

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24-1755-PET

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 160 Frog Hollow Lane in Westmore, Vermont	
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Order entered: 11/07/2025

ORDER DENYING MOTION FOR RECONSIDERATION

On September 17, 2025, the Vermont Public Utility Commission (“Commission”) issued an order granting a Certificate of Public Good to Industrial Tower and Wireless, LLC (“ITW”) for a telecommunications facility at 160 Frog Hollow Lane in Westmore, Vermont (the “Project”).

On October 15, 2025, Ronald and Kathy Holmes, Donna Dzugas, Elizabeth Tucker, Andrew Zebrowski, Megan Patton, and Robert Fitzpatrick (together the “Intervenors”) filed a motion (“Motion”) requesting that the Commission reconsider its determination.

On October 28, 2025, ITW filed comments in opposition to the Motion.

In today’s order, we deny the Intervenors’ motion for reconsideration.

The Commission reviews motions to alter or amend pursuant to Commission Rule 2.221, which incorporates the language of Vermont Rule of Civil Procedure 59 without modification. Reconsideration under Commission Rule 2.221 is appropriate only to avoid an unjust result due to “mistake or inadvertence of the [Commission], and not the fault or neglect of a party.”¹ A Vermont Rule of Civil Procedure “59(e) motion ‘must clearly establish either a manifest error of law or fact or must present newly discovered evidence.’”² The disposition of a Rule 2.221 motion rests with the discretion of the Commission.³

¹ *Rubin v. Sterling Enterprises, Inc.*, 164 Vt. 582, 588, 674 A.2d 782 (1996) (citing *In re Kostenblatt*, 161 Vt. 292, 302, 640 A.2d 39, 45 (1994)).

² *Sutton v. Purzycki*, 2022 VT 56, ¶ 67, 217 Vt. 326, 295 A.3d 377 (quoting *N. Sec. Ins. Co. v. Mitec Elec., Ltd.*, 2008 VT 96, ¶ 34, 184 Vt. 303, 965 A.2d 447).

³ *Alden v. Alden*, 2010 VT 3, ¶ 7, 187 Vt. 591, 992 A.2d 298.

Granting reconsideration is an extraordinary remedy to be used with great caution.⁴ Rule 2.221 does not permit parties to relitigate issues or correct previous tactical decisions.⁵ It is not a vehicle to introduce new evidence or advance arguments that could have been made previously.⁶ The Commission also retains “discretion to deny consideration of discrete issues not raised prior to entry of judgment.”⁷

The Intervenor argue that the Commission should reconsider its decision to approve the Project because the Commission made material errors of law and fact regarding: (1) the recommendation of the Westmore Planning Commission (“WPC”); (2) the Westmore Telecommunications Ordinance; (3) the Westmore Town Plan scenic protection provisions; (4) the Project viewshed; and (5) notice to adjoining landowners. The Intervenor argue that the Commission erred by not considering the late-filed comments of the Westmore Planning Commission. The Intervenor assert that the Commission erred in concluding that the Westmore Town Plan does not identify the Project location as a protected scenic area. The Intervenor contend that the Commission erred in assessing the aesthetic impact of the Project on nearby locations. Finally, the Intervenor maintain that the date noted in the proposal for decision that describes when the Petitioner provided notice to adjoining landowners is incorrect because two landowners, specifically Andrew Zebrowski and David Anderson, were not notified until later.⁸

As stated above, a motion for reconsideration is not an opportunity to advance arguments that could have been made previously. The Intervenor in their Motion simply restate their disagreement with the Order’s conclusions regarding the Commission’s treatment of the WPC recommendation, aesthetic impacts, and interpretation of the Town Plan and Zoning, and attempt

⁴ *Petition of Vermont Gas Systems, Inc. for authority to condemn easement rights in property interests of the Town of Hinesburg, Vermont, at Shelburne Falls Road, Hinesburg, Vermont, for the purpose of constructing the pipeline authorized in Docket 7970, Docket 8643, Order of 11/3/16 at 2.*

⁵ *Id.*

⁶ *See, e.g., In re B.K.*, 2017 VT 105, ¶ 13, 206 Vt. 110, 179 A.3d 758 (“While the trial court has broad power under Rule 59(e) to reconsider issues previously presented, the rule does not contemplate reopening the evidence or creating a new record.”).

⁷ *Everbank v. Marini*, 2015 VT 131, ¶ 34, 200 Vt. 490, 134 A.3d 189; *see also* 11 C. Wright, Miller & Kane, Federal Practice and Procedure § 2810.1 (3d ed.) (2022 Update) (“The Rule 59(e) motion may not be used to relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment.”).

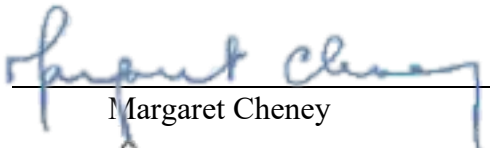
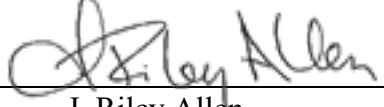
⁸ The Intervenor claim that the filing of the motion for reconsideration entitles them to tolling of the 30-day deadline to appeal the Commission’s order to the Supreme Court. However, any decisions regarding the timeliness of an appeal are the province of the Supreme Court and we make no determination in that regard.

to relitigate these issues. All of these issues were thoroughly litigated and analyzed in the case, and the Intervenor were given the opportunity to address these issues. Also, the Intervenor's objections related to the description of initial notice to adjoining landowners in the proposal for decision should have been raised in their comments on the proposal for decision, not in a motion for reconsideration. In any case, as noted by the Petitioner, Mr. Anderson and Mr. Zebrowski each filed motions to intervene that were considered by the hearing officer.

The Intervenor have not presented a manifest error of fact or law in the final order or CPG. The Intervenor also have not presented any new factual information that could not have been presented previously. Therefore, the Motion does not meet the standard for relief under Rule 2.221 and is denied.

SO ORDERED.

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

	)	
Edward McNamara	)	PUBLIC UTILITY
	)	
	)	COMMISSION
Margaret Cheney	)	
	)	
	)	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)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 24-1755-PET - SERVICE LIST

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*Notice of appearance to be filed.