

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 24-3345-PET

Petition of Bell Atlantic Mobile Systems, LLC and)
Vertex Towers, LLC requesting a certificate of)
public good, pursuant to 30 V.S.A. § 248a,)
authorizing the installation of wireless)
telecommunications equipment at)
410 Hunter Park Road in Manchester, Vermont)

**TOWN OF MANCHESTER’S RESPONSE TO PETITIONER’S FIRST SET OF
DISCOVERY REQUESTS**

The Town of Manchester (“Town”), by and through its attorneys, Woolmington, Campbell, Bent & Stasny, P.C., hereby provide the following response to Petitioner’s first set of Discovery Requests.

NON-WAIVER AND RESERVATION OF OBJECTIONS

The Town’s responses and any objections made hereafter are made without in any way waiving or intending to waive, but on the contrary intending to reserve and reserving:

- All questions as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose and subsequent proceeding in, or the hearing of, this proceeding, of any of the documents or their subject matter;
- The right to object on any ground, at any time, to a demand for further production or responses involving or related to the subject matter or the requests for interrogatories;
- The right to interpose additional responses and objections and to move for an appropriate protective order; and
- The right to object to any inference that can be drawn from any discovery requests or responses to them, that the information requested actually exists or events occurred. The Town of Manchester’s failure to object to any such inference does not constitute an admission that the information exists or events occurred.

GENERAL OBJECTIONS

The Town objects to the discovery requests to the extent that any request seeks information or documents that fall into one of more of the following categories:

- The request would require the Town to respond by divulging privileged material, confidential/proprietary material, and/or material prepared in anticipation of litigation or hearing by the Town, including its attorneys and expert witnesses. Further, it has not been shown by the party making the request that there is a substantial need for such materials, and that it is unable, without undue hardship, to obtain the equivalent of the requested information by other means.
- The request seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence
- The request, when read with its definitions and instructions, is vague, broad, general, all-inclusive and/or would require the Town to speculate as to the information being sought. The request is therefore unduly burdensome and oppressive and does not permit a proper or reasonable response.
- The request is unreasonably cumulative or duplicative, and/or the information or documents requested are obtainable from other sources that are less burdensome or less expensive.
- The request calls for a legal conclusion.

RESPONSES TO INTERROGATORIES

1. Identify each person you consulted with or who otherwise provided information to help you answer these discovery requests.

Response: Scott Murphy, Manchester Town Manager.

2. Identify each person you plan to call as a witness at any hearing in the above-captioned matter and state the nature of their expected testimony.

Response: The Town has already submitted pre-filed testimony from Daniel Weinheimer, and may submit additional prefiled testimony from Mr. Weinheimer or another representative of Tectonic Engineering. At present, the nature of the expected testimony is as set forth in the pre-filed testimony submitted by Mr. Weinheimer and the Report that was referenced therein (Town-DW-1). The Town may also submit prefiled

testimony from a Town representative if necessary to authenticate the Town of Manchester Land Use and Development Ordinance and Town Plan, testify that the site for the proposed facility is in the mixed-use zoning district (MU2 District), testify as to the reasons why the proposed Facility would create an undue adverse impact on aesthetics in the Town (refer to Response to Interrogatory No. 5, *infra*), and testify as to the Town's recommendation, which is set forth in its Letter dated July 22, 2025.

3. Identify each expert you plan to call as a witness at any hearing and identify and produce: (i) their qualifications, (ii) their opinions, (iii) the basis for their opinions, and (iv) any and all documents and data that they relied on or considered for formulating their opinions.

Response: Please refer to the response to Interrogatory 2, above, and to the Pre-filed Testimony and Report of Daniel Weinheimer (Town-DW-1).

4. Identify and produce each exhibit you plan to introduce at any hearing in this matter.

Response: Please refer to the response to Interrogatories 2 and 3, above, and to the Pre-filed Testimony and Report of Daniel Weinheimer (Town-DW-1). The Town will also ask the PUC to consider and apply the Town of Manchester's Land Use and Development Ordinance and Town Plan, both of which are produced in the Town's document production.

5. State whether the Town believes that the Tower does not meet the standards of 30 V.S.A. §248a as applicable. If the Town's answer is that it does not believe the Tower meets the standards, please identify all standards that are not met and the facts supporting the Town's position.

Response: The Town has determined that the proposed facility does not meet all of the standards set forth in 30 V.S.A. § 248a. The Town Plan and the recommendation of the Town’s municipal legislative body are entitled to substantial deference pursuant to 30 V.S.A. § 248a(c)(2), which expressly allows the municipality to base its recommendation to which substantial deference is required on a bylaw adopted under 24 V.S.A., such as Manchester’s Land Use & Development Ordinance.

Town Plan

The Town Plan, to which substantial deference is owed, begins with a section entitled “Vision, Policies & Actions,” in which it provides:

Manchester is a quintessential New England Community with a historic core surrounded by rural pastures and forested mountain backdrops. Situated in the Batten Kill Valley between the Green and Taconic Mountains, Manchester cherishes its natural beauty as the basis of a high quality of life for residents and the foundation of a strong visitor economy.

Town Plan, Part 1, p. 1.

The Town Plan identifies Recreation Pathways as part of a “greenway network of pedestrian, cross country ski, and bicycle paths that would link the outskirts of town with the downtown,” which include the corridors through the Dana Thompson Memorial Park and on to Riley Rink through Hunter Park, as an important community asset. Town Plan, pp. 30–31. Section 4.1 also recognizes the Dana L. Thompson Memorial Park as a community asset for residents and visitors alike.

The Town also believes that the proposed Facility would be prominently visible from the heart of the Dana L. Thompson Memorial Park, from Hunter Park, and from sections of Bonnet Street and Main Street. The applicant has declined to provide the results of the balloon test that it conducted for site visibility to the Town following multiple requests.

Section 3.3 of the Town Plan addresses Power & telecommunications Facilities. Town Plan Section 3.3, pp. 37–38. The Town Plan requires that telecommunications facilities be sited “in a manner that protects the scenic, cultural, and natural resources of the Town.” *Id.* at p. 37. The Town Plan specifies that:

In order to enhance the aesthetics and visual character of the downtown area, public utilities (including . . . telecommunications facilities) should be relocated from public view along main streets wherever possible. This may include behind buildings, away from the street, along streets, or underground. Where this is not possible, these should be screened from adjacent properties with dense coniferous plantings.

Town Plan Section 3.3, pp. 38. Accordingly, where a proposed telecommunication facility is presented through the local zoning process, it is subject to conditional use review, with careful consideration by the Development Review Board of all “[v]isual impacts, lighting, noise generation, natural resource impacts, and site screening.” *Id.*

Under the Town Plan, the proposed Facility would have an undue adverse visual impact on views from the scenic recreational areas surrounding and linking to the downtown area, and therefore does not comply with § 248a(c)(1).

Land Use & Development Ordinance

The Town has also pointed out that the property upon which the proposed Facility is proposed to be located is within the Mixed-Use 2 District, in which zoning district Communications Towers are expressly prohibited under the Town’s Land Use & Development Ordinance.

Please also refer to the Town of Manchester’s Letter to the Public Utility Commission dated July 22, 2024, the Town’s Reply to Consolidated Response to Bell Atlantic Mobile Systems, LLC and Vertex Towers, LLC to PUC Request for a Response

to Comments dated January 17, 2025, and to the Pre-Filed Testimony and Report of Daniel Weinheimer (Town-DW-1), all of which have been filed with the PUC and which are reproduced in response to these discovery requests.

6. Does the Town believe that there exists an alternative location (or locations) for a telecommunications tower that meets the standards of 30 V.S.A. §248a and provides the same cellular coverage as the proposed tower? If the Town's answer is yes, then please identify the location/locations that would satisfy the standards of 30 V.S.A. §248a.

Response: The Town believes that there is an alternative location for a telecommunications tower that may meet the standards of 30 V.S.A. § 248a and which may provide the same cellular coverage as the proposed facility. Please refer to the Pre-Filed Testimony and Report of Daniel Weinheimer (Town-DW-1). There may be other sites the Town has not identified that would meet the standards of 30 V.S.A. § 248a and provide the same coverage as the proposed tower; Town-DW-1 lists the sites considered by the Town's consultant, Tectonic Engineering, which has identified one potential suitable alternative location.

7. To the extent the Town identified any alternative locations in response to Interrogatory No. 6, please identify all facts supporting the Town's assertion that any suitable alternative locations exist.

Response: Please refer to the Pre-Filed Testimony and Report of Daniel Weinheimer (Town-DW-1). There may be other sites the Town has not identified that would meet the standards of 30 V.S.A. § 248a and provide the same coverage as the proposed tower;

Town-DW-1 lists the sites considered by the Town's consultant, Tectonic Engineering, which has identified one potential suitable alternative.

8. As to any alternative locations so identified, please state whether said locations are located within the Zoning District known as the "MU2" district in the Town of Manchester Zoning Regulations.

Response: Please refer to the Pre-Filed Testimony and Report of Daniel Weinheimer (Town-DW-1). There may be other sites the Town has not identified that would meet the standards of 30 V.S.A. § 248a and provide the same coverage as the proposed tower; Town-DW-1 lists the sites considered by the Town's consultant, Tectonic Engineering, which has identified one potential suitable alternative.

9. To the extent that one such location is "Parcel 5" as so-called on a Tectonic Engineering report and analysis dated January 2, 2025 please state whether:

- a. Parcel No. 5 would be "visible from various locations along the recreation paths within Hunter Park in Manchester, Vermont."
- b. Parcel No. 5 would be "visible from various locations on the Riley Rink property in Manchester, Vermont."
- c. Parcel No. 5 would be "visible from portions of Main Street in Manchester, Vermont."
- d. Parcel No. 5 would be "visible from portions of Bonnet Street in Manchester, Vermont."

Response: The Town has not performed a balloon trial or any other work on behalf of the Petitioner in relation to Parcel 5 and therefore does not have information responsive to questions 9a-d.

10. As concerns so called Parcel 5, please state whether the Town has obtained approval from the fee-title owner of Parcel 5 for the location of a telecommunications tower of the type proposed by Petitioner on Parcel 5. If the answer is in the affirmative, please state the terms of said permission.

Response: No. The Town has not obtained approval from the owner of Parcel 5 for petitioner to locate a telecommunications tower on the property.

11. To the extent that the Town has discussed locating a tower at Parcel 5, please identify all communications with the owner of Parcel 5 as concerns tower siting and/or leasing.

Response: The Town has not had any communications with the owner of Parcel 5 as concerns tower siting and/or leasing.

12. To the extent that the Town contends that Parcel 5 is a more suitable location for a telecommunications tower of the type proposed, please identify any geotechnical reports or analysis concerning the location of a tower within an active quarry.

Response. The Town has not performed or commissioned any geotechnical reports or analysis concerning Parcel 5 or the location of a tower within an active quarry.

13. Identify any propagation or coverage plots illustrating the cellular coverage provided by a tower located on Parcel 5.

Response. The Town has not created any propagation or coverage plots illustrating the cellular coverage that would be provided by a telecommunications tower on Parcel 5.

14. Identify any "RF" analysis performed by the Town as concerns the Tower or any alternative location for a cellular tower including Parcel 5.

Response. The Town has not performed any RF analysis. The Town has not considered nor made any recommendations relating to RF emissions, which considerations are governed by FCC guidelines, not local government.

RESPONSES TO REQUESTS TO PRODUCE

1. Produce all documents identified in response to the above Interrogatories.

Response. Please refer to document production Bates 1-280.

2. Produce all documents relied on or considered in responding to the above Interrogatories.

3. To the extent not produced in response to Request No. 1 or 2, please produce all documents, exhibits and materials you plan on introducing at any hearing in this matter.

Response. Please refer to document production Bates 1-280.

4. To the extent not produced in response to Request No. 1 or 2, please provide all reports prepared by any expert identified in response to Interrogatory No. 3 above.

Response. Please refer to document production Bates 1-280.

5. To the extent not produced in response to Request No. 1 or 2, please provide all documents supporting, referenced, or relied on by any expert in preparing a report in this matter.

Response. Please refer to document production Bates 1-280.

6. To the extent not produced in response to Request No. 1 or 2, please provide all communications between the Town and any expert so described above.

Response. OBJECTION. This request calls for material that is protected from disclosure pursuant to Vermont Utility Commission Rule of General Applicability 2.230(5)(c). Notwithstanding the objection, the Town produces materials that fall outside

the scope of the protection, which includes communications that (i) relate to the compensation for the expert's study or testimony; (ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or (iii) identify assumptions that the party's attorney provided and that the expert witness relied on in forming the opinions to be expressed. Please refer to document production Bates 1-280.

7. To the extent not produced in response to Request No. 1 or 2, please provide a copy of all communications with the landowner of any alternative location so identified in response to the above Interrogatories.

Response. There are no such communications.

8. Please produce all communications with the Department of Public Service as concerns the Tower.

Response. There are no such communications which Petitioners counsel were not also copied on, and Petitioner's counsel has confirmed that there is no need to reproduce correspondence to which it has equal access.

As to Responses:



Scott Murphy

Subscribed and sworn before me this 17 day of ~~September~~ September 2025.



Notary Public



As to Objections



Merrill E. Bent, Esq.
Attorney for the Town of Manchester