

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 OPPOSITION TO BROWN/WILKERSON INTERVENTION AND CONTINUED REQUEST FOR HEARING

Dear Hearing Officer Faber,

The Petitioner's Opposition to the Brown/Wilkerson Motion to Intervene highlights the very procedural and substantive deficiencies that justify continuing this case to hearing. While Petitioner attempts to minimize the Wilkersons' rights and the significance of the late notification, their own filing demonstrates that essential issues, such as aesthetics, notice adequacy, and factual completeness of the record, remain unresolved.

I. Procedural Fairness and Abutter Rights

The Petitioner's claim that the Wilkersons' late inclusion has been "cured" disregards the fact that they were excluded from this proceeding for *more than eight months*. During that time, they were denied the opportunity to observe balloon tests, review prior filings, or submit public comments during critical phases of the process. This is not a minor procedural error, it is a deprivation of due process that materially affects their participation and the integrity of the record.

The omission was discovered and corrected only because of research performed by myself, not through any diligence by the Petitioner. Without that effort, the Commission would still be relying on an incomplete service list. The Petitioner should not benefit from a procedural shortcut that resulted from its own oversight.

II. The Need for Updated Visual and Field Evidence

Petitioner's admission that the revised visual simulations were generated using data from the previous balloon test confirms that no new field verification has been conducted since the tower height and placement were changed. Computer modeling based on prior fieldwork does not satisfy the evidentiary standards for assessing visual impact, **especially when the structure's location and dimensions have changed.**

Both my property and the Wilkersons' property have distinct vantage points, and it is inaccurate to assume that one abutter's evidence or testimony can represent another's aesthetic experience.

I have repeatedly requested an updated balloon test so that all affected abutters can provide accurate and factual evidence regarding placement, visibility, and undue aesthetic impacts. Petitioner's refusal to conduct one further underscores the need for discovery and an evidentiary hearing to resolve disputed facts.

Petitioner's assertion that their "extensive materials" give the Harts "ample opportunity to assess the project's aesthetic impacts" is inaccurate. The materials they submitted do not include any visual representations from our property or from other abutting residences from meaningful viewpoints. None of the photo simulations depict the actual views we experience, despite our home being directly adjacent to the proposed site. Without current, field-verified visuals from our vantage points, we have no meaningful opportunity to assess or respond to the project's aesthetic impacts. Petitioner's modeling excludes the most affected viewpoints and therefore cannot be considered a complete or objective representation of the project's aesthetic effect.

III. Testimony and Scheduling

At this stage, no scheduling order has been issued, and the Commission has not yet directed the submission of prefiled testimony. My prior submissions, including Exhibit TJH-01, were filed to ensure a complete record while awaiting the Commission's decision on whether to hold discovery and a hearing. These exhibits are not prefiled testimony; they are supporting evidence filed with a motion, consistent with Commission practice.

IV. Scope of Representation and Remaining Issues

Petitioner's assertion that my participation adequately represents all abutters' interests is unfounded. Each abutting property has unique topography, view corridors, and residential uses. Moreover, my continued participation does not extinguish the Wilkersons' independent right to intervene under 30 V.S.A. § 248a and PUC Rule 2.209(a) as adjoining property owners entitled to notice.

V. Conclusion

Petitioner's opposition only reinforces the need for the Commission to hold discovery and a full evidentiary hearing and to allow all affected abutters to participate meaningfully. The continuing disputes over visibility, notice, and factual accuracy cannot be resolved on the paper record alone.

Respectfully submitted this 13th Day of October, 2025 in Pownal, Vermont.

/s/ Tanya Hart

Tanya Hart
Intervenor