

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 25-____-PET

Application of	)
Industrial Tower and Wireless, LLC	)
for a Certificate of Public Good,	)
pursuant to 30 V.S.A. § 248a, authorizing	)
the construction of a wireless telecommunications	)
facility in Tinmouth, Vermont.	)

Order entered:

I. INTRODUCTION

In this Order, the Vermont Public Utility Commission ("Commission") approves the application filed by Industrial Tower and Wireless, LLC ("ITW" or "Industrial"), pursuant to 30 V.S.A. §248a, and the Commission's Procedures Order ("Procedures Order")¹, and grants Petitioner a certificate of public good ("CPG") authorizing the installation of a wireless telecommunications facility in the Town of Tinmouth, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on August 8, 2025, requesting that the Commission issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the installation of a telecommunications facility in the Town of Tinmouth, Vermont ("Project").

¹ Order Adopting Revised Standards and Procedures Implementing 30 V.S.A. 248a; Order issued January 18, 2023.

On _____, the Vermont Department of Public Service filed a letter with the Commission recommending that the Commission issue an order approving the petition without additional hearings or investigation.

No other comments regarding the Project were filed with the Commission.

The Commission has determined that the petition and prefiled testimony have effectively addressed the substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The objective of the Project is to provide new telecommunications service by ITW and to allow the co-location of antennas and other equipment belonging to other carriers that have some service in the Tinmouth area. Prefiled Testimony of Kevin Delaney (“Delaney pf”) at p. 2.

2. ITW intends to construct a telecommunications facility on a portion of the approximately 32.35-acre parcel of land owned by George Herrick and Paul Herrick on 402 VT Rt 140, Tinmouth, Vermont. ITW refers to the project as “Tinmouth.” The property owners have given ITW permission to proceed with this Application. The coordinates for the Project are latitude 43°27’00.05” North and longitude 73°02’24.05” West. *Id.*

3. ITW will create a 80' x 80' “Compound” enclosed by an 8' high chain link fence, with a locked gate. Within the Compound, ITW will construct a 160’ above ground level (“AGL”) telecommunications self-supporting lattice tower (“Tower”). *Id.* at 3.

4. Six (6) thin “whip” antennas (“Antennas”) will be mounted at 160’ AGL of the Tower. Five (5) transmit Antennas will extend upward to a maximum height of 173.0’ AGL. The receive Antenna will reach downward from the 140’ AGL mounting level. Each Antenna will

measure approximately 13' long and 2.75" in diameter. Full and accurate specifications for the Antennas are attached as Exhibit KD-2.

5. ITW will place an equipment cabinet ("Cabinet") on a 10' by 10' concrete pad inside the Compound, to the northwest of the Tower. The Cabinet will contain the electronics equipment necessary for the operation of the Project. See Cabinet Specifications (Exhibit LH-2). Co-axial cables from the mounted antennas will descend on the inside of the Tower. The cables will exit near the base of the Tower and will connect with the Cabinets via a proposed cable bridge.

6. Approximate clearing limits are shown on the enclosed plans.² (Exhibit LH-1). The contractor will limit clearing to the minimum required to construct the Access and Compound, which is estimated to be approximately 17,719 square feet. Culverts, check dams, water bars, and silt fencing will be placed along the Access and at the Compound as indicated on the enclosed plans to control erosion both during and after construction. Construction shall meet the requirements of the State of Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control. After the completion of construction, the amount of new impervious surface area will be approximately 6,724 square feet. See Prefiled Testimony of Louis Hodgetts ("Hodgetts pf.") at pp. 5-6.

State Telecommunications Policy
[30 V.S.A. §248a(a)]

10. The Project is consistent with the goal of directing the benefits of improved telecommunications technology to all Vermonters pursuant to 30 V.S.A. § 202c(b). Existing and proposed communications support structures in and near the Town of Tinmouth cannot serve the

² Clearing limits may need to be adjusted based on conditions encountered during construction.

area proposed to be served by the ITW Tinnmouth site due to distance, height, and terrain blockage. Delaney pf. at pp. 4-5. The Project will provide the needed coverage and capacity to allow ITW subscribers living in, working in or passing through the Tinnmouth area to be able to use ITW's network, something that is impossible at present. The Propagation Plots (Exhibit KD-1) illustrate the current lack of coverage and the estimated extent of the planned coverage from the ITW Tinnmouth site.

11. ITW has designed the Tower and Compound to accommodate the equipment of other wireless communications providers. Sheet C-7 of the permit plans illustrates possible locations for the antennas that such carriers would seek to place on the Tower. Delaney pf. at 2-4.

12. The proposed Project will not have an adverse impact affecting any of the applicable criteria under 10 V.S.A. § 6086(a) and 10 V.S.A. § 1424a (d) and will conform to the land conservation measures in the applicable local and regional plans. *See* Hodgetts pf. at pp. 3-10 (addressing criteria).

Criterion 1 - Water or Air Pollution:

HVAC System: The proposed equipment installation will utilize equipment cabinets installed outdoors within a fenced compound ("Compound") on a 10' by 10' concrete pad. The outdoor equipment cabinets are equipped with an air-to-air heat exchange system. The outer loop of the system includes air intake and exhaust perforations on the door and a fan to maintain the allowable operating temperatures within the cabinet.

Dust Control: If conditions arise during construction that would require treatment to minimize dust, water and/or calcium chloride will be applied to the surface. There will

be no noxious gases, smoke or odors emitted from the facility.

Noise: No significant noise will be generated by this Project. Typical hours of construction will be 7:00 AM to 5:00 PM, Monday through Friday, although occasional evening or weekend work may be required.

Outstanding Water Resources (10 V.S.A. § 1424a (d)); Headwaters, Waste Disposal, Water Conservation, Floodways, Streams, Shorelines and Wetlands (10 V.S.A § 6086(a)(1) (A)-(G), (2) and (3)):

Criterion 1A - Headwaters: The Project is not located in a headwater area. Further, there is no water supply or wastewater discharge from the site, and stormwater discharges will be affectively unchanged. Therefore, there would be no impact to the ability of a Headwaters area (if it exists at this location) to contribute to the down gradient potential for water supply.

Criterion 1(B) – Waste Disposal: Following construction, the proposed Project will not generate any waste. Construction waste generated during construction of the project will be removed from the site and recycled or disposed of at approved waste processing facilities.

Criterion 1(C) - Water Conservation: The proposed Project will be unmanned and will not require water or sewer facilities.

Criterion 1(D) - Floodways: According to the FEMA Flood Insurance Rate Map (Firmette) for the Town of Tinmouth, VT (Exhibit LH-3), the Compound is not located in any flood hazard area.

Criteria 1(E) and 1(F) - Streams and Shorelines: There are no stream crossings or shoreline improvements proposed on this project. The Clarendon River is located

approximately 270 feet west of the proposed project site; however, the project disturbance is outside the 50' riparian buffer and there are no proposed impacts to the river or the buffer. One (1) wetland area was identified on the Project parcel and are further discussed in Criterion 1(G), below.

The contractor shall install the facility using sound construction methods in accordance with the State of Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control.

Criterion 1(G) - Wetlands: Wetlands were identified on the project parcel and significant class I wetlands known as the Tinmouth Channel are located north and west of the project site. The project is located outside of any applicable wetland buffer and there are no impacts to any wetland or wetland buffer. As such, there are no anticipated direct or indirect adverse effects to any wetlands. *See* Hodgetts pf. at p. 5. Best management practices (BMP's) (i.e. Silt fencing, wattles, erosion controls, etc.) will be employed during construction to ensure stormwater runoff does not carry construction related debris into nearby wetland features.

Criteria 2 and 3 - Water Supply: The proposed Project will be unmanned and will not require water or sewer facilities.

Criterion 4 - Soil Erosion: The erosion prevention sediment control measures outlined below shall meet all applicable Department of Environmental Conservation regulations. This project has less than one (1) acre of proposed disturbance, and therefore does not require a State of Vermont Stormwater Discharge Permit for Construction Activities, however construction will follow the best management practices as outlined in the State of Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control.

Stormwater runoff during construction of the Project will be diverted or collected and treated as outlined in the State of Vermont Low Risk Handbook for Erosion Prevention and Sediment Control. Silt fence will be installed parallel to grade and down gradient from construction to prevent eroded sediment from leaving the site. The effective increase in impervious area is approximately 6,724 square feet. The resulting total jurisdictional impervious area will remain below the one half (1/2) acre threshold for a stormwater operational permit. The proposed improvements will utilize the existing terrain and natural treatment systems to ensure water quality and that runoff rates do not adversely impact the existing drainage ways or wetlands. Hodgetts pf. at p. 5-6.

Additionally, the impact of the new impervious area to the groundwater supply is negligible considering the existing conditions and proposed improvements. The proposed improvements consist of installation of an Access and Compound, within a wooded area. The Access and Compound will be resurfaced with a crushed stone material. As proposed, this Access will see very limited use consisting of infrequent maintenance inspections and equipment deliveries following construction. The proposed Project will not require a water supply, will have no draw on the groundwater aquifer, nor will the Project have an in-ground waste treatment system that could potentially contaminate the groundwater. *Id.*

Within the proposed compound, a crushed stone surface with a gentle slope will be provided to capture rainfall and enhance infiltration. The runoff collected by the proposed equipment cabinets will discharge across this surface and disperse in the surrounding field.

Should winter earthwork take place, additional winter erosion control measures will be applied. These measures include minimizing the soil disturbance, installation of silt

fencing prior to the ground freezing, and protecting the disturbed area with hay mulch, at twice the normal rate, as soon as feasible. To limit the effect of the spring snowmelt, all snow removed from the site shall be kept down gradient of the site work and all erosion control measures shall be inspected regularly. Permanent vegetative controls will be installed as early as practical to further protect the site.

Criterion 5 - Highways and Other Means of Transportation: The Project will not cause unreasonable congestion or unsafe conditions with respect to the use of highways. The site is accessed from Route 140, an existing public road. After construction, the Project will generally be visited once or twice a month by a service technician for routine inspections.

Criterion 6 - Educational Services and Criterion 7 - Municipal Services: The proposed Project will have no effect on the ability of the Town of Tinmouth to provide educational services.

Except for a remote possibility of the need for emergency service, the Project will not require municipal services. The Project will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services. In fact, increased wireless service will enhance the Town's ability to provide those services.

Criterion 8 – Scenic Beauty, Historic Sites and Natural Areas: The Project will not does not impact any historic properties. Hodgetts pf. at pp 7-8, Exhibit LH-5. The Project is visible from a cemetery across the road with a historic grave marker but it does not unduly interfere with any person's enjoyment of the historic marker. *Id.* Accordingly, the Project will not have an undue adverse effect on historic sites.

A visibility analysis was conducted to review the potential visibility of the proposed installation and balloon float was conducted on December 31, 2024, to confirm the visual impact of the proposed Tower on the surrounding community. Hodgetts pf. at 8. A 3' diameter red balloon was inflated, connected to a 160' long string, and tethered at the proposed site location. *Id.* While the balloon was in the air at the proposed height, our staff drove the primary public roads within a two-mile radius of the project location to determine the visibility of the proposed installation. Views of the proposed installation were limited to Route 140 and East Road and from more limited spots of short duration due to the terrain and foreground vegetation. *Id.*

Photographs were taken from six (6) different viewpoints, identified in Exhibit LH-6. The balloon was visible from the four (4) viewpoints and simulations were developed of the proposed installation. The photosimulations are submitted as Exhibit LH-6. The only area that the Town identifies as a scenic area is the intersection of Route 140 and East Road. The Tower is visible from this section for a brief period of time. *Id.* The lattice tower design allows light to pass through and the tower blends into the background of backdropping hillside and sky. *Id.* It is not shocking or offensive and does not dominate any viewshed. *Id.* To the extent that the Tower is visible from a scenic area, those views are limited and do not unduly detract from the scenic enjoyment. Hodgetts pf. at pp. 8. As such the Tower does not unduly and adversely affect the character of the area.

Criterion 8(A) - Wildlife and Endangered Species: As documented in the Natural Resources Report (Exhibit LH-4) and confirmed by field investigations and the ANR Natural

Resources Atlas, rare plant and wildlife species were observed within the Project Study Area (PSA). While no federally listed species were identified during field surveys, potential summer roosting habitat for the federally endangered northern long-eared bat (*Myotis septentrionalis*) was identified in the northwestern portion of the PSA. Eight mature sugar maples with suitable roosting characteristics were documented, though no known roosts were recorded within 2.5 miles of the project area. Hodgetts pf. at p. 8-9.

Additionally, there is proposed critical habitat for the monarch butterfly (*Danaus plexippus*), which is listed as a Proposed Threatened species under the Endangered Species Act. Although the habitat in the proposed disturbance area is largely young forest with limited milkweed present, the project may create forest edges favorable to monarchs. Common milkweed (*Asclepias syriaca*) was observed occasionally in the old quarry area, which is not anticipated to be impacted. *Id.*

No known rare, threatened, or endangered natural communities occur within the immediate PSA, though the broader Tinmouth Channel wetland complex supports multiple rare plant species. Within the PSA, the rare long-headed thimbleweed (*Anemone cylindrica*, S1S2) was observed in ten subpopulations, totaling over 200 genets and representing what may be the largest known extant population in Vermont. Black-seeded clearweed (*Pilea fontana*, S2S3) was also likely observed, pending fall confirmation. These findings have been documented in the Rare Plant Form and Photo Exhibit. The Tinmouth Channel is not impacted. *Id.*

At the request of ANR, the western and southern edges of subpopulation 1 of the *Anemone Cylindrica* will be flagged by a qualified botanist with high visibility flagging and signage

indicating no heavy machinery shall enter the RTE polygon for this subpopulation. *Id.*

Despite the presence of these rare species, the area of proposed disturbance generally lacks high-quality or irreplaceable natural communities. The only potential natural community identified, a small patch of Calcareous Red Maple (Tamarack Swamp (S2)) within Wetland A, is too marginal and isolated to be considered state significant. It is not impacted regardless. Most of the remaining habitat is composed of young, disturbed forest with limited ecological value. *Id.*

The unoccupied nature of the proposed telecommunications facility, combined with its limited footprint and use of an existing sugar bush access road, is expected to have a negligible impact on wildlife movement or use of the area. No bear scarring was observed on mast trees surveyed, and no additional state- or federally listed species are expected to be impacted by the project.

Criterion 9(K) – Development Affecting Public Investments: The Project does not impact any known areas of public investment.

Conformance with Local and Regional Plans – Pursuant to 30 V.S.A. § 248a(c)(2), during the Commission’s review, "substantial deference [will be] given to the land conservation measures" in the local and regional plans of the "affected municipality." The relevant plans are the Town of Tinmouth Town Plan (adopted January 9, 2020) ("Town Plan") and the Rutland Regional Plan (adopted June 19, 2018). Further, while local zoning bylaws are preempted, a municipality may base any recommendations upon a duly adopted bylaw. Tinmouth adopted Zoning Regulations (“the Regulations”) which have a provision on telecommunication services in Section 409 of the Regulations.

The Project The Town Plan highlights Tinmouth Center as a center for community interaction, a container for community memories, and a focus of community identity while also stating that it is lacking the elements of a village and is not the kind of village that development can be built upon. *Id.* at 45-46. It states that inhabitants must work at home or commute to jobs and find stores and services in other towns. *Id.* In discussions of economic development, the town plan refers to the increase in residents who work from home or have home businesses. *Id.* at 24. It is acknowledged that the changing nature of employment has had a significant effect on land use and the town plan intends to accommodate these changes, especially the growth of home occupation by local residents. *Id.* at 45.

The telecommunications services that ITW will provide through the Project will primarily be targeted to business customers seeking a reliable, reasonably-price means of communicating between their offices and remote users. Delaney pf. at pp. 5-7. As such, the Project will promote a balanced, diverse economic base, with a focus on locally owned businesses, including home-based ones. The deployment of ITW's service in Tinmouth will also attract commercial development, especially for business that require reliable two-way mobile communications. *Id.*

This type of project also brings with it the opportunity to attract the major wireless communications carriers to the area to improve their wireless communications networks. *Id.* This would provide more reliable cell service to residents and visitors. If the infrastructure is available, the wireless carriers can expand their networks quicker and more cost effective than having to go through the process of locating areas and permitting

their own tower. This benefit of having a tower creates the opportunity that the Town Plan calls for to promote the broad goal to allow new development and create a village that development can be built upon. *Id.*

As stated above, the Project will allow ITW to bring high-quality wireless services to the Tinmouth area furthering the regional and local goals of providing access to basic telecommunications services and creating opportunity for economic and business development. *Id.* Further, the provision for the co-location of multiple cellular carriers on the Tower and in the Compound has the ability to improve the accessibility of reliable wireless services and high-speed broadband services in the areas served by the Project. These services will also enhance public safety by expanding the areas in which 911 calls can be completed using wireless technology. *Id.*

An improvement in wireless connectivity can enhance the overall quality of life for residents of the community. It not only allows for residents to work from home, but it also improves reliability that is crucial for emergency services. Delaney pf. at pp. 6-7.

Wireless connectivity can improve the potential for economic growth in the area by enabling businesses to engage in mobile commerce and reach broader markets. It also allows more residents the ability for more reliability in working from home. this improves the overall quality of life for residents, allowing for better work life balance, reducing commuting or connectivity stress, and contributing to the overall well-being of the community. Improved connectivity in the area may also attract remote workers to live in and travel through Tinmouth. Individuals seeking a rural lifestyle may be more inclined to remain in the area if they know they can maintain a reliable connection.

The Town Plan does not include a dedicated telecommunications section but does express broad planning goals regarding development and infrastructure. Chapter V emphasizes the need for the town to make “good decisions about the town’s future,” balancing new development with the preservation of Tinmouth’s rural character. Tinmouth Town Plan at 45. It states as a broad goal of the town to allow new development of varying types, new uses and, at the same time, preserve the overall character of the town. *Id.* at 45. The Project does not fundamentally alter the nature of Tinmouth while providing necessary modern infrastructure.

To the extent applicable, the Project also complies with the Regulations and has good cause to not strictly comply. The Project cannot be set further back as would be required under the Regulations without impacting sensitive areas or wetland buffers. Hodgetts pf. at p. 16. There is good cause therefore to not follow the Regulations. The Tower cannot be lowered to 130’ as provided by Section 409(C)(4) of the Regulations. Lowering the Tower to that height would not allow ITW to meet its coverage objectives and leave gaps in coverage that would have to be filled with additional towers. Delaney pf. at pp.8. It would defeat the coverage goals of the State and prevent co-location by future carriers. *Id.* Therefore to the extent such a height restriction on towers is a land conservation measure, there exists good cause for the Tower to exceed the limitation.

The Tower therefore satisfies the Town Plan and Regulations.

The Regional Plan The Regional Plan states the following general goals relevant to the Project:

- Improve infrastructure

- Improve business climate

Regional Plan at 51-52.

More specifically, the Regional Plan has a chapter dedicated to Telecommunications (Chapter 19) in which the following Rutland RPC goals are listed:

- **Determine if and where telecommunications and public safety intersect, and if necessary, advocate for protecting public safety.**
- Help communities to assess demand for broadband internet services to attract providers.
- Assist communities in identifying desirable telecommunication infrastructure sites.
- Advocate infrastructure sharing by telecommunications facilities in lieu of new towers and other structures and for the removal of unused towers if not activated or in use for a certain period of time
- Provide model regulations and information on federal and state laws to interested communities.
- **Initiate an inventory of wireless telephone and emergency radio service areas.**
- Promote a common strategy for deployment of service in the Region with the business and telecommunications industries.
- Encourage developers to work with towns early in the process of adding or altering telecommunications infrastructure.

Id. at 198 (emphasis added).

The telecommunications services that ITW will provide through the Project will primarily be targeted to business customers seeking a reliable, reasonably-price means of communicating between their offices and remote users. Hodgetts pf. at p. 21. As such, the Project will promote a balanced, diverse economic base, with a focus on locally owned businesses, including home-based ones. *Id.* The deployment of ITW's service in Tinmouth will also attract commercial development, especially for business that require reliable two-way mobile communications. Further, the provision for the co-location of multiple cellular carriers on the Tower and in the Compound will improve the accessibility of high-speed services in the areas served by the Project. *Id.* These services will also enhance public safety by expanding the areas in which 911 calls can be completed using wireless technology.

Accordingly the Project meets the land conservation measures in the Regional Plan.

IV. DISCUSSION AND CONCLUSION

The proposed Project involves the construction of a new telecommunications facility. Based upon all of the above evidence, the application does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Utility Commission of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by Industrial Tower and Wireless, LLC, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

DATED at Montpelier, Vermont, this ____ day of _____, 2025.

_____)
_____) PUBLIC UTILITY
_____) COMMISSION
_____) OF VERMONT
_____)

OFFICE OF THE CLERK

Filed: _____, 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)

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 25-____-PET

Application of)
Industrial Tower and Wireless, LLC)
for a Certificate of Public Good,)
pursuant to 30 V.S.A. § 248a, authorizing)
the construction of a wireless telecommunications)
facility in Tinmouth, Vermont.)

Entered:

**CERTIFICATE OF PUBLIC GOOD ISSUED
PURSUANT TO 30 V.S.A. SECTION 248a**

IT IS HEREBY CERTIFIED that the Public Utility Commission of the State of Vermont ("Commission") this day found and adjudged that the installation and operation of the wireless telecommunications facility proposed by Industrial Tower and Wireless, LLC ("Applicant"), to be located in the Town of Tinmouth, Vermont (the "Project") will promote the general good of the State, subject to the following conditions:

1. Site preparation, construction, operation and maintenance of the Project shall be in accordance with the plans and evidence submitted in this proceeding. Any material or substantial change in the Project is prohibited without prior Commission approval. Failure to obtain advance approval from the commission for a material deviation or substantial change from the approved plans may result in the assessment of a penalty pursuant to 30 V.S.A. §§ 30 and 247.
2. The Project shall comply with all applicable existing statutory requirements and Commission Rules and Orders.

3. The CPG Holders shall pay all invoices (if any) from any State agency that (a) are related to this proceeding and (b) are not still under review by the commission.

4. The Certificate of Public Good shall not be transferred without approval of the Commission.

Signatures follow on next page

Dated at Montpelier, Vermont, this ____ day of _____, 2025.

_____	)	
	)	PUBLIC UTILITY
	)	
_____	)	COMMISSION
	)	
	)	OF VERMONT
_____	)	

OFFICE OF THE CLERK

FILED: _____

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)