

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: 10/27/2025

PROCEDURAL ORDER RE MOTIONS TO INTERVENE AND REQUEST FOR HEARING

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 motions to intervene filed by Terry Brown and Jane Wilkerson (“Brown and Wilkerson”), and David and Margaret Stewart (“Stewarts”) without prejudice. I also grant the renewed request for hearing filed by Jesse and Tanya Hart.

II. PROCEDURAL HISTORY

On April 21, 2025, I granted the Harts permissive intervention with respect to aesthetics and public health and safety and granted their request for a hearing.

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

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

On September 4, 2025, the Harts filed a renewed request for a hearing on the amended petition.

On September 5, 2025, the Stewarts filed a motion to intervene in the case.

On September 12, 2025, I issued an order extending the deadline until September 26, 2025, for Brown and Wilkerson to file comments and motions on the amended petition.

On September 16, 2025, the Petitioners filed a response to the Harts' renewed request for a hearing and a response to the Stewarts' motion to intervene.

On September 26, 2025, Brown and Wilkerson filed an amended motion to intervene in the case.

On October 13, 2025, the Petitioners filed a response to Brown and Wilkerson's motion to intervene.

On October 13, 2025, the Harts filed a response to Brown and Wilkerson's motion to intervene.

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

Motions to Intervene

In their motion to intervene, Brown and Wilkerson argue that they are unable to assess the aesthetic impact of the Project on their property without an additional "balloon test." However, Brown and Wilkerson do not state a basis for intervention in the case.

Similarly, the Stewarts also request a "balloon test" and state that they are merely seeking an accurate understanding of the Project impact. However, the Stewarts also fail to state any basis for intervention.

I deny both Brown and Wilkerson's motion and the Stewarts' motions 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.

The Petitioners bear the evidentiary burden under § 248a(c)(1) to demonstrate the proposed facility will not have an undue adverse impact on aesthetics. Balloon tests are not a requirement under Section 248a, but they are often used by applicants to develop evidence relevant to the aesthetics analysis. In this case, the Petitioners conducted a balloon test and have filed testimony and exhibits upon which to evaluate the Project's aesthetic impacts. That evidence will be evaluated as part of this proceeding to determine consistency with the applicable statutory standard under Section 248a(c)(1), and the Petitioners' witnesses will be subject to cross-examination. Therefore, the lack of a second balloon test does not render the Petitioners' application materials deficient or establish an independent basis for intervention

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

under Commission Rule 2.209. The Stewarts’ and Brown and Wilkerson’s motions to intervene are accordingly denied.

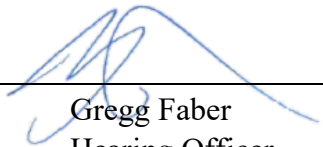
Request for Hearing

With respect to the Harts’ request for an evidentiary hearing, Section VII of the Commission’s Section 248a Procedures Order provides that “[i]n order to request an evidentiary hearing, commenters must make a showing that the application raises a significant issue regarding one or more of the substantive criteria applicable to the proposed project.”

In this case, the Harts’ motion contains evidence that suggests that the Project has at least the potential to raise a significant issue with respect to aesthetics, which is applicable to this case under Sections 248a(c)(1). Accordingly, the Harts’ request for an evidentiary hearing is granted. The Clerk of the Commission will be issuing notice of a scheduling conference.

SO ORDERED.

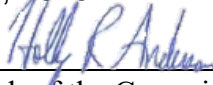
Dated at Montpelier, Vermont, this 27th day of October, 2025.



Gregg Faber
Hearing Officer

OFFICE OF THE CLERK

Filed: October 27, 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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*Notice of appearance to be filed.

^Motion to Intervene pending.