

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 25-0257-PET

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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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**VERMONT DEPARTMENT OF PUBLIC SERVICE RESPONSE TO HART MOTION  
REQUESTING AN EXTENTION AND BALLOON FLOAT**

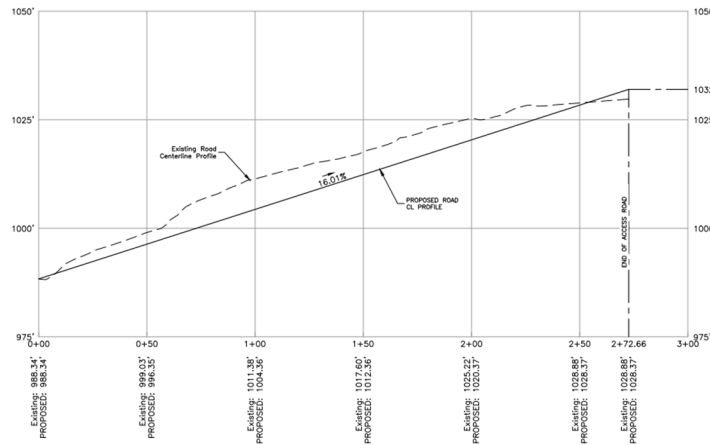
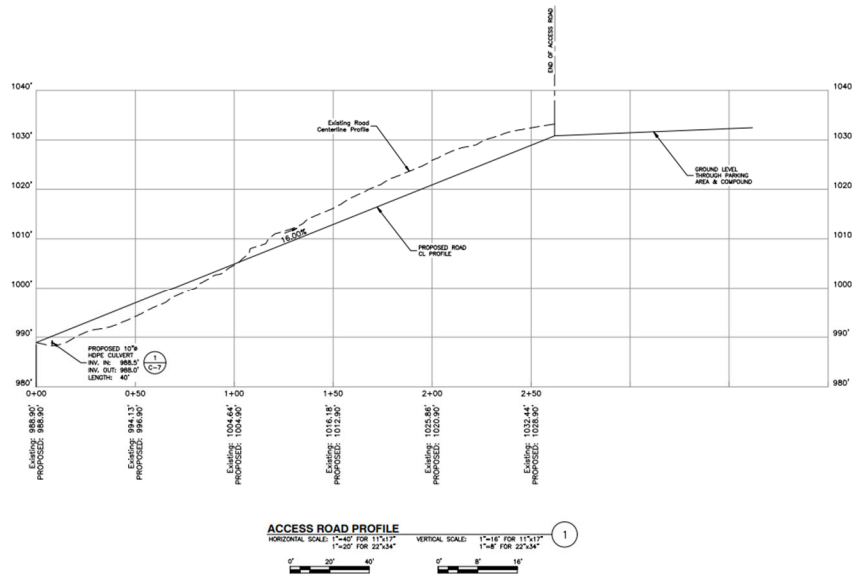
On May 30, 2025, neighbor-intervenor Tanya Hart filed motions to amend the schedule to facilitate a site visit and request that the Vermont Public Utility Commission (“Commission”) order Rising Tide Towers II, LLC (“Petitioner”) to conduct a balloon float (collectively “Motions”) in the above captioned case. On May 21, 2025, Petitioner submitted an amended petition, proposing a reduced telecommunications tower (“Tower”) heigh, from 195 feet to 120 feet, a dark brown monopole and antennas rather than a metallic lattice tower and unpainted antennas, and to move the proposed location of the Tower facility (“Facility”) roughly 40 feet to the east and 20 feet to the north in compliance with town setback requirements and far enough from Crow Hill Road to prevent the Tower from obstructing Crow Hill Road in the event of a collapse.<sup>1</sup> In support of their Motions, Hart asserts that Petitioner falsely stated in Petitioner’s Motion for Leave to Amend that there would be “no change to the proposed facility’s location on the subject property[]”, that the amended proposed location partly negates the claimed reduction of the height of the Tower based on the topography of the site, and that the revised petition does

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<sup>1</sup> Exh. RTT-TR-17 (Corrected).Revised Site Plans, June 12, 2025 (Petitioner filed a corrected revised site plan on June 12, 2025, making minor changes to the May 21, 2025, Revised Site Plans, most notably changing the route of the proposed access road. The Department initially drafted this response based on the May 21, 2025, site plan. Based on a limited review, the Department finds no material difference between the revised site plan and the corrected-revised site plan.).



Further, Petitioner does not propose a material change in the base elevation of the Facility.<sup>3</sup> See the original elevation drawings followed by the elevation drawings from the Corrected Revised Site Plan below.



While the project would have an impact on the aesthetics of Hart’s property, such impacts

<sup>3</sup> In comparing the elevation contours of the original site plan and the revised site plan the Department finds no substantive change in the proposed facility location or actual increase in the elevation of the proposed Tower base. Both elevation drawings show the base of the facility would be at an elevation no higher than 1035 feet. Exh. RTT-RT-03 Site Plan, C-1 & C-2; Exh. RTT-RT-17, C-1 & C-2.

are generally not within the statutory criteria of 30 V.S.A. § 248a.<sup>4</sup> Based on a review of satellite imagery of the proposed location of the Facility and the Hart residence, the Department understands that Petitioner's amendment would reduce the visibility of the proposed Tower from the Hart residence relative to the initial proposal in reducing the proposed Tower's height, profile, and visual contrast. As the distance from the Hart residence to the proposed Tower is significantly greater than 20 feet, moving the Tower approximately 20 feet to the east is unlikely to materially affect the aesthetic impact of the Facility on the Hart residence.<sup>5</sup> Finally, as the amended petition is expected to mitigate aesthetic impacts generally and Petitioner has provide revised photo simulations view points around Pownal, the Department sees no reason to conduct a site visit or order a balloon float at this time.

Petitioner's amended petition is the result of a good faith compromise, intended to mitigate concerns related to the aesthetic impacts of the proposed Tower and public safety as well as compliance with town setback requirements.<sup>6</sup> As the Department is not aware of evidence supporting Hart's claims and Petitioner's amendments appear to mitigate both the public safety and aesthetics impact on the Hart's the Department respectfully recommends that the Commission deny the Hart Motions.

[Signature on the following page]

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<sup>4</sup> *Petition of VTel Wireless, Inc.*, Case No. 8352, Order of Nov. 24, 2014, 8 (citing *Vt. Elec. Power Co. v Bandel*, 134 Vt. 141, 145 (1977) (noting § 248a does not require the Commission to consider the private property interests of neighboring landowners); *In re Rutland Renewable Energy, LLC*, Apr. 29, 2016, 202 Vt. 59, ¶ 21-24.

<sup>5</sup> The Department acknowledges that the proposed Tower would be in clear view from the Hart residence and will dramatically impact what is likely an excellent view.

<sup>6</sup> See Pf. of Rich Todd, May 21, 2025. (referencing and affirming the principals relied on in the *VTel* decision as to the private property interests of neighbors in the 30 V.S.A. § 248 and § 248a review process)

Dated at Montpelier, Vermont this 13<sup>th</sup> Day of June 2025.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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