

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 25-0257-PET

Petition of Rising Tide Towers II, LLC and Wireless Partners FN, LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 248a, authorizing the installation of wireless telecommunications equipment at 127 Crow Hill Road in Pownal, Vermont	
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VERMONT DEPARTMENT OF PUBLIC SERVICE
RESPONSE TO PETITIONERS SECOND AMENDED PETITION

On February 3, 2025, Rising Tide Towers II, LLC (“Petitioner”) filed an application with the Vermont Public Utility Commission (“Commission”) pursuant to 30 V.S.A. § 248a seeking a certificate of public good (“CPG”) authorizing the construction and operation of a new telecommunications facility to be located at 127 Crow Hill Road in Pownal, Vermont (the “Project”). Petitioner initially proposed a 190’ metal lattice tower (“Tower”). On April 23, 2025, Petitioner filed a Motion for Leave to Amend Petition.¹ On June 18, 2025, the Hearing Officer in this case issued an order including a conclusion that Petitioner’s first proposed amendment “constitutes a substantial change”. On July 21, 2025, Petitioner filed a Motion for Leave (“Second Motion for Leave”) for Second Amendment to Petition (“SAP”) proposing a further reduction of the proposed Tower height to 93’ and clarifying various minor additional changes between the SAP and the initial Petition. On July 22, 2025, the Hearing Officer issued an order including a

¹ On June 20, Petitioner completed revised filings constituting Petitioner’s first proposed amendment to the Project. Petitioner’s first proposed amendment included: reducing the proposed Tower height from 190’ to 120’; proposing installation of a monopole Tower rather than a metal lattice tower, painting the Tower and antennas dark brown; shifting the location of the proposed Tower approximately 43’ away from the western boundary of the host property; as well as other steps intended to mitigate objections to the Project or otherwise needed to implement proposed changes.

request that parties provide responses to the SAP as to whether they have concerns with the Project as amended and whether they request a hearing by August 8, 2025.

The Vermont Department of Public Service (“Department”) respectfully recommends that the Commission Grant Petitioner’s Second Motion for Leave for Second Amendment to Petition. The Department also provides comments on the prospective amended Petition, recommending that the Commission approve the Petition as amended by the SAP.

The Department Recommends that the Commission Grant Petitioner’s Motion for Leave for Second Amendment to Petition

The Department recommends that the Commission grant Petitioner’s Second Motion for Leave as the SAP constitutes a non-substantial change mitigating the Project’s impacts.

The Commission has repeatedly found that changes mitigating a project’s impacts — or proposing minor substantive increases in project scope — do not constitute substantial changes.²

The SAP differs from Petitioner’s initial Petition in a number of ways. The primary differences between the initially proposed Project and the SAP are a reduced Tower height from 190’ to 93’, increased setbacks, and various other mitigation measures and necessary ancillary changes. Based on the SAP’s reduced 93’ Tower height and 43’ eastward change of the Tower’s location, the SAP would comply with relevant setback and height restrictions in the Town of Pownal’s Land Use Bylaws. The SAP’s reduced Tower height and dark brown Tower and antenna

² See e.g. Docket No. 7721, Order of 07/22/2016 (decreasing the number of antennas); and Case No. 24-3264-PET, Order of 11/27/2024 (retaining an existing utility pole instead of removing it and installing a new pole at a different location); and Docket No. 8392, Order of 04/29/2016 (increasing the size of an equipment shelter while relocating “stealth panels” from the interior to the exterior of a truss tower); and Docket No. 8109, Order of 11/29/2017 (increasing location of antennas height from 140’ to 150’ above ground level and slightly increasing the size of antennas); and Docket No. 8326, Order of 06/24/2015 (clearing an additional 5000 square feet of trees and adding 10 overhead utility poles instead of underground lines).

color would mitigate the Project's aesthetic impacts. The SAP also clarifies changes necessary to implement the Project, increasing the length of the proposed access road by approximately 52' and slightly reshaping it. While the SAP's reduced Tower height, aesthetic mitigation, slight change of location, and various other changes could have the potential to impact 30 V.S.A. § 248a criteria within the scope of Department review, these changes would only be mitigating in effect.

Based on its review of the SAP and consistent with Commission practice permissive of mitigating amendments, the Vermont Department of Public Service ("Department") concludes that the SAP is a non-substantial change. Accordingly, the Department respectfully recommends that the Commission grant Petitioner's Motion for Leave for Second Amendment to Petition.

Department Comments on the Second Amended Petition

Based on the initial Petition, supporting testimony, accompanying exhibits, and the SAP's modification thereof, Petitioner proposes the following:

1. Installation of a 93' dark brown monopole tower;
2. Installation of six (6) panel antennas on the tower at approximately 89' AGL;
3. Installation of six (6) remote radio head unites (RRU) on the tower behind the antennas at approximately 89' AGL;
4. Installation of four (4) surge arrestors on the tower behind the antennas at approximately 89' AGL;
5. Installation of one (1) 4' lightning rod on the tower at approximately 93' AGL;
6. Installation of a 75' x 75' fenced gravel compound at the base of the tower;
7. Installation of a 25' x 75' gravel parking area outside of the fenced area;
8. Installation of an approximately 272' x 20' access route between Crow Hill Road and the facility;
9. Installation of an approximately 272' x 12' gravel access road from Crow Hill Road to the facility within the access route;

10. Installation of five (5) utility poles along the access route to connect overhead lines to an existing overhead line on Crow Hill Road;
11. Installation of an H-frame within the fenced area;
12. Installation of a six gang meter stack on the front of the H-frame;
13. Installation of an enclosure for fiber connections on the back of the H-frame;
14. Installation of a propane generator near the base of the tower;
15. Installation of an approximately 10' x 12' steel equipment platform near the base of the tower;
16. Installation of an ice bridge from the steel equipment platform to the base of the tower;
17. Installation of hardware, conduit, wires, and equipment and appurtenances necessary for the Project.

The Project involves 0.66 acres of tree clearing and would result in the permanent earth disturbance of approximately 10,739 square feet.³

The Department has reviewed the Petitioner's application and accompanying exhibits and maintains that the Project does not raise a significant issue regarding the § 248a criteria within the scope of Department review. The Project will improve telecommunications coverage in the area by expanding AT&T and First Net service. The Project will not have an undue adverse effect on the scenic or natural beauty of the area or aesthetics because the Project (1) does not violate any clear, written community standard; (2) will not be shocking or offensive to the average person; (3) includes generally available mitigating steps that a reasonable person would take to improve the harmony of the

³ The Department notes, it appears the Petition as modified by the SAP only exceeds the limits of a limited size and scope petition based limits on disturbed earth.

proposed project with its surroundings. By improving coverage, the Project will contribute to the public health and safety of the area. The Project will not unduly interfere with the public's use and enjoyment of scenic corridors or highways designated as scenic roads pursuant to 19 V.S.A § 2501. The Project cannot be reasonably colocated at an existing facility. Finally, the Project will promote the general good of the state by furthering State telecommunications policy and planning goals pursuant to 30 V.S.A. § 202c(b).

The Pownal Selectboard, neighbor intervenor(s), and public comments were filed in opposition to the Project based on the initial Project's nonconformance with Pownal's Land Use Bylaws, impacts on the aesthetics of the area and public safety, and doubts about the need for the Project. The Department finds the Project, as amended to the SAP, resolves the substantive points of opposition to the Project under the § 248a criteria within the scope of Department review.

Based on the foregoing and conditioned on the Commission granting Petitioner's Second Motion to Amend, the Department respectfully recommends that the Commission grant Petitioner's request for a certificate of public good ("CPG") pursuant to 30 V.S.A. § 248a.

Dated at Montpelier, Vermont this 8th Day of August 2025.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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