

Petition of Rising Tide Towers II LLC and Wireless Partners FN, LLC pursuant to 30 V.S.A. § 248a requesting a Certificate of Public Good for installation of a wireless telecommunications facility in Pownal, Vermont

REPLY TO PETITIONER’S MOTION TO DISREGARD EXHIBIT TJH-01

I. Introduction

I submit this reply to address the Petitioner’s September 26, 2025 filing entitled “Petitioner’s Motion to Dismiss New Evidence” (the “Motion”). The Petitioner asks the Commission to disregard Exhibit TJH-01, which I filed on September 18, 2025, in support of my Reply to Petitioner’s Opposition to Intervenor’s Request for Hearing. This Motion mischaracterizes both the nature and timing of my filing.

II. Procedural History

May 9, 2025: Hearing Officer Faber filed an “Order Re Schedule” including dates for non-petitioner to file testimony (June 20, 2025), initial briefs due (July 9, 2025), and reply briefs due (July 23, 2025).

June 18, 2025: Hearing Officer Faber filed an “Order Re: Motions, Substantial Change Determination, and Stay of Procedural Schedule”. Schedule was stayed.

The deadline for prefiled testimony was superseded by the order on June 18th. I am now waiting for a new schedule with a deadline for prefiled testimony.

III. Exhibit TJH-01 is Proper Rebuttal Evidence

Exhibit TJH-01 contains email and text correspondence documenting my family’s good-faith offer of an alternative site for the proposed telecommunications facility. Petitioner’s Opposition, filed September 16, argued for the first time that it adequately considered alternative sites. Exhibit TJH-01 directly rebuts that new claim.

Exhibit TJH-01 is not prefiled testimony; it is rebuttal evidence responding to arguments raised for the first time in the Opposition. No rule prohibits such a filing.

IV. Timely Filing

The August 14, 2025 Order set a September 5 deadline for initial comments and hearing requests. Petitioner filed its Opposition on September 16. I filed my reply and Exhibit TJH-01 on September 18 - only two days later. Because Exhibit TJH-01 responds to arguments first raised in the Opposition, it could not have been filed earlier and is fully compliant with PUC Rule 2.214.

V. Relevance to 30 V.S.A. § 248a

The Commission must determine whether the Petitioner has taken reasonable mitigation measures and adequately considered less intrusive alternatives under 30 V.S.A. § 248a(c)(5). Exhibit TJH-01 directly addresses that statutory requirement. Excluding it would deprive the Commission of critical evidence bearing on the reasonableness of the Petitioner's site selection.

I submitted Exhibit TJH-01 now to ensure the record is complete while awaiting the Commission's decision on my request for an evidentiary hearing. My Exhibit is intended to preserve key evidence and show the necessity of a hearing, not to substitute for prefiled testimony, which will be provided if and when the Commission establishes a new schedule.

VI. Conclusion

For these reasons, I respectfully request that the Commission deny the Petitioner's Motion to Disregard Exhibit TJH-01, accept Exhibit TJH-01 as part of the record, and proceed with consideration of my request for discovery and a full evidentiary hearing.

Respectfully submitted this ____ 26th ____ day of September 2025, Pownal VT.

/s/ Tanya Hart

Tanya Hart
Intervenor