

24-1755-
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: 04/24/2025

ORDER GRANTING MOTION *IN LIMINE* TO PRECLUDE LATE FILED COMMENTS

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 grant the motion to preclude late filed comments filed by the Petitioner.

II. PROCEDURAL HISTORY

On June 6, 2024, the Petitioner filed a petition and prefiled testimony requesting that the Vermont Public Utility Commission (“Commission”) issue a certificate of public good (“CPG”). A copy of the petition was filed with all required State agencies and the host municipality pursuant to § 248a(e). Notice of the filing of the petition was provided to all adjoining landowners of record.

On June 11, 2024, the Commission issued a memorandum establishing a deadline of July 9, 2024, for the filing of all comments, motions to intervene, and request for hearing.

On April 7, 2025, the Petitioner filed a motion *in limine* to preclude public comments filed after the July 9, 2024, deadline.

On April 21, 2025, the Vermont Department of Public Service (“Department”) filed a response to the motion. The Department asserts that the Commission should use its discretion to admit the late filed comments.

III. LEGAL STANDARD

The Commission's Order Adopting Revised Standards and Procedures Implementing 30 V.S.A. § 248a ("Standards and Procedures Order"), 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.

In addition, 30 V.S.A. § 248a(j)(2)(A) requires applicants to provide notice of the application to all required parties and specifically notify the notice recipients that any comments on the application are due "within 30 days following the date of service . . ."

IV. DISCUSSION AND CONCLUSION

The Commission received thirteen separate public comments in this case that were filed within the July 9, 2024, deadline. Following the July 9 deadline, the Commission received additional public comments from David Anderson, Vermonters for a Clean Environment, the Westmore Planning Commission, the Westmore Selectboard, Martha McDaniels Dawes, Carroll and Barry Guitar, Derek Dzhugashvili, and Jammie Dzhugashvili. I note that the Westmore Planning Commission also filed comments prior to the deadline.

The Petitioner argues that the public comments filed after July 9, 2024, are untimely and should, therefore, not be considered by the Commission.

The Commission analyzes whether the comments in question were timely filed. The Standards and Procedures Order and the statute both require that comments be filed within thirty of a complete application being filed with the Commission, or, in this case, July 9, 2024. The Department is correct that the Commission has discretion to waive its own rules and requirements. However, the thirty-day comment period is a statutory requirement and none of the comments filed after July 9, 2024, provide a basis to ignore that requirement. Accordingly,

the public comments filed after July 9, 2024, are untimely filed and will not be considered in this proceeding.

SO ORDERED.

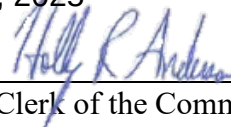
Dated at Montpelier, Vermont, this 24th day of April, 2025.



Gregg Faber
Hearing Officer

OFFICE OF THE CLERK

Filed: April 24, 2025

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)

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

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*Notice of appearance to be filed.