

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 25-2931-PET

Limited Size and Scope Application)
of Vertex Towers, LLC and Bell Atlantic Mobile)
Systems, LLC d/b/a Verizon Wireless, for a Certificate)
of Public Good, pursuant to 30 V.S.A. § 248a,)
Authorizing the construction of a Telecommunications)
Facility in Rochester, Vermont)

**PETITIONER’S RESPONSE TO PUBLIC COMMENTS OF TWO RIVERS-
OTTAUQUECHEE REGIONAL COMMISSION**

Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless (“Verizon”) and Vertex Towers, LLC (“Vertex”) (together, “Petitioner”), by its counsel, MSK Attorneys, hereby submits this response to the public comment filed on December 16, 2025 by the Two Rivers-Ottauquechee Regional Planning Commission (the “RPC”). The Petitioner does not believe that the comments of the RPC raise a significant issue, particularly with the additional information provided by Petitioner herein and concurrence with requested conditions of the RPC. The Petitioner therefore asks that the Commission and Hearing Officer grant Petitioner a Certificate of Public Good.

To the extent that either the Hearing Officer or Commission believes that a significant issue is raised by the comments of the RPC, the Petitioner requests a hearing.

1. Concerns based on Stormwater Runoff

The RPC raises a concern that the access road and compound construction result in more impervious surface than is otherwise desired in the Forest Based Resource Area. The Plan states that in this area **“No development in its built-out state shall create more than one acre of impervious surface.”**

The Project does not create more than one acre of new impervious surface. The term “impervious surface” is defined by the State’s stormwater rules as “those manmade surfaces,

including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.” See 10 V.S.A. § 1264(b)(6). The Vermont Stormwater Management Manual further states that: “pervious or porous pavement, concrete, pavers, and similar manmade materials are not “impervious surface,” as defined in this Manual, when design specifications demonstrate that the material in question has the capacity to infiltrate the 1-year 24-hour storm event, under a type II distribution.”

The proposed project site will utilize an existing access road. This road is existing impervious surface with poor infiltration and drainage. The project will not increase the impervious surface of this access road. Rather it will replace the access road’s current condition with a permeable, draining construction. As noted on the Permit Plans at Sheet Z-3, the “stone access path is to be constructed utilizing 8” **free draining** crushed stone. This type of crushed stone (VAOT 704.17) is utilized as a base material for building foundations, roadways and railroads. The larger particle size provides a stable and compact base that is capable of withstanding heavy loads as well as provide for excellent drainage and infiltration capability.” The access path is therefore designed/intended to be “permeable.” A condition of the construction is further that “the contractor shall install the access road in accordance with the details to maintain a *pervious* condition.” By using the VAOT approved stone, the designer and builder of the road will confirm that the large size of the stone allows water in the 1-year, 24-hour storm event infiltrate. Compaction is also not a going concern as traffic and maintenance will be limited following construction and the road allowed to revegetate to a more natural state.

The Petitioner’s engineers have used this construction method in other projects with the approval of the Agency of Natural Resources, Stormwater Management Office. The Petitioner’s

stormwater engineer, Frank Parent, will and can confirm that with these construction techniques, the construction will not need an operational stormwater permit or approval under a general permit for operational runoff discharges. Further, that these construction methods will improve the stormwater runoff conditions and lessen erosion.

The proposed construction meets the goals of the Regional Plan as to stormwater management. In the Stormwater section of the regional plan, it states “[t]he percentage of impervious surfaces can be reduced by limiting the number of rooftops and amount of pavement, by using permeable surfacing materials, by employing disconnection practices, and by implementing Low Impact Development (LID) principles. Low Impact Development refers to the process of designing and implementing practices at the site level to minimize the creation of stormwater and to replicate conditions present before the development of an area by managing stormwater runoff the way a healthy and intact environment would—by slowing it, spreading it, and/or sinking the runoff into the ground” Regional Plan at Page 40.

The Project implements Low Impact Development principals. By employing a large stone with grass and dirt cover construction technique, the Petitioner is recreating the natural conditions present before the construction. This limits erosion and allows stormwater to infiltrate, be slowed down, and runoff into the ground.

The only new impervious surface proposed by the Project will be the carrier pads, equipment, tower, transformer and associated equipment will be below 2,500 SFT (0.057 acres) as shown on the Exhibit SA-1 Permit Plans.

As to the RPC’s demand that the Petitioner obtain a State Stormwater Construction Permit (ESCP), the Petitioner has already stated that it will obtain that permit before construction

(See Pre-filed Testimony of Scott Adams at Page 4). In addition, the Petitioner consented to this condition being incorporated into the CPG in discussions with the Agency of Natural Resources as reflected in their public comments filed on January 12, 2026. An Operational Stormwater Permit, or authorization to discharge under a General Permit is not because proposed impervious surface falls below the jurisdictional threshold of 0.5 acres. *See* 10 V.S.A. § 1264(c).

2. Concerns based on Fragmentation

The Regional Plan States that “New telecommunications facilities and related infrastructure (including access roads, site clearing, on-site power lines, lighting, and off-site power lines) must be sited to avoid the fragmentation of large priority and high priority forest blocks.” The RPC states that the compound and access road are sited in a high priority interior forest and connectivity block. (The Petitioner does not agree that this is forest block is technically “high priority.”) The RPC asserts that the road and compound could fragment the block. The RPC asks that the Petitioner take four steps to reasonably mitigate the alleged fragmentation. They are:

1. Require the burial of the utility lines to the proposed compound in order to minimize tree cutting and breaks in the tree canopy.
2. Require a gate across the access road where the use of the access road will become exclusive to the operator of the proposed telecommunication facility.
3. Restrict logging activities within fifty feet of the access road, ensuring that a tree canopy is able to grow over the access road.
4. Restrict logging activities where existing trees will screen the compound and the base of the telecommunication mast.

While the Petitioner does not believe that the proposed access and compound will have a fragmenting effect given that the access is proposed to revegetate, the Petitioner agrees to all four of these conditions to the extent of its ability. The Petitioner does not control the whole parcel upon which the project sits. Rather it only controls a small, leased area. Within that leased area,

the Petitioner agrees to limit cutting and logging as requested. Its objective is to have vegetative cover expand over the access as much as possible while still allowing for safe passage. It desires to remove as little of the forest cover as possible and for the existing forest outside the limits of clearing to be retained in their natural state.

3. Concerns regarding Clearing and Visibility

The Plan states that **“Telecommunications facilities development shall minimize site clearing and highly visible roadways.”** The RPC asserts that 57,978 square feet of clearing is “excessive.” It asks that the clearing be limited as suggested in Section 2, above. The RPC provides no evidence to explain or suggest *why* roughly 1.3 acres of tree clearing is “excessive” on an approximately 225-acre parcel. To the Petitioner, asserting that 1.3 acres of clearing (0.5% of the total acreage), with a substantial amount of revegetation, is “excessive” is an arbitrary conclusion based on no objective measure.

That said, the Petitioner can meet the recommendation of the RPC. The Petitioner is minimizing clearing and seeking to avoid creating any prominently visible roadway. The plans show that the clearing is limited to only allow for the construction of the access drive and the compound. There is no broad expanse of clearing or logging for unnecessary purposes proposed. The plans show that the tree cover will mostly abut the road such that the canopy will inevitably stretch over some or all of the road and block most views of the access as it does today.

Excessive or unnecessary clearing is not in the Petitioner’s interest. The Petitioner merely seeks to clear that which is necessary and required for the construction of the project. The Petitioner is nevertheless comfortable with conditions limiting clearing as outlined above in section 2. The proposed clearing can be limited such that the tree canopy may grow over the access


road and screen the proposed compound, but were required for the safe operating of utility lines. It is the Petitioner's desire that the access appear as may old Vermont logging roads do – a historic path through the mature forest.

With these responses, the Petitioner does not believe that the RPC comments raise a significant issue. To the extent the Commission or Hearing Officer disagree, the Petitioner seeks a hearing on these issues.

Dated: January 16, 2026
Burlington, Vermont

Respectfully submitted,

By:



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