

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24-1755-PET

Petition of Industrial Tower and Wireless LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 248a, for the installation of wireless telecommunications equipment at 160 Frog Hollow Lane in Westmore, Vermont	
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Order entered: 10/02/2024

PROCEDURAL ORDER DENYING MOTION TO INTERVENE

I. INTRODUCTION

This case involves a petition filed by Industrial Tower and Wireless LLC (“Petitioner”) requesting a certificate of public good, pursuant to 30 V.S.A. § 248a, for authorization to install wireless telecommunications equipment in Westmore, Vermont (the “Project”). In today’s Order, I deny the motion to intervene filed by David Anderson.

II. PROCEDURAL HISTORY

On June 11, 2024, the Commission issued a notice of complete petition that established the deadline for motions to intervene as July 9, 2024.

On August 30, 2024, David Anderson filed a motion to intervene in this proceeding.

On September 12, 2024, Megan Patton filed a response in support of the motion.

On September 13, 2024, Ronald and Kathy Holmes, Elizabeth Tucker, Donna Dzugas, Andrew Zebrowski, Elizabeth Vooris, and Robert Fitzpatrick filed separate responses in support of the motion.

On September 13, 2024, the Petitioner filed a response in opposition to the motion.

III. LEGAL STANDARD

Rule 2.209 governs intervention in proceedings before the Commission. Rule 2.209(A) provides that upon timely application a person is entitled to intervene in a proceeding:

- (1) when a statute or Commission rule confers an unconditional right to intervene; or
- (2) when the applicant claims an interest in the matters that must be resolved in the proceeding and the applicant is so situated that the disposition of the proceeding may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

The Commission's Standards and Procedures Implementing 30 V.S.A. § 248a ("Standards and Procedures"),¹ at Section VII states in pertinent part:

If any person wishes to submit comments or motions to intervene to the Commission concerning an application filed pursuant to Section 248a or request a hearing for projects other than de minimis modifications, such correspondence is due at the Commission within 30 calendar days of the date that the application was served on all required recipients. . . . The 30-day comment period begins once the application or notice is served and ends 30 days later. Comments, motions to intervene, and requests for hearing filed outside the 30-day comment period will be considered untimely and will not be considered by the Commission.

30 V.S.A. § 248a(j)(2)(A), provides in relevant part as follows:

... Within two business days following notification from the Commission that the filing is complete, the applicant also shall serve written notice of the proposed certificate on the landowners of record of property adjoining the project site or sites unless the Commission has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Commission within 30 days following the date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section

IV. POSITIONS OF THE PARTIES

Mr. Anderson concedes that the motion is untimely given that it was filed after the July 9 deadline. However, Mr. Anderson argues that he did not receive notice of the petition until July 11 due to a mailing address error on the part of the Petitioner.² Mr. Anderson maintains that it then took him several weeks to find legal counsel which delayed the filing further.

Megan Patton, Ronald and Kathy Holmes, Elizabeth Tucker, Donna Dzugas, Andrew Zebrowski, Elizabeth Vooris, and Robert Fitzpatrick all argue that the motion should be granted despite its untimely nature as granting the motion will not unduly delay the proceeding.

¹ Case No. 22-5122-INV, *Investigation into revised standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order of 1/18/23 at Attachment.

² Anderson Motion to Intervene Attachment at 4-5.

The Petitioner argues that the motion was untimely filed after the July 9 filing deadline and should be rejected on this basis. The Petitioner states that the motion was not filed until 18 days after the 30-day statutory comment period established pursuant to 30 V.S.A. § 248a(j)(2)(A). Therefore, the Petitioner contends that the motion should be rejected.

V. DISCUSSION AND CONCLUSION

The Commission's Standards and Procedures Implementing 30 V.S.A. § 248a state that motions to intervene "filed outside the 30-day comment period will be considered untimely and will not be considered by the Commission." Applying a 30-day period from the time that Mr. Anderson received the notice, his motion to intervene deadline was August 11, 2024. As Mr. Anderson concedes, even by this standard, his motion to intervene was untimely filed. Thus, per the Commission's Standards and Procedures, the motion will not be considered by the Commission and Mr. Anderson's motion is denied.³

SO ORDERED.

Dated at Montpelier, Vermont, this 2nd day of October, 2024.



Gregg Faber
Hearing Officer

OFFICE OF THE CLERK

Filed: October 2, 2024

Attest: 

Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

³ Denying Mr. Anderson intervention does not preclude him from coordinating with other intervenors to offer evidence in this matter.

PUC Case No. 24-1755-PET - SERVICE LIST

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*Notice of appearance to be filed.
^Motion to Intervene pending.