

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 25-1543-PET

Limited Size and Scope Application)
of Bell Atlantic Mobile Systems, LLC d/b/a)
Verizon Wireless and The Towers, LLC d/b/a)
Vertical Bridge, for a Certificate of Public Good,)
pursuant to 30 V.S.A. § 248a, authorizing the construction)
of a telecommunications facility in Marshfield, Vermont)

**PETITIONER’S STATEMENT REGARDING INTERVENTION AND SCHEDULE AND
RESPONSE TO PUBLIC COMMENTS**

Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless (“Verizon”) and The Towers, LLC, d/b/a Vertical Bridge (“VB”) (together, “Petitioner”), by its counsel, MSK Attorneys, hereby submits this statement regarding intervention and case schedule, along with a response to the public comments filed on September 3, 2025 and September 4, 2025 by Angela Barger, Ellen Peterson Keene, Erik Van Hauer, and Melissa Seifert (collectively “Citizens”)

Statement as to Motions to Intervene

Petitioner asserts that while it did not oppose the intervention of Robin Gomez, Robert Buchanan, Pam Quinn, Weston Cate and Michael Xenakis (“Movants”) due to the relatively low bar to establish constitutional standing, Petitioner nevertheless believes that no substantial issue was raised by the Movants and that the Petitioner’s application should be granted forthwith. To the extent it needs to be stated, Petitioner disputes the assertions by the Movants of non-compliance with applicable criteria.

To the extent this Commission believes a substantial issue has been raised, Petitioner requests that it be granted a hearing on any substantial issues and that the Commission convenes a Scheduling Conference under Rule 2.212 so that the parties may set a schedule including a

schedule for summary proceedings and discovery under Rule 2.100 *et seq.* of this Commission's rules.

Response to Public Comments

It has come to the attention of Petitioner that one of the Citizens, Mr. Van Hauer presents false and misleading evidence and has promulgated such on a website calling for citizen opposition to this application upon which other Citizens may have relied. The website is <https://www.marshfieldcelltower.com/>. As shown therein and in the photo-simulations presented by Mr. Van Hauer in his comments, the Project is shown as a bright *silver* tower, with *multiple* telecommunications providers installed on the facility, in an inaccurate location.

The actual proposal is for a *brown* monopole tower, with an installation by *one* telecommunications provider. Fig 1 from the comment of Erik Van Hauer and pg. 4 of Exhibit LH-4 (which was taken from the same parcel) are excerpted below to demonstrate:



View #:
01
Date:
12/31/24
Time:
10:04 am
35mm Equivalent Focal Length:
47mm
Approximate Location:
122 School St
GPS Coordinates:
44° 20' 58.91" N
72° 21' 14.75" W
Distance to site:
3,073
Orientation:
West (255°)

VB - Marshfield, VT - Tower Simulation

Photos and simulations are for demonstration purposes only. Visibility is based on a variety of factors including weather, season, lighting, and location.





As asserted in the Pre-Filed Testimony of Louis Hodgetts, the visual impact of the tower will be mitigated by painting the tower brown and siting the facility such that the hillside behind it will provide backdrop screening from most vantage points. Pre-Filed Testimony of Louis Hodgetts at 6, 14-15. Thus, Petitioner does not believe that the Citizens’ comments raise any substantial or significant aesthetics concerns.

Conformance with the Town Plan and Telecommunication Zoning Bylaw:

The Citizen’s comments assert generalized “concerns” with the Project’s conformance with the Town Plan and Telecommunication Zoning Bylaw. As set forth in Petitioner’s application materials, the Project satisfies the provisions of the Town Plan and telecommunication bylaw to

the greatest extent feasible. The applicable plan is the Marshfield Town Plan, adopted August 21, 2018 (the “Town Plan”) and the applicable telecommunication ordinance is the Telecommunications Facilities Bylaw adopted March 4, 2004 (the “Zoning Bylaw”). Petitioner addresses the Project’s compliance with both these documents in the Pre-filed Testimony of Louis Hodgetts at pages 10-15. As was discussed in the Pre-filed Testimony of Louis Hodgetts, the Project was designed to conform with the zoning regulations to the extent possible. As expressed therein, there is no way to develop any site in the Town of Marshfield through a strict application of the Town Plan and Zoning Bylaw. Strictly applying them as Citizens want to do would result in the total prohibition of a telecommunications tower in Marshfield which seeks to fill the existing coverage gap.

Rather, the statute is clear that that “an applicant using the procedures provided in this section shall not be required to obtain a permit or permit amendment or other approval under the provisions of 24 V.S.A. chapter 117 or 10 V.S.A. chapter 151 for the facilities subject to the application or to a certificate of public good issued pursuant to this section.” 30 V.S.A. §248a(H)(1). Thus, Zoning Bylaws and ordinances are preempted by §248a(H). While a municipality maintains the right to make a recommendation based on the zoning bylaws with deference paid to that recommendation, there is no right and deference granted to the Citizens to make a recommendation that the Zoning Bylaws control as the Citizens desire in this case. In this matter, the Town made no comments and so no substantial deference is afforded.

Following the Citizens logic – that the Project be rejected because of a failure to conform to the letter of the Zoning Bylaws would mean the Zoning Bylaws control, a position this

Commission has rejected.. *See e.g. Petition of Vtel Wireless, Inc., for A Certificate of Pub. Good, Pursuant to 30 V.S.A. S 248a, for the Installation of Telecommunications Equip. in Ludlow, Vermont.*, No. 8352, 2014 WL 6713556, at *6 (Nov. 24, 2014)(“If the Board were to deny an application solely on the basis of its lack of compliance with a town's zoning ordinance, it would mean that zoning was controlling in these cases. This would clearly be at odds with the statutory preemption of zoning and the legislative intent of § 248a, which provides for a state-level review of these projects rather than a local review.”)

A number of the comments address the “Protected Viewshed.” The Citizen’s comments mischaracterize the relevant section of the Town Plan. The comments suppose and argue that the Town Plan creates a protected viewshed. It does not. The Town Plan provides the following:

A viewshed analysis from Routes 2 and 232 was developed (see Viewshed Analysis map). The map shows the areas that can be viewed from these roads. The viewshed was divided into two categories: those **areas that have some protection** and those without protection. **The protected areas included those areas within the Forestry and Conservation District, Flood Hazard District, conserved lands, and publicly-owned lands. These areas all limit development through more restrictive zoning, through conservation easements, or through direct municipal or state control of the land.** As evident from the map, the more distant views have some level of protection from development. The areas adjacent to Route 2 have limited protection. Many of these unprotected areas are open fields and farms where future development would be highly visible. Some more distant areas to the east also have limited protection from development. Development guidelines should be established to help protect the open fields along Route 2 **while still allowing controlled development.**

Town Plan at 72 (emphasis added).

When read in context, this section of the Plan does not create or mandate any viewshed protection. Rather when it uses the term “Protected Areas” it is describing land where development is limited (hence the land “protected” in the colloquial sense) by some other means such as zoning

regulations, conservation easements, or state/municipal control of the land. The Town Plan does not afford these lands any additional level of protection; it merely seeks to identify the areas that contain some protection from development by virtue of existing zoning restrictions which are in turn pre-empted by 30 V.S.A. § 248a(H). Beyond that descriptive reference, the Town Plan provides no mandatory or regulatory language as to how these lands must be developed or managed. All it does is provide generalized guidance the zoning bylaws should be written to allow some limited development respecting the open fields and farms.

Aesthetic Impact

The Citizens raise a collection of generalized concerns about the aesthetic impacts of the Project. None, however, articulate a position indicating that the Project presents an adverse and *undue* impact under the *Quechee* test. There is no clear written applicable community standard, and the applicants have taken all available mitigating steps including painting the tower a muted brown to blend into the hillside, adopting a monopole design to match the tree structure, and limiting the height to the lowest possible height. Further, while the Citizens don't like the Project, it cannot be said that the proposed tower, along a well-traveled state highway offends the sensibilities of the average person in 2025.

Coverage, both existing and resulting from the proposed facility

Several Citizens mischaracterize the coverage provided by the proposed facility, however no Citizen disputes that the proposed facility will provide coverage to the Town of Marshfield. As noted in the comment of Angela Barger, the East Hill Road telecommunications site in Plainfield (upon which Verizon is already installed) provides coverage to southern portion of Marshfield,

however there is a large gap along the Route 2 corridor in which coverage is currently unavailable.

It is that acknowledged gap that the Project seeks to fill.

Providing coverage along major state routes, like Route 2, is in the public interest in that it ensures that residents of Marshfield, visitors to Marshfield and the State of Vermont, and anyone in need of emergency services along this major transportation route have access to reliable telecommunication services.

Ms. Barger appears to argue that coverage could be provided from another pre-existing tower (see map on Page 3 of public comment). Ms. Barger has not asserted qualifications necessary to make any coverage assessment and there is no citation or reference provided for the map included on page 3 of Ms. Barger's public comment indicating where the map or her data comes from. With no technical basis or clear basis in fact for her assertion, the propagation plots prepared by the qualified radio frequency engineers at C-Squared Systems, LLC filed as Exhibit ML-2 should control.

Dated: September 30th, 2025
Burlington, Vermont

Respectfully submitted,

By: 

W. Cooper Hayes

MSK Attorneys
275 College Street
Burlington, VT 05401
Phone: (802) 861-7000
Email: chayes@mskvt.com

Attorneys for Petitioner