

December 6, 2010  
4542 Rocky Point Road  
Victoria, BC V9C 4E4  
250-595-2474  
[kem.luther@sheridanc.on.ca](mailto:kem.luther@sheridanc.on.ca)

Michael Krenz / Jim Laursen  
A/District Director  
430 – 1230 Government Street  
Victoria, BC V8W 3M4

Copy: Hon. Tony Clement, P.C., M.P.  
Ministry of Industry  
235 Queen Street  
Ottawa, Ontario K1A 05H

Dear Mr. Krenz and Mr. Laursen:

We are still waiting for a response from our letter of October 5 to Hon. Tony Clement that was referred to your office. This week we received a short letter from Mr. Laursen (November 22), but it did not mention the specific complaints addressed in our October 5 letter nor our request for initiation of the dispute resolution process described in article 5 of Industry Canada CPC-2-0-03, a request that was repeated and underlined in our letters of October 27 and November 16. We note that the District of Metchosin has now submitted a letter to you asking for the initiation of the same dispute resolution mechanism. Perhaps our complaints can be addressed when you take up the issues raised in the letter from the District.

What we requested in our initial letter was the immediate suspension of the default public consultation process with regard to Telus's proposed cell tower at 4537 Rocky Point Road and the eventual invalidation of the current process. We believe that Telus's actions in the public consultation process exhibit deviations from the standards outlined in CPC-2-0-03 that are extensive enough to require the process to be terminated. In the initial complaint we outlined five points of variance. In this letter we would like to add a sixth point to the complaint.

Metchosin residents who sent September letters to Telus in response to their proposal to construct a telecommunications tower at 4537 Rocky Point Road received this week a generic response letter from Mr. Darren Hird. In the letter Mr. Hird addresses three of the five complaints in our original letter. The points he raises do not, unfortunately, answer our questions. In fact, they support our complaint. Later in this letter we will take up the points made by Mr. Hird. First, though, we call attention to a sixth problem in the current public consultation: deficiencies in the recent Telus response letter.

The letter of response from Mr. Hird is intended to be the fulfilment of step 2 under "Responding to the Public" in Section 4.2 of Industry Canada CPC-2-0-03. The Industry Canada document says that the proponent (Telus) must respond to our letters within 60 days, addressing in writing "all reasonable and relevant concerns" or, failing that, explaining "why the question, comment or concern is not, in the view of the proponent, reasonable or relevant."

Telus received a number of letters from Metchosin residents (many of these letters can be viewed on a web site we maintain at <http://s158336089.onlinehome.us/TelusDocs/>). These letters, as even a superficial reading will show, raise a dense matrix of issues and pose a large number of specific

questions. Telus's generic response letter touches on only one of the issues raised by these letters, the health issue. It does not address other issues raised in the letters, nor does it provide specific responses to specific requests for information.

As an example, take the letter I sent to Telus on September 30 (viewable at <http://tinyurl.com/2ucswfs>). In my letter I placed in bold print *fifteen* specific questions. The letter sent this week by Mr. Hird addresses only one of these questions. Mr Hird neither answered the other fourteen questions nor explained, as CPC-2-0-03 requires, why my questions were not reasonable or relevant. When I first received the letter, I thought that it was a general letter that would soon be followed by more detailed letters to me and other respondents. Then I looked at procedures outlined in CPC-2-0-03 and realized that Mr. Hird would not have been able to take the next step, that of informing us we had twenty-one days to respond, unless he believed that his general letter fulfilled *all* of the requirements of the second step.

This, then, is the sixth point in our complaint. *On the matter of responding to "all reasonable and relevant concerns" or explaining why concerns are not reasonable or relevant, Telus has departed so far from the process described in CPC-2-0-03 that it has given up any claim to conducting a valid default public consultation process.*

Finally, the matter of Telus's response to three of our initial complaints in the general letter of November 24:

(1) We complained that Telus did not explain to us in its initial proposal, as CPC-2-0-03 requires, "the reasons why existing antenna systems or other infrastructure cannot be used" or provide "a list of other structures that were considered" or tell us about "future sharing possibilities for the proposal." Telus replies in the recent letter that "there are no existing antenna systems or infrastructure that could have been used" and that "alternate locations explored" are listed earlier in the letter.

Telus's response proves the point made in the original complaint. Telus, writing to us three months after sending to us a proposal that was supposed to include relevant information about alternate sites, finally supplies us with part of the required information about the presence of existing infrastructure. *The Industry Canada document clearly states that this information was supposed to be included in the original proposal, not leaked out over a period of months. This information was not available to us when we needed it to write our response letters.*

The information about alternate sites that Industry Canada requires in a cell tower proposal is still not complete, moreover, after three long months. CPC-2-0-03 includes in the word "infrastructure" more than just existing towers (Section 3 says that the proponent must "locate, analyze and attempt to use any feasible existing infrastructure such as rooftops, water towers, etc."). The top of the Metchosin Fire Hall, which Telus considered in 2007, would be infrastructure, for example. The proposal should have mentioned Telus's 2007 application to use the Fire Hall. Even more to the point, why has Telus never mentioned the existing Metchosin cell tower antenna on Neild Road, the one that Rogers uses to provide good cell service to almost all of Metchosin? Surely that is exactly the sort of "infrastructure" that CPC-2-0-03 requires proponents to discuss in their proposals.

(2) Telus stated in its proposal that information provided by respondents would be "forwarded to the Thomson Nicola Regional District." Telus replies that this was an error in a part of the document that was "not an official or mandatory part of the consultation package" and it apologizes for confusion it may have caused.

The issue about whether the error occurred in a part of the proposal that was mandatory is irrelevant. Our complaint was that it was that the mistake was included with the proposal and that the mistake may have discouraged response to the whole proposal. The apology offered by Telus for its error is welcome, but apologies are only meaningful when they are accompanied by a willingness to make restitution, even if the restitution is costly or painful. In this case, the withdrawal of the proposal is the only possible restitution. We will know that the apology is real when Telus withdraws its proposal.

(3) We complained that Telus did not give us the “at least 30 days” to make our initial responses that the CPC-2-0-03 mandates. We received the Telus proposal on September 8 and were required to reply within 22 days, by September 30. Telus says that it did not refuse comments that came in after the September 30 deadline and that it continued to receive and document replies until nearly the end of October

Telus is operating with a subtle, but serious, misunderstanding of how the setting of deadlines affects the consultation process. No one that we know felt comfortable in testing Telus’s written deadline by submitting after September 30. We even accelerated our work on the petition to get it in before the stated deadline. Telus would not supply us, when asked, with a written confirmation that it would accept submissions after September 30, and we did not have a trust relationship with Telus that would have allowed us to base our action on verbal comments. The result was that Telus got from us our 22-day effort. It did not see our 30-day effort. If it wants to see our 30-day effort, it will have to conduct a public consultation that accords with Industry Canada guidelines.

Again, then, we renew our request to Industry Canada: Stop this process and give us a hearing. We have been on the receiving end of a public consultation that does not respect the Industry Canada guidelines. Because of the deficiencies in the consultation process, we do not believe that Industry Canada can give its concurrence to Telus’s proposal to construct a telecommunications tower at 4537 Rocky Point Road.

Sincerely yours,



Kem Luther, for himself and Larry Johnson, Dianne Johnson, Mike Sargent, Karen Hakkarainen, Jeanne Luther, Steven Kelly, Jeni Luther, Philip Wadham, and Frances Wadham.