

**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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**PETITIONER’S FIRST SET OF DISCOVERY REQUESTS TO THE TOWN OF  
TINMOUTH**

NOW COMES Petitioner by and through its undersigned counsel and hereby serves these Discovery Requests upon the Town of Tinmouth (the “Town”) in accordance with Public Utility Commission Rules 2.214 and 2.230. The Town is requested to provide a copy of its answers in electronic format on or before the deadline for responses as required under the applicable rules of procedure.

Petitioner requests that the Town answer the Discovery Requests under oath and in accordance with the Definitions and Instructions set forth herein along with the Vermont Rules of Civil Procedure and as applicable, the rules of the Vermont Public Utility Commission

Each document produced in compliance with these Discovery Requests shall be consecutively numbered and shall clearly identify the question or sub-question to which the document is responsive. Copies of all documents shall be legible in their entirety. Documents shall be produced in the form and manner in which they are stored. Electronically stored information should be produced in its native file format, preserving all metadata.

**DEFINITIONS**

1. The term “communication,” as used herein means any transmittal of information (in the form of facts, ideas, inquiries or otherwise), including, without limitation by means of documents (as defined herein).

2. The term “person,” as used herein is defined as any natural person or any business, legal, or governmental entity or association.

3. The term “concerning,” as used herein means referring to, relating, reflecting, describing, evidencing or constituting.

4. The word “relating” shall include, but not be limited to: concerning, referring to, embodying, containing, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, constituting, illustrating, depicting, summarizing, mentioning, recording, evidencing, supporting, contradicting or rebutting, directly or by inference.

5. The words “and” and “or” and the term “and/or” as used herein shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word “including” shall be construed without limitation.

6. Terms used in the singular shall be deemed to include plural and terms used in the masculine shall be deemed to include the feminine.

7. The term the “Town” shall mean the Town of Tinmouth, its Selectboard, its Planning Commission, Gail Fallar as its Town Clerk (among other positions), and any agents, consultants, or representatives working for or on behalf of the Town, past and present. The Town shall sign these Responses in accordance with the Rules and it shall be understood that the Town is bound by the Responses herein as if they were served on each municipal body, separately and individually and responded to separately and individually.

8. The term “you” or “your” shall mean the Town as defined herein.

9. The term “the Tower” shall mean the 130’ above ground level lattice tower as proposed by Petitioner in Docket No. 25-1679-PET located at 402 VT Route 140, Tinmouth Vermont.

10. The term the “site” shall mean 402 VT Route 140, Tinmouth Vermont.

11. A document is in your “possession, custody or control” if it is in your physical custody, or if it is in the physical custody of any other person and you (a) loaned such document in whole or in part; (b) have a right by contract, statute or otherwise to use, inspect, examine or copy such document on any terms; (c) have an understanding, express or implied, that you may use, inspect, examine or copy such document on any terms; or (d) have, as a practical matter, been able to use, inspect, examine or copy such document when you have sought to do so. Such document shall include, without limitation, documents that are in the custody of persons under your direct or indirect control, employees, attorney(s) or other agents.

12. The word “document” shall mean all written, printed, typed, transcribed, punched, taped, filmed, or other graphic matter of every kind and description whatsoever, however produced or reproduced, whether in hard-copy format or stored electronically on disk or magnetic media, including but not limited to:

(1) all correspondence, communications, statements, plans, drawings, designs, contracts, agreements, telegrams, maps, reports, memoranda (including written memoranda, records or logs of telephone conversations, other conversations, meetings, conferences, discussions, agreements, acts and activities), intra- and inter-office communications, minutes of meetings, agenda, transcripts, filings, opinions, calendar or diary entries, books, records, pamphlets, flyers, press-releases, lists, brochures, periodicals, articles, notes, bids, price lists, statistical tables, papers, manuscripts, emails, texts, commentaries, scrapbooks, notebooks, bulletins, circulars, accounts, ledgers, vouchers, invoices, charts, drafts, bills, checks, letters of credit or notes, computation reports, studies, assessments, appraisals, journals, analyses, computer printouts, or other statistical data or measurements or summaries prepared therefrom;

- (2) all photographs, mechanical or electronic sound records or transcripts, movies or motion pictures, videotapes, cassettes, discs, microfilm, microfiche, tapes, computer cards, computer tapes, computer programs, all other recordings of any description;
- (3) all drafts prepared in connection with such documents, whether used or not, and all facsimiles, microfilm, microfiche, photocopies, or other copies or reproductions of such documents in whatever form and by whatever means made, whether or not identical to the originals;
- (4) any electronic versions of any of the foregoing, including, but not limited to, electronic files created or saved on any computer, hard drive, solid state drive, diskette, CD, DVD or other medium, including personal phones, computers, tablets, or other electronic devices used by you or any agent or representative, as well as electronic files created or saved on or through an internet based email service or cloud storage service.

### **INSTRUCTIONS**

1. If you are unable to provide a complete response to any interrogatory or request, please provide a partial response, including as much information as may be available to you and/or subject to your control. If you object or fail to respond to all or any part of any interrogatory or request contained herein, your response should set forth clearly for each such interrogatory or request, the specific portion of the interrogatory that you have not responded or objected to, the extent and the specific ground(s) for your objection and/or your failure to respond, and whether, in such case, there is responsive information that you have not provided.

2. If you fail to respond to any interrogatory or request on the basis of any claim of privilege or work product, please furnish a log that contains the following information:

- (a) type of communication (e.g., telephone call, letter, memorandum, etc.);
- (b) date of the communication;
- (c) author(s) or originator(s) of communication including identification of any person by organization or affiliation;
- (d) addressee(s) and additional recipient(s) of the document;
- (e) if a document, the title of document;
- (f) if a document, a summary of the subject matter of the document;
- (g) if a document, the number of pages in the document;
- (h) if a document, a list of attachments, if any, providing the information specified in subparagraphs (a) through (f) hereof, as to each such attachment; and

- (i) the basis for the claim of privilege and a statement as to whether the privilege is claimed as to the entire communication or only a portion thereof and, if so, what portion.

3. These Interrogatories and Requests to Produce are to be continuing to the full extent provided by the Vermont Rules of Civil Procedure and Rule 26(e) thereof and as applicable the rules of procedure for the Vermont Public Utility Commission. Take notice that you have a continuing obligation to correct or supplement these responses under Vermont. R. Civ. P. 26(e) as information or documents are acquired by respondents, their agents, attorneys, or representatives.

4. When requested to identify a person, give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

5. When requested to identify documents, please give, to the extent known, the:

- (a) type of document;
- (b) general subject matter;
- (c) date of the document; and
- (d) author(s), addressee(s) and recipient(s).

6. When requested to identify communications, please give the:

- (a) type of communication;
- (b) general subject matter;
- (c) date of the communication;
- (d) author(s), addressee(s) and recipient(s); and
- (e) if the communication is a document, provide the information requested in Instructions Paragraph 4 above.

7. In the event that any interrogatory or request asks for information that you have provided in response to a prior interrogatory, please identify the response in which the information may be found.

8. To the extent any documents are to be produced in response to these interrogatories and requests they are to be produced in their native file format with all associated meta-data preserved.

9. To the extent any request seeks an admission, to the extent your answer is not a complete admission, state every reason your answer is not an admission, admitting no detail, and identify all facts and documents in your possession or known to you supporting your position.

10. To the extent a term in any request for admission is vague or undefined, it is to be accorded the normal and customary definition and you are instructed to respond applying such definition.

### **INTERROGATORIES**

1. Identify each person you consulted with or who otherwise provided information to help you answer these discovery requests.

2. Identify each person you plan to call as a witness at any hearing in the above-captioned matter and state the nature of their expected testimony.

3. Identify each expert you plan to call as a witness at any hearing and identify and produce: (i) their qualifications, (ii) their opinions, (iii) the basis for their opinions, and (iv) any and all documents and data that they relied on or considered for formulating their opinions.

4. Identify and produce each exhibit you plan to introduce at any hearing in this matter.

5. Identify all studies, reports, surveys, GIS data, or visibility or viewshed analyses in the Town's possession, custody, or control concerning the visibility of the Project from the Route 140/East Road intersection or from any other location within Tinmouth.

6. State the complete factual basis for the Testimony's assertion (Answer 5) that the Project site is "a potentially significant traffic hazard" because it is "located on a blind, steep curve,"

including: (a) identification of all accident, crash, or incident reports concerning this location on Route 140 for the preceding ten years; (b) identification of any traffic, sight-distance, or engineering study performed or reviewed by or for the Town concerning this location; and (c) identification of any person with expertise in traffic or highway engineering whom the Town consulted in forming this opinion.

7. Identify all comments, complaints, or communications received by the Town concerning traffic safety at or near the Project site during the preceding ten years, independent of this proceeding.

8. Explain why Exhibit GF-3 is not a full and complete copy of the Town of Tinmouth Zoning Bylaw when it is referenced as such in the Prefiled Testimony.

9. Identify the current provider(s) of two-way radio service used by the Town's emergency responders (fire, rescue, and any other emergency service), the frequency band(s) and system(s) used, and the date each such service was implemented.

10. State the complete factual basis for the Testimony's assertion (Answer 13) that "another service provider would not be compatible with the existing system," including identification of any technical analysis, vendor consultation, or Communication supporting that assertion and the person(s) who performed or provided it.

11. Identify all instances within the preceding five years in which Tinmouth's emergency responders experienced a radio communication failure, dead zone, or coverage gap, and identify all Documents relating to any such instance.

12. State whether the Town has evaluated, or been offered the opportunity to evaluate, co-location of municipal or emergency communications equipment on the proposed Tower, and identify all Documents and Communications concerning any such evaluation or offer.

13. Identify all Communications between the Town (including any Selectboard member, Planning Commission member, or Gail Fallar) and any other intervenor or party to this proceeding, or their representatives, concerning the Project or this proceeding.
14. Identify the basis for the Town's determination that the subdivision of the parcel "is contrary to the Town's health and public welfare".
15. Identify, with specificity, how the development of a telecommunications facility would result in "danger to public health and safety".
16. Identify, with specificity, how the development of a telecommunications facility would result in "danger to ... the environment."
17. State whether the Town contends that any location within the Town of Tinmouth would be an acceptable site for a telecommunications facility capable of providing the wireless coverage described in the Application. If so, identify with specificity: (a) each such parcel, by owner, address, and/or SPAN number; (b) the zoning district in which each parcel is located; and (c) the factual and technical basis for the Town's contention that each parcel would be acceptable.
18. If the Town is unable or unwilling to identify a specific parcel in response to the preceding Interrogatory, state whether it is the Town's position that no location within Tinmouth is or could be an acceptable site for a telecommunications facility meeting Petitioner's coverage objectives, and state the complete basis for that position.
19. Identify each occasion on which any Town official, employee, or representative (including but not limited to any Selectboard member, Planning Commission member, or Gail Fallar) suggested, recommended, or requested that Petitioner locate the Project outside the Town of Tinmouth, stating the date, the person who made the statement, and its substance.

20. Identify all Communications between the Town and Petitioner, and between the Town and any other person, concerning any potential alternative location for the Project within the Town of Tinmouth, and state the outcome or disposition of each such discussion.
21. State whether the Town has ever proposed, suggested, or identified to Petitioner any alternative parcel or existing structure (including any church steeple, silo, or utility structure referenced in Zoning Bylaw § 409(C)(3)) that the Town contends could accommodate the Project or a functionally equivalent facility, and if so, identify that location and describe the Town's proposal.
22. Identify all existing tall structures within the Town of Tinmouth that the Town contends are, or may be, suitable for the co-location of wireless telecommunications antennas capable of meeting Petitioner's coverage objectives, and state the basis for that contention.
23. State whether the Town has ever adopted, considered, or discussed any map, overlay, or planning document identifying preferred, suitable, or acceptable locations for telecommunications facilities within Tinmouth, and if so, identify and produce all such Documents.
24. State whether the Town has evaluated the technical feasibility of any alternative site within Tinmouth for the Project, including its elevation, coverage, or propagation characteristics, and if so, identify all Documents concerning that evaluation and the person(s) who performed it.
25. Identify the person who made the statement referenced in Request to Admit No. 17 that Petitioner should "find another community in need of the services you feel are necessary," the date and context in which it was made, and state whether that statement reflects the official position of the Town on this Application.
26. State whether the Town contends that Petitioner's coverage objectives, as described in the Prefiled Testimony of Kevin Delaney, could be achieved by a telecommunications facility located

entirely outside the Town of Tinmouth and, if so, identify the location(s) the Town contends would achieve those objectives and the basis for that contention.

### **REQUESTS TO PRODUCE**

1. Produce all documents identified in response to the above Interrogatories.
2. Produce all documents relied on, referenced, or considered in responding to the above Interrogatories.
3. Produce all studies, reports, surveys, maps, GIS data, or visibility or viewshed analyses concerning the visibility of the Project from any location, including the Route 140/East Road intersection.
4. Produce all Documents concerning the designation of the Route 140/East Road intersection, or any other location, as a “Scenic Resource” in the Town Plan.
5. Produce all applications, permits, decisions, waivers, or variances issued by or to the Town under Zoning Bylaw § 409 (or any predecessor provision) for any telecommunications facility during the preceding fifteen years.
6. Produce all Documents concerning the Planning Commission’s or any other Town body’s determination under Subdivision Regulation § 301.1 that the subject parcel “cannot be used for building purposes without danger to public health or safety, or to the environment.”
7. Produce all Documents concerning any evaluation of, or Communication regarding, the compatibility or incompatibility of the Town’s emergency radio system with any other service provider, including ITW.
8. To the extent not produced in response to Request No. 1 or 2, please produce all documents, exhibits and materials you plan on introducing at any hearing in this matter.

9. Produce all Documents concerning any alternative site, parcel, or structure within Tinmouth that the Town contends is or may be suitable for the Project, including maps, correspondence, and internal discussions.
10. Produce all Documents concerning the statement referenced in Request to Admit No. 17.
11. Produce all Documents concerning any map, plan, or policy of the Town identifying preferred or acceptable locations for telecommunications infrastructure within Tinmouth.

### **REQUESTS TO ADMIT**

1. Admit that all proposed improvements required for the development of the proposed telecommunications facility will be within the Conservation Zoning District as reflected on Exhibit LH-1 (revised).
2. Admit that the Town Plan adopted December 11, 2025 (Exhibit GF-2) was not in effect at the time the Petition was deemed complete.
3. Admit that Exhibit LH-1 (revised) does not depict any constructed improvements within the Protection Zoning District.
4. Admit that the proposed telecommunications facility is over 300 feet from any dwelling.
5. Admit that that Exhibit GF-3 is not a full and complete copy of the Town of Tinmouth Zoning Bylaw.
6. Admit that Section 409(B)(2) of the Town of Tinmouth Zoning Bylaw (Exhibit GF-3) states “no permit shall be required for a Wireless Telecommunications Facility that is subject to or has received a Certificate of Public Good under 30 VSA §248a.”
7. Admit that the Town of Tinmouth Zoning Bylaw (Exhibit GF-3) at Section 409(J) defines a “Tower” as “a structure more than 20 feet in height above the ground elevation built for the

purpose of support, elevation, or placement of antennas for broadcast services or wireless services.”

8. Admit that an omni fiberglass whip antenna is not a “tower” or “structure” as the words are used in Section 409(C)(4) of the Town of Tinmouth Zoning Bylaw (Exhibit GF-3).
9. Admit that no formal determination has been issued by Planning Commission determining that the site has been deemed “land not ordinarily suitable for subdivision under Section 301.1 of the Subdivision Regulations”
10. Admit that such a determination would require a formal application to the Town of Tinmouth pursuant to the Zoning Bylaw and Subdivision Bylaw.
11. Admit that Section 409 of the Town of Tinmouth Zoning Bylaw does not refer to Section 301.3 or 301.5 of the Subdivision Bylaw.
12. Admit that that Exhibit GF-4 is not a full and complete copy of the Town of Tinmouth Subdivision Bylaw.
13. Admit that the Town of Tinmouth Subdivision Bylaw includes Section 313 Subdivision Exceptions.
14. Admit that the subject parcel could be subdivided as set forth in Section 313 and said subdivision would not be subject to the Town of Tinmouth Subdivision Bylaw.
15. Admit that the Subdivision Regulations do not define what would constitute “danger to public health or safety, or to the environment”.
16. Admit that the Petitioner offered to consider alternative locations in the Town of Tinmouth to develop a telecommunications facility and the Town declined to acknowledge the existence of an acceptable site.

17. Admit that the Town has requested the Petitioner to “find another community in need of the services you feel are necessary”.
18. Admit that the Town has not identified to Petitioner, in this proceeding or otherwise, any specific parcel within the Town of Tinmouth that the Town contends is an acceptable site for the Project.
19. Admit that neither the Town Plan nor the Zoning Bylaw identifies any specific parcel, structure, or location within Tinmouth as a preferred or designated site for a telecommunications facility.
20. Admit that the Town has not conducted, commissioned, or reviewed any siting, feasibility, or coverage study identifying an alternative location within Tinmouth for the Project.
21. Admit that Zoning Bylaw § 409(C)(3) encourages, but does not require, an applicant to locate antennas on existing tall structures such as church steeples or silos, and that the Town is not aware of any existing tall structure in Tinmouth capable of accommodating the Project’s antennas at a height sufficient to meet Petitioner’s coverage objectives.

Respectfully submitted this 2<sup>nd</sup> day of September, 2026

MSK ATTORNEYS

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