

December 4, 2017

What You Need to Know About Communications Towers

1. They are federally regulated.

Telecommunications towers are federally regulated by Innovation, Science and Economic Development (ISED) Canada under the *Radiocommunication Act*. A company planning to install a communications tower must follow the *Radiocommunication Act* and appropriate guidelines from ISED Canada. Telecommunications towers may include cell towers, wireless internet towers, and oil/gas communications towers.

2. Agreements are negotiated bilaterally.

Lease agreements for telecommunications towers are negotiated bilaterally between a landowner and the company. The Alberta *Surface Rights Act* does not apply, which means the compensation structure and mechanism for periodic review in the Act are not applicable to communications towers. There is no right-of-entry or expropriation process for communications towers, except in the case where they are used as part of a power transmission or substation development.

3. Coverage is the main driver for determining location.

Securing adequate coverage in a service area is the most important factor considered in determining the location for a communications tower. Finding a willing landowner to host the development is another significant component of site selection. The developer must also consult with the local land use authority (municipality) as there may be a policy specific to siting/consultation on communications towers. Technical limitations and safety can also play a role. ISED Canada involvement can occur at any time during the consultation and licensing process. If there is an existing tower, the developer is obligated to speak to whatever company owns the tower first to see if collaboration or sharing is possible.

4. The municipality may have a siting policy to consider.

It would be recommended that developers speak to the municipality or local land use authority prior to notification, as they may have local knowledge relevant to making siting decisions. The municipality may have bylaws or policy regarding siting towers on private land. ISED Canada recommends that the land use authority have a separate policy specific to communications towers, not contained in other sections of the bylaws.

Where there is no municipal antenna siting policy, the proponent must follow the ISED Canada default consultation process. Prior to any tower installation, the proponent must obtain a letter of concurrence from the land use authority, and allow the opportunity for the land use authority and the public to comment via a public consultation process.

5. Innovation, Science and Economic Development Canada has a process for public consultation.

Public consultation is required for any tower over 15 meters tall. The only exception to this is for telecommunication carriers, broadcasting undertakings, and third-party tower owners, where consultation must be done regardless of size. All landowners and businesses within

a radius equal to three times the height of the tower must receive a notification package, although some companies may opt to use a larger radius where they feel it is appropriate.

It is required that the envelope make reference to the proposed project to help ensure it is not immediately discarded as junk mail by the recipient. Notified parties have 30 days to respond to the notification package. Concerns that have been raised with the company must be responded to within specific timeframes: it must be acknowledged within 14 days, and reasonable and relevant concerns must be responded to within 60 days. These responses do not have to be in writing; they may be done on the phone or in person.

In addition to the direct notice for adjacent landowners, the company must place a notice in the local paper if the system is taller than 30 meters. ISED Canada expects that the entire consultation process (including obtaining a land use authority concurrence) be completed within 120 days. Towers must be built within 3 years of the conclusion of the consultation.

- 6. The provincial government is not the decision-maker for towers on Crown land.**
Municipal siting processes do not apply to Crown lands. The Government of Alberta is not involved, as this is federally regulated by ISED Canada. The Government of Alberta and the local land use authority/municipality are stakeholders in the engagement process.
- 7. Compensation does not fall under the structure of the *Surface Rights Act*.**
Compensation is negotiated bilaterally between the landowner and the developer. Since it does not fall under the *Surface Rights Act*, there is no recourse for nonpayment of annual recourse. If a landowner desires periodic review, this should be articulated in the contract. Neither the Farmers' Advocate Office (FAO) nor the ISED provide recommendations on compensation amounts for communications towers.
- 8. The type of infrastructure will depend on the need.**
The size, design, and height of the communication tower will depend on the need in the area. The communications hut is typically approximately 12' x 12' feet and the tower may be anchored with a concrete pillar or guy wires. The size of the site itself will vary. A landowner may request bushes or tress to limit the aesthetic impact to the surrounding area. Lighting is determined by Transport Canada standards.
- 9. The Alberta Utilities Commission (AUC) gets involved when the tower is part of a power plant, substation or transmission line.**
The role of the AUC on communications towers can be a source of confusion for landowners. The AUC makes decisions on power plant, transmission, and substation applications for Alberta, but the communications tower itself still falls under ISED Canada jurisdiction. Normally developers will use the ISED Canada consultation process as well as the AUC's consultation process in *Rule 007: Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations and Hydro Developments*. Communications towers proposed as part of transmission lines and substations are subject to right of entry, but are usually placed within the footprint of a substation, with landowner consent.
- 10. Communications towers normally remain in place long-term.**
At this time, the need for communications connectivity is indefinite, so a landowner should anticipate that a communications tower will remain in place for many years. The structure itself may have a life between 10-30 years, and may be changed as technology improves.

11. The company must follow the federal health and safety guidelines.

ISED Canada requires the proponent to attest to good engineering practices and follow radiofrequency exposure limits outlined in Health Canada's Safety Code 6.

12. Operational complaints should be directed federally to Innovation, Science and Economic Development Canada.

A person who believes that a developer is not abiding by their licence requirements may contact ISED Canada directly. Random inspections are completed from time to time, but monitoring is not done unless there is a complaint. In general, a company has an economic incentive to operate the site well. If the lessor/landowner believes there is non-compliance with the licence, they may contact ISED Canada 1-800-461-2646 (northern Alberta) and 1-800-267-9401 (southern Alberta). Any disputes over the lease should proceed through the courts.