians as citizens, creators and consumers. By being more open and increasing opportunities for engagement we can develop better public policy and better deliver on our regulatory responsibilities.

> Most important, we can do a better job of serving the public interest by basing our regulatory framework on the outcomes Canadians want and expect. We can ensure they are truly at the centre of their communication system.
LAND USE AUTHORITY CONSULTATION

Recommendation 13:
When approving sites for telecommunication towers the Industry Minister is required to respect Provincial legislation relating to land use.

Industry Canada requires that the installation and modification of antenna systems be done in a manner that complies with Federal legislation. Under the Radiocommunication Act, the Industry Minister ‘...may, take into account all matters that the Minister considers relevant for ensuring the orderly development and efficient operation of radiocommunication in Canada..'” It would be expected that the Industry Minister would consider Provincial legislation “relevant”, especially legislation relating to land use.

The Government of Quebec requires that applications to use agricultural land for non-agricultural purposes be considered by the Commission for the Protection of Agricultural Land (CPTAQ). Under the Act Respecting the Preservation of Agricultural Land and Agricultural Activities, the CPTAQ has the mandate to protect agricultural land for present and future generations.

For the site proposed by project GA612-03 the proponent recognized the responsibility to respect provincial law and applied to the CPTAQ requesting approval to use agricultural land for commercial purposes. (April 12, 2010) The CPTAQ considered and approved the proponent’s application to install a communications tower on the proposed site. For a variety of reasons, possibly including the fact that the proposed site was in a landslide area, the proponent decided not to proceed with site GA612-03.

Instead, the proponent proposed an alternate site, GA612-04. This site is in a unique geographic area that is highly valued by local citizens and the municipal government. It is referred to as “The Gateway to the Pontiac”. The area is also valued by the Government of Quebec as it is largely agricultural land. In fact, local (and aging) farmers applied to the CPTAQ to obtain approval to allocate one-acre lots on their 100-acre plus farms so that they could each build a house for one of their children to help on the farm. Each of the five requests to use agricultural land for non-agricultural purposes, in the immediate vicinity of Hurdman Heights Farm, tower site GA612-04, was refused by the CPTAQ.

The proponent for site GA612-04 was aware of the responsibility to apply to the CPTAQ for approval of non-agricultural use of agricultural land. Instead, the Industry Minister claimed “inter-jurisdictional immunity” to bypass the CPTAQ and the Government of Quebec’s agricultural land use legislation.

The site GA612-04 approved by the Industry Minister is directly across the road, approximately 10 metres, from a site that one of the farmers had asked the CPTAQ to approve for a house for his daughter.
The Commission for the Protection of Agricultural Land in Quebec denied that application stating:

“La Commission doit demeurer vigilante afin d’éviter d’ajouter des contraintes à la pratique de l’agriculture.”

In the decision the CPTAQ stated:

“La Commission constate que, selon les données disponibles, sur le territoire de la Municipalité de Pontiac, d’une superficie de 44 688 hectares, 50 % de ces espaces, soit 22 258 hectares, sont en zone non agricole.”

The decision by Industry Canada to approve the Hurdman Heights Farm sit is a direct affront to Quebec’s policy and law for the protection and preservation of agricultural land. Those of us living on farms adjacent to the tower site are complying with the laws of this province. Yet, Industry Canada can decide to exercise the federal government’s “inter-jurisdictional immunity”, allowing the Industry minister to scoff at the laws of Quebec. While the Government of Canada may have the “Constitutional” authority, should it also consider moral authority? It is the ethical use of power that is important. Federal officials have made a decision that flies in the face of the law and policy of the Government of Quebec.

Recommendation 14:
Prior to concluding Land-use Authority Consultations the proponent must obtain written approval from the Land-use Authority for the proposed site.

The Mayor and Council for the Municipality of Pontiac informed two different proponents that it is “firmly opposed” to the construction of a telecommunications tower on the most valued landscape in the community. It was the view of the municipality that a tower with a height of 82-metres would have an immediate negative impact on a critically important landscape, which would last forever.

Municipal Council adopted formal council resolutions expressing “firm opposition to the installation of a telecommunication tower in the Breckenridge sector, as requested by the company.” These resolutions were adopted on:

- September 2009, in response to Rogers Telecommunication
- September 2010, in response to Videotron Ltd.
- April 2011, restating the opposition to Videotron Ltd.

One proponent, Rogers’, responded positively to the municipality’s position and discontinued its pursuit of a site in the Breckenridge sector of the municipality. The other proponent rejected the municipality’s “firm opposition” to using the site and, the local citizens’ determination to protect the valued landscape.
While the municipality was consistent in its opposition to building on the proposed site on Hurdman Heights Farm, it was equally consistent in its willingness to have a tower installed on a mutually acceptable site in the community. Alternative sites were recommended by the Mayor and council and a commitment to locating an appropriate site for the tower was made.

Instead, the proponent decided to declare an ‘impasse” claiming that the municipality had refused to meet with the proponent, several months earlier, and requesting that Industry Canada end the Public Consultation process and enter a process of Dispute Resolution.

**CONCLUDING THE DEFAULT PUBLIC CONSULTATION PROCESS**

**Recommendation 15:**
When declaring an impasse, the proponent is required to publish a notice in a local newspaper stating that Public Consultations have reached an “impasse” and clearly defining what the impasse is.

For site GA612-03, the proponent stated that the municipality refused to meet with the proponent. The proponent deemed that this was the “impasse”. The municipality was and is adamant that a meeting with the proponent was never refused and, as a result insisted that there was not an impasse. Nevertheless, Industry Canada accepted the proponent’s declaration of an impasse and proceeded to make a decision in favour of the site selected by the proponent.

Industry Canada’s Client Procedures allow either party, the proponent or the local authority to declare an impasse. Regardless of which party chooses that course of action, the public has a right to know exactly what the impasse is.

**Recommendation 16:**
The proponent must answer all reasonable and relevant questions that have been submitted to the proponent during the Public Consultation process, prior to the proponent’s declaration of an impasse.

When an impasse is declared, Industry Canada’s Client Procedures allow the closing of the Public Consultation process and the initiation of the Dispute Resolution process. Industry Canada’s closing the Public Consultation process means that the proponent does not have to answer outstanding questions that have been submitted by the public within the timeframes prescribed by the Procedures. That is not appropriate, especially when the alleged impasse was not created by the public.

The public has the right to expect answers to questions that have been submitted within the timeframes prescribed by Industry Canada’s Client Procedures. Using the declaration of an impasse to eliminate the requirement for the proponent to respond to questions from the public is unreasonable.
Recommendation 17:
When an “impasse” is declared, Industry Canada must publicly explain the rationale Industry Canada used for accepting the impasse and, for moving to the Dispute Resolution process.

Recommendation 18:
Industry Canada’s deliberations regarding any impasse must be transparent and open to the public.

Rationale for both Recommendation 17 and Recommendation 18.

From the start of Industry Canada’s Default Public Consultation process for the two projects (GA612-03 and GA612-04) there appeared to be manipulation of the process, e.g. publishing a notice in a community newspaper 50 km away, refusal of the proponent to meet with the community and, using a lot number instead of a property address to identify the proposed site in a public notice.

However, the most egregious affront to the public was made by the responsible federal department. Industry Canada officials allowed the proponent to close the Public Consultation process based on an unfounded declaration of “impasse”. Industry Canada accepted the proponent’s rationale for an “impasse” which, under Industry Canada’s Client Procedures, moved the process from Public Consultation to Dispute Resolution.

In doing so, Industry Canada locked the public out of the process indicating that members of the community were no longer “stakeholders”. In the Dispute Resolution process the department dealt with the proponent and the municipality, meeting once with the municipality. Industry Canada then made the decision to approve the proposed site, behind closed doors.

It is important to note that the “impasse” was described by the proponent, in writing, as: ‘the municipality refused to meet us when asked in October 2010.’ The proponent informed Industry Canada of the impasse, seven months later, in May 2011. The Mayor was adamant that the municipality never refused to meet with the proponent. On May 4, 2012, The Ottawa Citizen reported:

The impasse was news to Pontiac Mayor Eddie McCann, who insists he and his council bent over backward to reach a deal with Videotron, and never cut off talks. “I myself had two or three meeting on sites with the representatives of Videotron”, he said. “As far as saying we were not responsive or willing to discuss – it’s pretty near stupid.” He was exploring other sites as well.
“For anybody from Industry Canada to say that the municipality wasn’t interested in working out an arrangement was just ridiculous. In fact, it was Industry Canada that was non-responsive to us. They accepted the proposal of Videotron without consulting us at all.”

Yet it was this “impasse” that Industry Canada accepted and used to close the Public Consultation process.

According to Webster’s dictionary, an impasse is “a situation that has no solution.” In the case of the proposed tower there were other options and a willingness on behalf of the municipality and its citizens to work with the proponent to identify a mutually acceptable site for the tower. However, the proponent would not meet with the community and accused the municipality of refusing to meet. How can a solution be identified when one of the parties takes that position?

In this case, Industry Canada had two options that could have been exercised. There is a section in Client Procedures titled Concluding Industry Canada’s Default Public Consultation Process that allows Industry Canada to side with the proponent or, to recommend that “the parties should participate in further attempts to mitigate or resolve any outstanding concerns.” Knowing that the Mayor disputed the proponent’s claim that there was an “impasse”, Industry Canada should have required the parties to “resolve outstanding concerns”.

Having entered the Dispute Resolution process, Industry Canada had yet another option to conclude the impasse amicably. Industry Canada’s Client Procedures allow the department the option: to “suggest the parties enter into an alternate dispute resolution process in order to come to a final decision.” Instead, Industry Canada officials used the “impasse” to make a decision, in favour of the proponent, behind closed doors,

If there is a singularly important lesson I’ve learned over the past year, it is that regulators cannot afford to make decisions in closed rooms without public input.

Mr. Jean-Pierre Blais, Chairman, Canadian Radio-television and Telecommunications Commission, November 4, 2013

**DISPUTE RESOLUTION PROCESS**

Recommendation 19:
When there is a legitimate impasse and a decision must be made on site approval, the Industry Minister should delegate to the Canadian Radio and Telecommunications Commission (CRTC) the authority to consider the impasse and to make recommendations to the Industry Minister.
It is obvious that Industry Canada works closely with telecommunications companies and proponents of antenna towers. It is natural that professional relationships develop between government officials and private sector representatives. In the case of telecommunication companies, Industry Canada officials consider proponents of antenna towers their “clients”. The document being amended, Industry Canada’s Antenna Tower Siting Procedures is also known as CPC-2-0-03. CPC is the acronym for Client Procedures Circular.

Unlike other federal departments, it is not Canadians or the Canadian public who are Industry Canada’s clients. Rather, it is private sector companies that are. Industry Canada officials support the advancement of the telecommunication industry, which is understandable. However, when there is an impasse, or a dispute, Industry Canada officials have demonstrated that they are not well positioned to make fair and objective decisions in an open and transparent manner.

Since its inception in 2008, the Industry Canada’s Dispute Resolution process in Quebec has resulted in the department finding in favour of the proponent in almost every case an “impasse” was declared. How is that fair or objective? If there’s an impasse the proponent wins. Further, Industry Canada is not compelled to inform the public what was information was considered and what the rationale for the recommendation to the Industry Minister was.

Within this context, it is not surprising that proponents may be inclined to see an impasse where one may not exist. In the case of site GA612-04, the proponent declared an impasse stating that seven months prior to their conclusion the municipality refused to meet with them. At the same time, the Mayor of the municipality was adamant that the municipality never refused to meet with the proponent.

Obviously, an arms-length entity like the CRTC is better positioned to make an objective decision regarding an alleged impasse and how the parties could achieve a mutually acceptable solution. The CRTC would also be positioned to make recommendations to the Industry Minister regarding the sites in question.

**Recommendation 20:**
Following the conclusion of a Dispute Resolution Process, Industry Canada is required to publish a public notice attesting that all information received from the public during the Public Consultation process was considered and, clearly describing the rationale the department used for the decision to approve a site for the installation of a communications tower.
Recommendation 21:
When there is an impasse, Industry Canada must publicly state why the department did not recommend “the parties enter into an alternate dispute resolution process in order to come to a final decision”, an option provided in Industry Canada’s Client Procedures.

Rationale for Recommendation 20 and for Recommendation 21.

When Industry Canada closes down the Public Consultation process and moves to the Dispute Resolution process, the decision on whether or not to approve the proposed site is made by Industry Canada officials, behind closed doors. Industry Canada is not required to reveal the rationale for the “final” decision to the public.

As the department is making a decision that impacts the community, possibly for the lifetime of its citizens, Industry Canada should be required to explain to the affected public the rationale for decisions and recommendations to the Minister to approve sites for telecommunication towers.

Recommendation 22:
That Industry Canada’s Client Procedures be amended to ensure that all commitments made by proponents during consultations on siting antenna towers are fulfilled.

After Industry Canada used the alleged “impasse” to approve site GA612-04 for a tower, the Mayor of the municipality wrote to the President and Chief Executive Officer, Videotron. In the May 14, 2012 letter the Mayor pointed out that during consultations on the location of the tower the proponent made written commitments. (Attachments 3&4) These included:

1. the tower height would be reduced from 82 metres to 70 metres.
   (Letter from Videotron dated January 13, 2011)
2. Recognizing the towers visual impact on a valued geographic area in the community, camouflage would be applied.
   (Letter from Videotron dated April 11, 2011)

On June 5, 2012 the President and Chief Executive Officer, Videotron replied to the Mayor’s letter (Attachment 5&6) stating:

1. “The proposed height of our new structure has been set to 82 metres…”
2. “Camouflage solutions, as discussed on various occasions in the course of the project, will not be implemented…”

During Industry Canada’s Default Public Consultation process commitments were made by the proponent, in writing. However, once the Industry Minister approved the site, these commitments were off the table. Industry Canada must
ensure that this abuse of the process, for which the department is responsible, does not occur.

In addition, when the camouflage solutions were discussed, the community understood that the camouflage would be for the entire tower. However, the company’s response to the Mayor of the municipality referred to “…attenuating the visual impact of the installation, which is typically achieved by planting trees around the compound area at the base of the structure.” This is not how members of the community understood the proponent’s promise of tower-camouflage, especially considering the value of the landscape identified for the tower site. It was understood that the camouflage promised by the proponent would be on the tower not the compound. It was further understood that the tower-camouflage would be similar to what is highlighted on Industry Canada’s website:  http://www.ic.gc.ca/eic/site/icgc.nsf/eng/07422.html
“Do you see the cell phone tower?”

Attachments (6)
Plus reference to the website for speech by Mr. Jean-Pierre Blais, Chairman Canadian Radio-television and Telecommunications Commission http://www.crtc.gc.ca/eng/com200/2013/s131104.htm

cc. Mr. Jean-Pierre Blais, Chairman, CRTC
Mr. Mathieu Ravignat, Member of Parliament, Pontiac, Quebec
Mr. Edward McCann, Former Mayor, Municipality of Pontiac
Mr. Evan Solomon, Power and Politics, Canadian Broadcasting Company
Mr. Fred Ryan, Editor, The Pontiac Journal
SITE: PONTIAC (GA612-03)
ADRESSE: 160 CHEMIN BRAUN
PROPRIÉTAIRE: PÉPINIÈRE PONTIAC INC.

COORDONNÉES GÉOGRAPHIQUES

LATITUDE NAD 83: N 45°28'43,85" soit 45,478848°
LONGITUDE NAD 83: W 75°56'08,47" soit 75,935686°
ALTITUDE (Sol): 99 m N. M. M.

Rayon: 256 m

Pylône projeté
Hauteur: 82 m

NOTES:

Cette propriété devra faire l'objet d'une recherche notariale concernant les titres de propriété et les servitudes.
AVIS PORTANT SUR L’INTENTION DE CONSTRUIRE UN SYSTÈME D’ANTENNES DE RADIOCOMMUNICATIONS

Vidéotron Ltée souhaite ériger un système d’antennes de radiocommunications de type autoportant de 82 mètres de hauteur situé sur le lot 2 756 016 au sud du chemin Elm, dans la municipalité de Pontiac.

Cette structure sera utilisée par Vidéotron Ltée dans le cadre du déploiement de son nouveau réseau de téléphonie sans fil.

Vous êtes invités à transmettre vos commentaires par écrit dans les 30 jours suivant la publication de cet avis à l’adresse suivante :

VIDÉOTRON LTÉE / INGÉNIERIE
(GA612-04)
C.P. 96504
Gare Centrale
Montréal (Québec)
H3B 5J8

NOTICE OF INTENT TO BUILD A RADIOCOMMUNICATION ANTENNA SYSTEM

Videotron Ltd. wants to install a 82 metre self-supporting radiocommunication antenna system on lot 2 756 016 south of Elm road in the municipality of Pontiac.

This structure will be used by Videotron Ltd. for its new wireless telephone network.

Any comments on this plan should be submitted in writing within 30 days following the publication of this notice and sent to the following address:

VIDEOTRON LTD. / ENGINEERING
(GA612-04)
P.O. BOX 96504
Central Station
Montréal, Québec
H3B 5J8
MUNICIPALITÉ DE / MUNICIPALITY OF
PONTIAC

May 14, 2012

Mr. Robert Depatie
President and Chief Executive Officer
Videotron Ltee.
612 rue Saint-Jacques
Montreal, Quebec
H3C 4MB

Dear Mister Depatie,

During the consultation period concerning the tower proposed for installation on Hurdman Heights Farm in the Municipality of Pontiac, your company responded to a number of questions from the public.

In two of the responses Videotron committed to a smaller tower and the use of camouflage for the new tower as follows:

1. In a letter dated January 13, 2011 Videotron stated:
   "Finally, we are aware that the sight of an 82-meter structure cannot be obstructed. In this regard, on October 5, 2010 we proposed to the municipal authorities to reduce the tower height to 70 meters in addition to choosing an aesthetic type tripole. In addition, Videotron provides planting trees around the project to reduce the visual impact of facilities."

2. In a letter dated April 20, 2011, Videotron stated:
   Deuxièmement, une attention particulière est accordée à l’impact visuel du système d’antennes projeté sur l’environnement immédiat. Ainsi, afin de préserver l’esthétique de l’environnement et par souci pour la collectivité, Vidéotron peut, dans certains cas, préconiser l’utilisation de techniques de camouflage, de masquage et d’aménagement visant à atténuer l’impact visuel de ce type d’installation.
Work has begun on the installation of the communications tower on Elm Road. Can you confirm that Videotron will be respecting these commitments?

Sincerely,

Edward J. McCann
Mayor

cc The Honourable Christian Paradis, Minister of Industry
    Mr. Mathieu Ravignat, Member of Parliament, Pontiac
Montréal, June 5th, 2012

Mr Edward J. McCann
Mayor
Municipality of Pontiac
2024, Route 148
Pontiac (Québec)
J0X 2G0

Subject: Response to your letter dated May 14th, 2012 regarding the proposed Videotron development site – project “GA612-04 VL Elm Way, Pontiac”

Dear Sir,

I have received your letter dated May 14th, 2102, in which you ask a specific question about the above mentioned project. I am pleased to provide you with the answer to your question, but I also want to use this opportunity to explain some aspects of the project that will allow you to gain a better understanding of our decisions.

As you know, our engineering and site acquisition teams have been working on multiple scenarios since 2010 for the implementation of this site. All through this process, we have tried to find alternate solutions that would allow to meet our performance criteria, while complying to your Council’s preferences and decisions. Despite our demonstrations proving the inadequacy of the Brizard Farm site from the performance standpoint, the Council has repeatedly designated that site as the only option they would approve, namely through a letter dated October 29th, 2010.

Under those circumstances, we had no other choice but to pursue our project using our Elm Way site (GA612-04), while working with other wireless operators to maximize the use of this new structure, in order to limit proliferation of new structures in the area. The proposed height of our new structure has been set to 83 meters, to provide for enough room for all occupants.

In your letter dated May 14th 2012, you have included extracts from two of our precedent communications raising the possibility of using camouflage solutions, as well as other means of reducing the visual impact of the new structure, and asked if Vidéotron would respect its commitments in that regard.

The first extract explores the possibility of using a smaller and more aesthetical structure, which was part of a scenario having been discussed during a meeting between yourself and Vidéotron’s representatives, which took place on October 5th, 2010. Unfortunately, this scenario was subsequently refused by the council, making our proposal irrelevant.

The second extract refers in general terms to various ways of attenuating the visual impact of the installation, which is typically achieved by planting trees around the compound area at the base of the