

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 25-0257-PET

Amended Petition of Rising Tide Towers II, LLC pursuant to 30 V.S.A. § 248a requesting a Certificate of Public Good for an installation of a wireless telecommunications facility in Pownal, Vermont	
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**PETITIONER’S CONSOLIDATED RESPONSE TO
INTERVENOR’S MOTIONS TO AMEND SCHEDULE: REQUEST FOR SITE VISIT,
AND FOR ORDER TO PETITIONER TO CONDUCT BALLOON FLOAT**

NOW COMES Rising Tide Towers II, LLC (“RTT”), together with Wireless Partners FN, LLC (“WP”, and together with RTT, “Rising Tide” or “Petitioner”), and provides its Consolidated Response to the [Motion to Amend Schedule: Request for Site Visit](#) and [Motion for Order to Petitioner to Conduct Balloon Float](#), both filed by Tanya and Jesse Hart (collectively, “Intervenor”) on May 30, 2025 (“Intervenor’s Motions”). The Motions pertain to Rising Tide’s proposed telecommunications facility located at 127 Crow Hill Road in Pownal, Vermont (the “Project”), as described in the amended petition for certificate of public good dated May 21, 2025, in the above-styled case (the “Amended Petition”).

The Hearing Officer for the Public Utility Commission (the “Commission”) should deny the Motions as untimely and without merit. With respect to the schedule change and site visit request, Commission Rule 2.225(A) states that “[t]he parties must make all reasonable efforts to reach agreement on, and jointly file, a proposed schedule.” Subsection (C) states that the proposed schedule should generally include the “[d]ate for site visit (if any).” Rising Tide and Intervenor filed a Joint Scheduling Order on May 1, 2025, which the Commission adopted on May 9, 2025. The Scheduling Order sets deadlines for the amended petition, prefiled testimony

and/or statements filed by non-Petitioners, and initial and reply briefs, but does not account for time for a site visit.

Intervenor's Motion provides no valid grounds for amending the Scheduling Order.

Intervenors point to three aspects of the amended petition as justification for their requests: (1) the Project's shift away from their boundary line, (2) the alleged change in elevation of the tower's base, and (3) the use of two additional witnesses providing prefiled testimony.

Intervenor's argument with respect to the minor adjustment to the Project's location fails to acknowledge that Petitioner shifted the Project approximately 43' away from the Intervenor's property as a mitigation measure in response to written comments received from the Town of Pownal on March 5, 2025, together with a discussion at a Pownal Selectboard hearing held on April 28, 2025 (i.e., three days following the prehearing conference).¹ To the extent that Intervenor claims Petitioner had represented that the location of the tower would not change, Intervenor is being disingenuous. Petitioner stated on page 2 of its Motion for Leave to Amend Petition that "there is no change to the proposed facility's location on the subject property." This statement remains true – the facility (i.e., compound, etc.) is effectively in the original location up in the northwest corner of the property, but has been reconfigured (including the tower location within the Compound) and shifted slightly to meet the municipal setback as requested by the Town, leading to approximately the same length access road and area of tree clearing and earth disturbance.²

¹ See Exhibit RTT-TR-16, at 3, 20, as corrected by the Errata for Prefiled Testimony of Todd Rich and Project Narrative (RTT-TR-16) on Behalf of Petitioner, dated June 12, 2025 (the "Errata"); Prefiled Testimony of Todd Rich, at 3 line 20, 4 line 11, 7 line 12, as corrected by the Errata.

² See Exhibit RTT-TR-16, at 2-4, as corrected by the Errata.

Intervenor's second allegation—that the base of the tower will be 20' higher as a result of the Amended Petition—is incorrect. Whereas the Project, as originally proposed, contemplated installing the tower at an AMSL elevation of 1,032.3', the Project, as amended, proposes installing the tower at an AMSL elevation of 1,033'.³ Bear in mind that although the base elevation will increase by 0.7', Petitioner has reduced the height of the tower by 70'.⁴ The very slight change in base elevation provides no perceptible increase in overall height given the overall extent of the height reduction.

As to Intervenor's third basis for the schedule change, no Commission Rule prohibits the use of additional witnesses in an amended petition, nor has Rising Tide found or been made aware of any Commission precedent imposing such a limitation. Given that the stated purpose of the Amended Petition was for Petitioner to take additional measures to mitigate the project impacts raised by the Town and Intervenor, it logically follows that those individuals who can best explain the mitigation measures should be the ones providing information for the Hearing Officer's evaluation.⁵ Moreover, the schedule set approximately four weeks between Petitioner's filing of the Amended Petition and the deadline for Intervenor's prefiled testimony and/or statements as to their positions on aesthetics and/or public safety. This interval provides more than sufficient time for reviewing the additional witnesses' prefiled testimony and exhibits

³ See Exhibit RTT-TR-03, at Sheet C-1; Exhibit RTT-TR-17 (corrected), at Sheet C-1.

⁴ See Exhibit RTT-TR-02, at 1, 2; Exhibit RTT-TR-03, at Sheet C-4A; Exhibit RTT-TR-16, at 1, 2; Exhibit RTT-TR-17 (corrected), at Sheet C-4A.

⁵ *Accord Petitions of Vermont Electric Power Company, Inc. and Green Mountain Power Corporation (Northwest Vermont Reliability Project)*, Docket No. 6860, Order of 3/5/04, at 3 (recognizing “the potential benefits to the public if VELCO is permitted to amend its petition in ways that may lessen adverse impacts of the proposed project,” and further acknowledging that the Commission did “not wish to preclude such potentially beneficial modifications”).

and preparing a response. As previously noted, Intervenor consented to this time interval in their Joint Scheduling Order, waived discovery, and sought no imposition of any limitations on the number of witnesses or the content of any additional testimony.

With respect to the request for a balloon test, the Commission's Rules contain no specific provision authorizing the Hearing Officer to order such a visual demonstration. Intervenor's balloon test request should have been included as part of any site visit planning during the scheduling negotiations among the parties, consistent with Rule 2.225(A) and (C). Balloon tests are costly, and require careful advance planning by technicians to ensure optimal weather conditions, and avoid inaccuracies in the information being collected or viewed. As documented in the prefiled testimony of David Archambault, Petitioner was able to use the results of the previous duly-warned balloon test to furnish new simulations of the tower at a reduced height. There is thus no pressing evidentiary need for the Hearing Officer to order an additional balloon test. Even so, for the reasons explained, Intervenor should have brought this request to consideration prior to or at the status conference, and should not now upset the agreed-upon schedule.

CONCLUSION

For the foregoing reasons, the Commission should deny the Intervenor's Motions. If, notwithstanding the foregoing, the Commission determines that a site visit with a new balloon test is warranted, Petitioner requests flexibility with respect to setting the date for the site visit so as to conduct the additional balloon test under appropriate weather and visibility conditions.

DATED at Burlington, Vermont, this 12th day of June, 2025.

Respectfully submitted,

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