

PUC SUBMITTAL DATE: NOVEMBER 22, 2024

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To: Parties Entitled to Notice Pursuant to 30 V.S.A. § 248a(e) and Procedures Order

Re: Rising Tide Towers II, LLC: Wireless Communications Facility at
127 Crow Hill Road, Pownal, Vermont, Site ID: RTT2-01
60-DAY ADVANCE NOTICE

Dear Recipient:

Rising Tide Towers II, LLC (“RTT”), a wireless infrastructure provider, together with Wireless Partners FN, LLC (“WP”), an FCC-licensee with a registration to provide commercial mobile radio services in Vermont (WP and RTT are referred to hereinafter as “Rising Tide”), propose to construct and install a new communications support structure and wireless communications facility (as described further below the “Project”) on property located at 127 Crow Hill Road, Pownal, Vermont, on property owned by Bruce and Julie MacDonald (the “Property” or “Site”). Downs Rachlin Martin PLLC (“DRM”) represents Rising Tide in connection with the Project. The Property is currently designated by the Town of Pownal (the “Town”) as Parcel ID: 043-01, and by the State as SPAN: 495-156-11405.

Pursuant to 30 V.S.A. § 248a, this letter is intended to provide 60 days advance notice that Rising Tide intends to submit to the Vermont Public Utility Commission (“PUC”) a petition for approval to construct the Project at the Site.

I. Introduction and Background

The purpose of the Project is to have RTT construct a new tower facility in order to support wireless telecommunications antennas and equipment owned and operated by WP. New Cingular Wireless PCS, LLC d/b/a AT&T (“AT&T”) and WP have entered into an arrangement whereby WP will provide AT&T with access to its network facilities, including the proposed Project, in order for AT&T to expand its network in certain areas. The result will be the introduction of AT&T commercial service for residents and visitors to Pownal along U.S. Route 7 extending into Williamstown, Massachusetts.

The First Responder Network Authority (“FirstNet”) is a federal agency with a mandate to create, operate and expand a nationwide, interoperable public safety broadband network for first responders.¹ First responders across the country currently rely on more than 10,000 separate radio networks which often times do not interoperate with one another. By deploying a nationwide broadband public safety network built specifically to meet the communications needs of first responders, the FirstNet network provides a solution to the decades-long interoperability and communications challenges first responders have experienced, and which was highlighted by the 9/11 Commission’s final report.

In 2017, AT&T was awarded the Vermont contract to build, manage and operate the National Public Safety Broadband Network (“NPSBN”) using FirstNet’s Band 14 spectrum (Call Sign WQQE234, 20 MHz of the 700 MHz spectrum) together with AT&T’s own wireless network. Using a combination of new and existing wireless facilities, AT&T provides prioritized, preemptive wireless services for first responders across Vermont, New England and nationwide, while also improving 4G LTE coverage for AT&T customers. AT&T worked closely with local, state, and federal first responders to design the

¹ For more information about FirstNet, visit: <https://firstnet.gov/>.

FirstNet network in high priority coverage areas within Vermont, including certain areas of the state with little-to-no commercial wireless coverage. Working with the Public Safety Broadband Commission, Wireless Partners LP implemented a plan to develop FirstNet sites in the Northeast Kingdom and in Readsboro and Wells for AT&T. This was based on its experience with other site development in remote New England areas, using WP as the AT&T/FirstNet affiliate to realize the project.

Exhibit A to this notice is a statement that itemizes the rights and opportunities available to municipal representatives and planning officials, as well as adjoining landowners, pursuant to 30 V.S.A. §§ 248a(c)(2), (e)(2), (m), (n), (o), and (p). This advance notice is being filed electronically with the Commission via its ePUC system to distribute to the Vermont Agency of Natural Resources, the Vermont Department of Public Service, the Vermont Division for Historic Preservation, and the Vermont Agency of Transportation.

Rising Tide’s petition will be filed pursuant to the Commission’s Seventh “Standards and Procedures Implementing 30 V.S.A. §248a” dated January 18, 2023 (the “Procedures Order”). The Procedures Order, as well as more information concerning review of telecommunications projects under 30 V.S.A. § 248a, is available at the Commission’s office in Montpelier and on its website:

<https://puc.vermont.gov/document/procedures-applicable-request-construction-or-installation-telecommunications-facilities>.

II. Project Description

The proposed RTT communications Project will generally consist of the following components (the “Facility”):

- A. A light grey lattice telecommunications tower measuring 190’ above ground level (“AGL”), topped with a four (4)’ lighting rod, bringing the overall height of the structure to 194’ AGL (the “Tower”);
- B. Six (6) panel antennas (3 per sector) to be installed at a centerline height of 186’ AGL, with six (6) remote radio head units (“RRUs”) and four (4) surge arrestors to be installed behind the panel antennas;
- C. A modular steel equipment platform (“Equipment Platform”), measuring approximately 6’ x 12’ to support outdoor equipment cabinets;
- D. A 75’ x 75’ fenced communications site gravel compound, comprised of a 8’-tall chain link fence, enclosing the Tower, Equipment Platform, and other appurtenances, and accessed by a 12’-wide swing gate (the “Compound”);
- E. A 12’ wide gravel access road off of Crow Hill Road that will extend approximately 43 feet to the Compound (the “Access Road”), and a parking/turnaround area in front of the Compound;
- F. A 20 kW diesel generator for emergency backup power to the facility, with a proposed self-contained double-wall fuel system (sometimes referred to as a “belly tank”);
- G. Utilities (power and fiber optic cable) running along new poles to be constructed on the western section of Crow Hill Road, extending to the Compound; and

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- H. Ancillary improvements consisting of an ice bridge, a transformer, a utility backboard, and other equipment and appurtenances located within and around the Compound.

The Facility is being designed with the capability for co-location by other wireless carriers or public safety entities. Each feature of the Facility is described and depicted in more detail on the preliminary site plan drawings included as Exhibit B on the Project website. Specifications for the Generator are included as Exhibit C on the Project website.

In terms of construction impacts, the Project will have a temporary earth disturbance of 25,750 square feet (0.59 acres) and will not require a “Low Risk” authorization under stormwater construction general permit 3-9020 from the Vermont Department of Environmental Conservation (“DEC”). The total impervious area added by the project will be 50 square feet (0.001 acres). No operational stormwater permit from DEC will be required. The total area of permanent earth disturbance with the Project will be 10,662 square feet (0.24 acres). Further details regarding construction and restoration measures will be described more fully in the petition.

III. Section 248a(a) Criteria: Public Good

i. Project Need

Under Section 248a, the Public Utility Commission may authorize construction of a new telecommunications facility to be “interconnected with other telecommunications facilities proposed or already in existence ... if it finds that the facilities will promote the general good of the State consistent with subsection 202c(b) of [Title 30].” In turn, the State telecommunications goals include “support[ing] the availability of modern mobile wireless telecommunications services along the State’s travel corridors and in the State’s communities,” and “support[ing] the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the State....” 30 V.S.A. §202c(b)(3) and (7).

The purpose of the proposed Project is to provide reliable wireless coverage for AT&T customers and FirstNet subscribers in Pownal, VT and Williamstown, MA, extending along VT Route 7 roughly from Green Mountain Trailer Park, across the State/Commonwealth boundary and along Simonds Road until reaching Sand Springs Road. Because this absence of reliable wireless coverage for voice and data has persisted over a number of years, despite both the frequency of highway usage and problems with disabled vehicles and vehicle crashes, the Vermont Department of Public Safety identified this interstitial area of VT Route 7 as a priority area to be addressed as part of the process for approving AT&T’s implementation of the First Responder Network Authority (“FirstNet”) ongoing coverage plan for Vermont.

ii. Radiofrequency Reports

Propagation maps depicting current and projected 700MHz AT&T coverage from the Project at -113 dBm, are included as Exhibit D on the Project website. None of the current adjacent sites can be modified to obviate the need for the proposed Project. The maps demonstrate that the proposed Project will provide reliable coverage for both FirstNet subscribers and AT&T customers along VT Route 7 and surrounding areas through southern Pownal.

IV. Section 248a(c)(1) Criteria: Aesthetics, Natural Environment, and Other Considerations

Under Section 248a(c)(1), the Commission evaluates whether a facility may have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public's use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). Each of the criteria referenced in this section of the statute are addressed below.

- i. **Aesthetics:** The Project is not expected to have an undue adverse effect on the aesthetics and scenic beauty of the area. Although the Project is anticipated to be visible from select locations in town, visibility is necessary to ensure reliable coverage. As set forth below, RTT has arranged for a balloon test to generate photographic simulations from various public vantage points in the area, which will be made available to recipients of this letter upon completion, and submitted with RTT's petition.
- ii. **Historic Sites:** The Project is being evaluated for historic site impacts pursuant to Section 106 of the National Historic Preservation Act, and will undergo contemporaneous review by the Vermont Division for Historic Preservation as part of the Project. Initially, RTT's consultant identified no archeological or historic property impacts posed by site construction.
- iii. **Public Health and Safety:** The Project will be designed to comply with the FCC's standards for Radiofrequency Emissions as set forth in Bulletin OET-65. The MPE report shows that at a maximum operating level, non-ionizing emissions from the site will be less than 1% of the safety threshold established by the FCC for protection of the general public and workers (see copy at Exhibit E on the Project website). The Tower itself will also be designed to meet the wind and ice loading standards of the Vermont Building Code, and the Compound is constructed with barbed wire and locks to deter unauthorized use.
- iv. **Scenic Highway / Byway:** The Project is not anticipated to be visible along any portion of a Vermont designated scenic highway. Insofar as public safety communications and access to reliable mobile wireless broadband are critical to enjoyment of the State's designated byways, the Project will advance those goals.
- v. **Natural Environment:** The Project is not expected to have an undue adverse impacts on the natural environment, taking account of the Act 250 criteria referenced below, and based on preliminary information included from the Vermont Agency of Natural Resources ("ANR") atlas (see copy at Exhibit F on the Project website).
 - a. *Wetlands and Headwaters.* Subject to confirmation as part of the petition, the Project is not expected to impact wetland areas or buffers.
 - b. *Streams.* The Project does not involve any stream crossings.
 - c. *Rivers/Shorelines:* No portion of the Project is situated within a river corridor or proximate to a shoreline. The nearest such area is the Hoosic River, located over 5500' to the east of the Project.

- d. *Flood Hazard Areas.* The Project is not located in a flood hazard area or floodplain.
 - e. *Necessary Wildlife Habitat.* At this time, there is no evidence of deer wintering area or habitat for black bear. One significant natural community has been preliminarily identified on a portion of the Property; however, AT&T is actively reviewing possible measures for avoidance or mitigation as part of the petition.
 - f. *Endangered Species.* A plant study is being conducted to determine whether there are any rare, threatened, or endangered species in any of the areas to be affected by the Project.
 - g. *Soil Erosion / Soil-to-Water Retention Capacity.* The Project will include plans for erosion prevention and sediment control consistent with DEC requirements.
 - h. *Waste Disposal.* The Project involves no off-property disposal of solid wastes.
 - i. *Traffic.* Traffic associated with construction will occur principally during a roughly one-to-two month period. Following construction, trips will occur on a scale of approximately one visit every one-to-two months.
 - j. *Municipal / Governmental / Educational Services.* The Project will have no direct effect on any existing educational / municipal services. The Project will have a positive effect on governmental services by enhancing the ability of subscribing first responders to use priority data service on handheld devices for responding and intercommunicating to address both regular and emergency situations.
- vi. **Air Purity / Noise:** No blasting is currently anticipated in connection with the Project. Any blasting in connection with construction of the New Access and Compound would follow the *Vermont Agency of Natural Resources Best Management Practices for Blasting Activities to Avoid Environmental Contamination* (2016). The Project will also include construction vehicle activity along Crow Hill Road during the one-to-two month period where construction is expected to be the most active.

The only source of noise from the Facility once constructed will be a backup generator, which is run during a prolonged power outage. Otherwise, the generator will be run for roughly one-half hour each week during daylight hours. The HVAC equipment within the any equipment cabinet is typically equipped with noise reduction kits that reduce the noise to between 58 dBA and 65.7 dBA at a range of 5 feet, with sound trailing off at distances outside of the Compound (i.e., approximately the noise level produced by a conventional electric fan).

- vii. **Water Purity:** The only water to be used at the Property will be for cleanup following construction activities, and will be brought in from sources off of the Property. No on-source water resources will be used in the construction process, nor will the Project affect an existing water supply.

V. Section 248a(c)(2) Criteria: Municipal and Regional Planning Considerations

Pursuant to 30 V.S.A. § 248a(c)(2), the Commission must evaluate whether a project is consistent with the recommendations of selectboards, municipal planning commissions and regional planning

commissions. In turn, those recommendations can be based on municipal / regional plans, as well as telecommunications provisions in local zoning bylaws or a stand-alone ordinance. Based on a review of the relevant municipal and regional planning documents, the Facility is consistent with the applicable substantive criteria.

i. Pownal Town Plan.

The Town of Pownal Town Plan adopted April 25, 2019 (the “Town Plan”) is generally silent on wireless service or wireless infrastructure development. The only statement appears in Section 4.11 – Forest Goals, Objections and Actions – on page 42, where action 4 envisions developing an “enhanced Energy Planning Element that meets the requirements of the Vermont Department of Public Services to identify areas where the construction of cell towers, wind turbines or other development projects should be prohibited to avoid fragmenting interior forest blocks and connectivity blocks and seek ‘substantial deference’ standing from the Public Service Board.”

The Project is confirmed on the ANR Biofinder to be situated on the edge of a forest or connectivity block, but the block has not yet been identified as an area where the construction of cell towers should be prohibited. Consequently, the Project will not violate any land use conservation measure in the Town Plan.

ii. Pownal Land Use Bylaw

The Town of Pownal Land Use Bylaw, Adopted August 12, 2021 (the “Bylaw”) states that no permit is required for telecommunications facilities subject to the jurisdiction of the Public Utility Commission under 30 V.S.A. § 248a. (See Bylaw Section 5.1(4).) Even so, the Project complies with certain requirements of Section 8.12 of the Bylaws. Specifically, as explained, the Project uses barbed wire and locking to restrict access into the compound to prevent tower climbing. The Tower itself will use a non-reflective matte grey finish to minimize adverse visual effects. To be sure, the Tower will extend more than 20’ above the surrounding trees (determined to be approximately 73’ AGL); however, the additional height is needed to provide adequate service and opportunities for collocation, given the absence of any surrounding towers in the general vicinity. Although the Tower will not meet the fall zone requirements in Section 8.12, the tower can be designed to collapse upon itself, thereby preventing any possibility of damage to adjoining properties.

iii. Bennington Regional Plan.

The Bennington County Regional Plan, adopted March 19, 2015 and amended March 23, 2017 (the “Regional Plan”), states that “[a]ccess to broadband internet connectivity and consistent wireless communications services, for voice and data, have become increasingly important to residents, schools, colleges, institutions, local business, and visitors to the region.” Regional Plan at 165. The Regional Plan recognizes that through careful siting of wireless communication infrastructure, concerns regarding adverse impacts to natural and scenic resources can be minimized. *Id.*

Siting the proposed Facility will advance the goals set forth in the Regional Plan. The Project will directly advance these goals by improving public access to reliable, high quality wireless broadband internet and voice service without adversely impacting the County’s scenic and environmental qualities. More generally, the Project will promote the general good of the State, consistent with 30 V.S.A. § 202c(b), insofar as the Project will allow AT&T to improve its

wireless service and capacity in Bennington County, while making available the FirstNet network to local first responders, and having future room for collocation by commercial and public safety users.

VI. Section 248a(c)(3) Criteria: Absence of Collocation Options

Under Section 248a(c)(3)(A), Rising Tide is required to demonstrate the absence of feasible collocation options. Existing AT&T coverage along VT Route 7 in Pownal and Williamstown is shown on the map included as Exhibit C on the Project website. Presently, there are no available telecommunications facilities within the area to be served by the proposed Tower. The closest existing AT&T facility at the Mann Hill Barn off of VT Route 7 could not be modified to provide coverage in the target area, nor can this be achieved by modifying an adjacent site in Massachusetts. While there is an existing T-Mobile site installed in the cupola of a barn structure on adjacent property (684 Montgomery Road), that facility lacks space or height to accommodate the needs of AT&T. A previous tower site investigated by RTT off of Poor Farm Road was determined to be unavailable.

VII. Prior Land Use Permits

Section 248a imposes upon the Commission an obligation to harmonize a certificate of public good with conditions in local and state permits encumbering the property. As there is no existing facility at the Property today, there are no relevant local or Act 250 land use permits that would affect issuance of a certificate of public good for the Project pursuant to 30 V.S.A. §248a(d).

VIII. Balloon Test

To assess the visual effects of the Project, Rising Tide is proposing a balloon test at an appropriate time. The balloon is proposed to be flown to a height of 190' (measured from the bottom of the balloon), and will be photographed from public areas, which will then be used to generate photographic simulations of the Facility from various public vantage points within one to two miles of the Site. These photographic simulations will be available for viewing during the 60-day advance notice period, and prior to submission of the CPG petition.

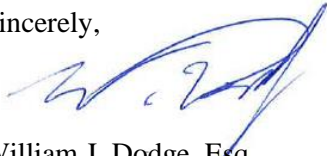
Presently, the balloon test date is scheduled for **Monday, December 2, 2024** to take place between 9:00am and 1:00pm, with a backup date of Tuesday, December 3, 2024. Due to the variable weather conditions in Vermont that can affect the balloon test, the exact date of the test will need to be verified by Rising Tide's consultant, based on information posted at <https://www.drm.com/public-notice/pownal-rtt-telecom/>. Please visit this website for up-to-date details regarding the test and to review the visual materials once prepared, or check with municipal/regional planners for additional information.

IX. Opportunity for Comment

As a recipient of this notice, you or your organization will be notified when the petition is filed with the Commission, which will be at least 60 days and no longer than 180 days from the date the Commission receives this notice. Based on the date this Advance Notice is being submitted to the Commission, the 60-day period will expire on **January 21, 2025**. During the advance notice period, should you have any questions relating to the Project, you may wish to submit comments using the ePUC database (see link in footnote 1, above).

Once RTT's petition has been accepted for filing by with the Commission, any interested person may submit comments and/or seek to intervene in the proceeding within 30 days of the receipt of the notification that the petition has been filed, as further outlined in the links to the Commission siting guidance referenced on Exhibit A. Thank you in advance for your attention to this important project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. J. Dodge', is written over a light blue horizontal line.

William J. Dodge, Esq.
Attachment

cc: Patrick Robinson and Todd Rich, Rising Tide Towers II, LLC (via electronic mail)
Audra Klumb, A&D Klumb Environmental, LLC (via electronic mail)
Damian Schmalz, Dewberry (via electronic mail)

MUNICIPAL AND REGIONAL REPRESENTATIVES / OFFICIALS

<p><i>Via Email</i> Town of Pownal Selectboard Attn: Mike Gardner, Chair c/o Tara Parks, Executive Assistant 511 Center St Pownal, VT 05261 Email: executive.assistant@townofpownal.org</p>	<p><i>Via Email</i> Town of Pownal Planning Commission Attn: John Bushee c/o Hannah Darling, Administrative Assistant 511 Center St Pownal, VT 05261 Email: admin.assistant@townofpownal.org</p>
<p><i>Via Email</i> Bennington County Regional Commission Attn: William Colvin, Executive Director Janet Hurley, Assistant Director and Planning Program Manager 210 South Street, Suite 6 Bennington, VT 05201 Email: bcolvin@bcrcvt.org Email: jhurley@bcrcvt.org</p>	

LANDOWNER AND ADJOINING LANDOWNERS (VIA U.S. MAIL ONLY)

<p>Landowner: SPAN: 495-156-11405 Bruce MacDonald Julie Mac Donald 255 Hancock Road Williamstown, MA 01267</p>	<p>SPAN: 495-156-12118 Marian H. Rapoport Revocable Trust PO Box 363 Pownal, VT 05261</p>
<p>SPAN: 495-156-12140 Cellco Partnership d/b/a Verizon Wireless PO Box 2549 Addison, TX 75001</p>	<p>SPAN: 495-156-11407 David M. Stewart Margaret G. Stewart 264 Scripps CT Palo Alto, CA 94306-4540</p>
<p>SPAN: 495-156-11136 Jesse Hart Tanya Hart PO Box 353 Pownal, VT 05261</p>	<p>SPAN: 495-156-11252 Terry Pollert 498 Northwest Hill Road Pownal, VT 05261</p>

STATE OFFICIALS

Vermont Public Utility Commission (<i>via ePUC</i>)	Vermont Agency of Transportation (<i>via ePUC</i>)
Vermont Agency of Natural Resources (<i>via ePUC</i>)	Vermont Division for Historic Preservation (<i>via ePUC</i>)
Vermont Department of Public Service (<i>via ePUC</i>)	

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