

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 25-1679-PET

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| Petition of Industrial Tower and Wireless, LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 248a, authorizing the installation of wireless telecommunications equipment at 402 VT Route 140 in Tinmouth, Vermont |  |
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Order entered: 11/07/2025

**ORDER REMANDING CASE TO HEARING OFFICER**

On August 8, 2025, Industrial Tower and Wireless, LLC (the “Petitioner”) filed a petition and prefiled testimony requesting that the Vermont Public Utility Commission (“Commission”) issue a certificate of public good (“CPG”) authorizing the installation of a wireless telecommunications facility in Tinmouth, Vermont (the proposed “Project”).

On September 9, 2025, the Town of Tinmouth Select Board and Planning Commission (together the “Town”) filed separate notices of intervention pursuant to 30 V.S.A. § 248a(m). The Town also filed a recommendation that the petition be denied without hearing due to its non-compliance with the town plan and zoning bylaws (“Town’s Recommendation”).

On September 9, 2025, the Vermont Department of Public Service (“Department”) filed comments on the Project stating that the petition does not contain sufficient information upon which to make a recommendation regarding its approval (Department’s Comments”).

On September 29, 2025, the hearing officer issued a proposal for decision in this case recommending that the Commission deny the petition.

On October 13, 2025, the Petitioner filed a response in opposition to the proposal for decision and a request for oral argument.

On October 13, 2025, the Department and the Town filed comments in support of the proposal for decision.

On October 27, 2025 the Town filed a reply in opposition to the Petitioner’s response.

The Petitioner argues that the proposal for decision improperly converts the Town's Recommendation into a motion for summary judgment.<sup>1</sup> Further, the Petitioner contends that it was deprived of the summary judgment process which requires filings of statements of facts and allows for a 30-day response time. The Petitioner maintains that, in order to satisfy due process, the proposal for decision needs to be set aside and the case set for hearing.<sup>2</sup>

The Town argues that the Petitioner's response is untimely filed and, therefore, its arguments on the merits of the proposal for decision are moot. Accordingly, the Town opposes the Petitioner's request for a hearing.

Having reviewed the parties' responses to the proposal for decision and the Town's reply, we have determined that additional process is necessary to resolve this case. We agree with the Town that the Petitioner's lack of response to the motions and other filings in this case is puzzling. However, we also agree with the Petitioner that the hearing officer has treated the Town's uncontested recommendation in this case as a dispositive motion without allowing adequate opportunity for the Petitioner to supplement the evidentiary record, file written responses to the Town's recommendation, or have an opportunity for a hearing.

The Town has essentially argued that the Commission should deny the petition as a matter of law. Section 248(c)(2) provides, "Unless there is good cause to find otherwise, substantial deference has been given to the plans of the affected municipalities; to the recommendations of the municipal legislative bodies and the municipal planning commissions regarding the municipal plans; and to the recommendations of the regional planning commission concerning the regional plan." Further, Section 248(b)(5) defines "substantial deference" to mean "that the plans and recommendations referenced under subdivision (c)(2) of this section are presumed correct, valid, and reasonable." The Petitioner must demonstrate "good cause," or "a showing of evidence that the substantial deference required under subdivision (c)(2) of this section would create a substantial shortcoming detrimental to the public good or the State's interests in section 202c of this title," to overcome the Town's recommendations.<sup>3</sup>

Accordingly, we reopen the evidentiary record and remand this case to the hearing officer for further process. We direct the hearing officer to solicit a schedule(s) from the parties to

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<sup>1</sup> Petitioner response at 3.

<sup>2</sup> *Id.* at 7.

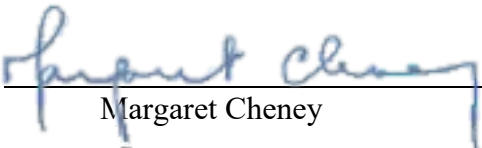
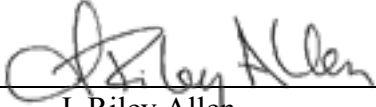
<sup>3</sup> 30 V.S.A. § 248(b)(3).

litigate the issue presented by the Town's comments. At a minimum, the proposed schedule(s) must include the following events: (1) a deadline for the Town to file supplemental evidence supporting its recommendation that the Project be denied a CPG; (2) a deadline for the Petitioner to file supplemental evidence in response to the Town's recommendation; (3) the opportunity for discovery; and (4) a deadline for the parties to file memoranda and statements of disputed or undisputed facts, pursuant to Commission Rule 2.219 under the standard for summary judgment.

We also affirm the hearing officer's determination regarding the motions to intervene filed in the case.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 7th day of November, 2025.

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|----------------------------------------------------------------------------------------------|---|----------------|
| <br>_____) | ) |                |
| Edward McNamara                                                                              | ) | PUBLIC UTILITY |
|                                                                                              | ) |                |
| <br>_____) | ) | COMMISSION     |
| Margaret Cheney                                                                              | ) |                |
|                                                                                              | ) |                |
| <br>_____) | ) | OF VERMONT     |
| J. Riley Allen                                                                               | ) |                |

OFFICE OF THE CLERK

November 7, 2025

Filed:

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](mailto:puc.clerk@vermont.gov))*

PUC Case No. 25-1679-PET - SERVICE LIST

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\*Notice of appearance to be filed.

^Motion to Intervene pending.