

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, for the installation of wireless telecommunications equipment at 127 Crow Hill Road in Pownal, Vermont	
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Order entered: 09/12/2025

PROCEDURAL ORDER RE MOTION TO INTERVENE AND MOTION TO DISMISS

I. INTRODUCTION

This case involves a petition filed by Rising Tide Towers II, LLC and Wireless Partners FN, LLC (“Petitioners”) with the Vermont Public Utility Commission (“Commission”) requesting a certificate of public good (“CPG”), pursuant to 30 V.S.A. § 248a, for authorization to install wireless telecommunications equipment in Pownal, Vermont (the “Project”). In today’s Order, I deny the motion to intervene filed by Terry Brown and Jane Wilkerson (“Movants”) without prejudice. I also deny the motion to dismiss filed by Jesse and Tanya Hart.

II. PROCEDURAL HISTORY

On August 11, 2025, Movants filed a motion to intervene. The Movants assert that they are the owners of an adjoining parcel to the subject property and that they were not provided with notice of this case. Therefore, the Movants request an extension of all deadlines prior to their intervention to allow them an opportunity to participate in this case.

On August 11, 2025, the Petitioners filed a response to the motion to intervene. The Petitioners argue that the motion is untimely and that the Movants have failed to state a basis for intervention. The Petitioners also maintain that the Movants’ claimed ownership of an adjoining parcel of land is unclear.

On August 13, 2025, the Harts filed a motion to dismiss the case due to the Petitioners’ failure to provide notice to two adjoining landowners, including the Movants.

On August 14, 2025, I issued an order granting the Petitioners' motion to amend the petition. The order allowed the parties until September 5, 2025, to file any comments on the amended petition.

On August 20, 2025, the Vermont Department of Public Service ("Department") filed a response to the motion to intervene. The Department argues that the Movants should have been afforded notice according to the record evidence in this case. The Department recommends that the Movants be granted intervention on the condition that they identify a basis for intervention that is distinct from the issues already represented by existing parties.

On August 22, 2025, the Petitioners filed a certificate of service for the amended petition. The certificate of service shows that notice of the amended petition was provided to the Movants.

On August 29, 2025, the Petitioners filed a response in opposition to the motion to dismiss.

On August 29, 2025, the Department filed a response in opposition to the motion to dismiss.

III. LEGAL STANDARD

Rule 2.209 governs intervention in proceedings before the Commission. Rule 2.209(A) provides that upon timely application a person is entitled to intervene in a proceeding:

- (1) when a statute or Commission rule confers an unconditional right to intervene; or
- (2) when the applicant claims an interest in the matters that must be resolved in the proceeding and the applicant is so situated that the disposition of the proceeding may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

In addition, Rule 2.209(B) reserves to the Commission the power to grant intervenor status on a permissive basis:

- (1) when a statute or Commission rule confers a conditional right to intervene; or
- (2) when an applicant's claimed interest shares a question of law or fact in common with the matters that must be resolved in the proceeding.

In exercising its discretion under Rule 2.209(B), the Commission must consider whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

Rule 2.209(C) further provides that the Commission may impose certain restrictions on an intervenor's participation in a proceeding. Specifically, the Commission may restrict that party's participation, may require that party to join with other parties with respect to appearance by counsel, presentation of evidence, or other matters, and may otherwise limit that party's participation, all as the interests of justice and economy of adjudication require.¹

IV. DISCUSSION AND CONCLUSION

Motion to Intervene

The Movants filed a letter with the Commission entitled "Motion to Intervene." The Movants state that they are adjoining property owners, but were not notified of the petition. The Movants request that they be acknowledged as adjoining landowners and be given an opportunity to comment on the petition. However, the Movants do not state a basis for intervention in the case

I deny the Movants request to intervene because they have failed to describe an interest sharing a question of law or fact in common with the matters that must be resolved in this proceeding. In the absence of an appropriate interest, granting intervention risks undue delay of the proceeding. However, as discussed below, this denial is without prejudice because the Movants will have an opportunity to refile their motion due to the Petitioners' failure to provide notice to the Movants.

Motion to Dismiss

¹ The Commission may not require a State agency to be represented jointly with any other party to a case.

In their motion to dismiss, the Harts claim that the petition should be dismissed because the Petitioners failed to provide notice to two adjoining landowners. Specifically, the Harts claim that the Petitioners failed to notify the Movants and Four Directions LLC.

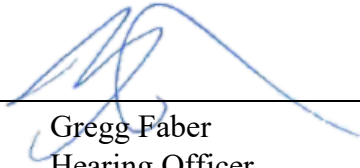
The Petitioners concede that they failed to provide notice of the petition to the Movants due to an error related to the Pownal grand list. The Petitioners state they have attempted to cure this error by providing the Movants with notice of the amended petition on August 22, 2025. The Petitioners also state that Four Directions LLC did not become the owner of the adjacent parcel until after the filing of the advance notice for the original petition on November 11, 2024. Once the Petitioners were notified of the change in ownership, the Petitioners subsequently provided notice to the property owners and registered agent for the company on November 26 and December 2, 2024.

The Department notes that the Movants have not requested that the petition be dismissed and are only requesting an opportunity to participate in the proceeding. Accordingly, the Department recommends that the motion be denied and that the Movants be given a meaningful opportunity to participate.

I conclude that the Petitioners have made reasonable good faith efforts to notify all adjoining landowners and that the failure to provide notice to the Movants was caused by an error in the Pownal grand list. The Petitioners have now cured any defect in notice to Four Directions LLC, as well as the Movants. Therefore, I deny the motion to dismiss because the Harts have not demonstrated that dismissal of the petition is necessary. The appropriate remedy is that the Movants be afforded additional time to review and submit any comments or motions on the recently amended petition. Accordingly, the Movants will have until September 26, 2025, to file a motion to intervene, request for hearing, or comments on the amended petition.

SO ORDERED.

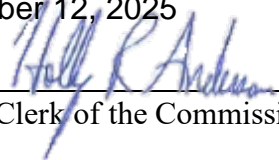
Dated at Montpelier, Vermont, this 12th day of September, 2025.



Gregg Faber
Hearing Officer

OFFICE OF THE CLERK

Filed: September 12, 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. 25-0257-PET - SERVICE LIST

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^Motion to Intervene pending.