



Canadian Electricity Association
Association canadienne de l'électricité

www.canelect.ca

January 21, 2008

Mr. Peter Hill
Director, Spectrum Management Operations
Radiocommunications and Broadcasting Regulatory Branch
Industry Canada
300 Slater Street,
Ottawa, Ontario, K1A 0C8

Dear Mr. Hill:

RE: Canada Gazette, Part I, November 28, 2007, Consultation on Proposed Conditions of Licence to Mandate Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements – DGRB-010-07

The Canadian Electricity Association (CEA) appreciates the opportunity to submit comments on the Industry Canada (IC) Consultation Paper on Proposed Conditions of Licence to Mandate Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements.

In summary, CEA notes the following key issues: (1) the licensees should not be forced by federal regulation to consider attachment to utility antenna support structures located within switchyards and substations for reliability of the electricity system and personnel safety; (2) the arbitration process should include the provincial energy regulators and have clear guidelines for arbitrators; (3) the timelines to respond to a request and subsequent arbitration should be longer than thirty and ninety days respectively; and all license agreements must have a termination clause to ensure that future needs of the electricity system are met without any disruption to customers.

I trust you will find the enclosed comments useful as you finalize the conditions around Roaming and Antenna Tower sharing. CEA looks forward to working with you to ensure that this policy is implemented in an efficient and effective manner without jeopardizing the reliability and security of the electricity system.

Yours sincerely,

CANADIAN ELECTRICITY ASSOCIATION (CEA)

Eli Turk
Vice-President

Chuck Victor
Chair, CEA Transmission Telecom Task Group

cc. Michael Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications, Industry Canada
Michael D. Connolly, Director General, Radiocommunications and Broadcasting Regulatory Branch, Industry Canada
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Comments on *Canada Gazette*, Part I,

Consultation on *Proposed Conditions of Licence to Mandate Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements*

DGRB- 010 - 07

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General Comments

1. Founded in 1891, the Canadian Electricity Association (CEA) is the national forum and voice of the evolving electricity business in Canada. The Association contributes to the regional, national and international success of its members through the delivery of quality value-added services. At the heart of CEA is a core of corporate utility member companies. In addition, major electrical manufacturers and corporate consulting companies and several hundred other company and individual members are grouped within CEA's broad structure.
2. The CEA recognizes that both the above noted Gazette Notice and the CPC-2-0-03 ("*Radiocommunication and Broadcasting Antenna Systems*") are primarily intended for the Cellular, PCS and AWS industries. However, there are consequences resulting from these documents that affect the electric utility industry. For greater details of these issues, please reference the August 2007 CEA submission to Industry Canada (IC) entitled "*Federal Policy with Respect to Electricity Utility Communications.*"
3. CEA supports IC's role as a spectrum Regulator and wishes to continue to promote a strong working relationship between IC and the electric utility industry. CEA requests that IC recognize the unique and vital role electric utilities play in providing a critical service to the Canadian public. It is imperative that the proposed changes do not interfere with the utilities' mandate of providing safe and reliable electrical power.
4. CEA also wishes to highlight the point that the electric utility industry's communications system is used to support utility operations and does not fit the commercial model of other telecommunications carriers. The spirit of the proposed regulation is intended to promote fairness within this competitive model which the utilities are not a part of.

Specific Comments

Antenna Towers located within Switchyards and Substations

5. It is requested, for the following reasons of personnel safety and security of electric power, that the utility's structures should be recognized as "non-standard" and "not preferred", especially those towers located within electrical switchyards or substations. The utilities will promptly consider any requests but strongly recommend that the proposed licensee should not be forced by regulation to consider attachment to utility antenna support structures located within switchyards and substations.
6. The electric utilities currently permit, and have procedures in place for, third party access to utility owned antenna structures. As far as a proposed licensee is concerned, the electric utilities will continue to process requests within the spirit of the new proposed regulations. However, utility antenna support structures are often located within switchyards and substations which have an extremely dangerous high voltage environment; hence, access to such facilities needs to be closely controlled to avoid serious injury or death and to maintain the reliability of the electric system.
7. All personnel entering such sites must use approved equipment and have current training and qualifications or must be escorted and supervised by trained personnel. Electrical accidents are immediate, unforgiving and the consequences are severe. Not only could an individual be seriously injured or killed if necessary precautions are not taken, but a seemingly minor equipment related accident could result in a wide area electrical outage.



8. Canadian utilities are also required to follow provincial occupational health and safety standards imposed by provincial regulators. Thus, all third party users of utility antenna structures should be required under the proposed federal regulations to follow these standards to ensure not just the safety of personnel but compliance with provincial standards.
9. Besides personnel safety and the integrity of the electrical power system, there are also cost allocation issues that are raised by site sharing. It is accepted practice that utilities engineer towers to accommodate current and anticipated future utility requirements, to meet CSA Standard S37-2001. Any new additional requirements due to site sharing must take into account utility's current and future loadings that the tower is already designed to accommodate. Additional capacity requirement on top of existing and future utility needs must be accommodated for in the tower analysis up front, so that additional costs are not borne by utilities at a future date. The utilities must remain 'whole' but have no guarantee that the provincial regulator would permit the utility to recover these additional costs through rates – it is essential that IC recognize this challenge. Hence, CEA requests that any additional costs involved with new requirements on top of existing and future utility requirements be directly borne by the proponents – not the utilities or the ratepayers.
10. Hence, it has been the experience of CEA member utilities that tower sharing arrangements, particularly those located within switchyards or substations, raise significant safety concerns which, in many circumstances, outweigh any benefit of tower sharing, particularly with respect to supervising access to the shared support structure.
11. While the CEA acknowledges that stringent terms of access can be built into tower agreements, regardless, there are still many circumstances in which the risk or burden on internal resources is simply too great to make such an arrangement feasible, i.e. the use of utilities' resources to provide appropriate training and supervision cannot reasonably be considered sustainable.

Arbitration Process

12. In response to IC's suggestion that a national code on arbitration be adopted, CEA believes that the applicability of the ADR National Arbitration Rules could be considered at a later date if local guidelines prove unfeasible.
13. It should be noted that IC or any federal arbitrator does not have jurisdiction to make any rulings over electrical transmission towers; thus, arbitration may be an appropriate route for non-electric utility towers. However, in case of electric utility towers, CEA believes that the issue should be determined by the provincial energy regulator – as it is for power distribution poles. On the other hand, if the federal government wishes to use an arbitration system for utility tower sharing issues, then CEA requests that the provincial energy regulator be included in the process and clear policy guidelines are developed (i.e. around electricity reliability) for arbitrators.

Timelines

14. Tower sharing proponents need to recognize that, especially for towers located at switchyards and substations, and for reasons of safety and the utility's legislated responsibility for the transmission of reliable power, timely access to these towers for initial work and retro work is likely to be compromised from the proponents perspective.
15. It is the CEA's understanding that according to CPC-2-0-03, utilities are to respond within 30 days stating either a proposed set of reasonable terms to govern the sharing of the tower or a detailed explanation of why sharing is not possible. This consultation paper suggests that



within 30 days the Licensee will provide an offer to enter into a sharing agreement if technically feasible. CEA submits that this timeline is too short for utilities, as each situation needs to be looked at on a case-by-case basis and they do not have manpower resources dedicated to such an activity. It is recommended that at least 90 days be given to utilities to enable a proper technical/legal analysis and respond to specific requests for co-sharing of towers. It is proposed that where unavoidable delays may be encountered, the utility will indicate when the proponent can expect a response to the request.

16. The consultation paper also suggests that the case could go to arbitration 90 days from the initial request. Due to resource constraints, and the complexity of certain sharing arrangements, the CEA believes this time period to be too short especially if a proponent is considering tower sharing at a substation or switchyard. If an arbitrator is to make decisions with respect to a utility tower, the CEA respectfully submits that IC consider a test period of 6 to 8 months over which time requirements can be established based on actual circumstances. During this time the CEA members will use 'best effort' to meet the intents of the policy – bearing in mind the utility's primary focus is on the security and reliability of electrical supply. A shorter time limit would put safety and electricity reliability at risk.

Antenna Tower License Agreements and Termination Clause

17. A concern that utilities have with an arbitration process is that if a tower sharing agreement is enforced, and then if, beyond the planning horizon, utilities require more tower space for new systems, the utilities would be unable to move the lessee. Hence CEA requests that all license agreements have a clause in the agreement which gives the utility the right to terminate the agreement by giving appropriate notice. Utilities should be permitted to establish the duration of the lease based on the expectation of installation of utility antenna. Termination of tower lease agreements, by the utility, to protect the integrity of the electric system or to accommodate expansion of utility communications, should be permitted by the federal policy.

Conclusion

18. In conclusion, for reasons of personnel safety and security of electric power concerns CEA requests that regulation should not force the proposed licensee to consider attachment to utility antenna support structures located within switchyards and substations. Conversely, the electric utility should not be forced to co-share such towers where it can reasonably be shown that personnel safety and reliability of power delivery could be compromised. CEA also believes that provincial utility regulators need to be included in the arbitration process and clear guidelines should be developed for arbitrators. Lastly, CEA proposes longer timelines and licenses to have a termination clause.
19. If you need further information please contact Chuck Victor at (902) 428-7754 or via email at: chuck.victor@nspower.ca or Amnah Nadeem at (613) 230-1679 or via email at: nadeem@canelect.ca.