

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

CASE NO. 24-1755-PET

APPLICATION OF INDUSTRIAL TOWER AND WIRELESS
LLC FOR A CERTIFICATE OF PUBLIC GOOD, PURSUANT
TO 30 V.S.A. SECTION 248a, AUTHORIZING THE
CONSTRUCTION OF A WIRELESS TELECOMMUNICATIONS
FACILITY IN WESTMORE, VERMONT

May 14, 2025
9:30 a.m.

Via videoconference

Evidentiary Hearing held before the
Vermont Public Utility Commission, via videoconference, on
May 14, 2025, beginning at 9:30 a.m.

P R E S E N T

HEARING OFFICER: Gregg C. Faber, Utilities Analyst

CAPITOL COURT REPORTERS, INC.
P.O. BOX 329
BURLINGTON, VERMONT 05402-0329
(802) 863-6067
EMAIL: info@capitolcourtreporters.com

A P P E A R A N C E S

MICHAEL SWAIN, ESQUIRE

MATTHEW BAKERPOOLE, ESQUIRE

Appearing for the Vt. Department of Public Service
112 State Street
Montpelier, VT 05620
michael.swain@vermont.gov

MSK ATTORNEYS

Appearing for the Petitioner
275 College Street
Burlington, VT 05401

BY: DANIEL A. SEFF, ESQUIRE

COOPER HAYES, ESQUIRE
dseff@mskvt.com

DONNA DZUGAS, PRO SE

Appearing for the Interveners
214 Goodwin Mountain Lane
Westmore, VT 05860
donnadzugas@yahoo.com

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1 HEARING OFFICER FABER: Good morning,
2 folks. This is a remote evidentiary hearing in Case
3 No. 24-1755-PET, the petition of Industrial Tower --
4 Industrial Tower and Wireless requesting a
5 Certificate of Public Good approving the installation
6 of a telecom facility in Westmore.

7 My name is Gregg Faber. I'm a hearing
8 officer with the Public Utility Commission.

9 Let's see. I'll start by taking
10 appearances. I'm going to ask each representative
11 for each party to state their name and affiliation
12 and then provide the names of attendees from that
13 entity. So I have a lot of folks on screen here.

14 I only look for parties here. Who is
15 representing the interveners in this case? I'm
16 assuming it's Ms. Dzugas, but I'm not --

17 MS. DZUGAS: Yes. I'm sitting down now
18 in front of her computer. Yes. I'm Donna Dzugas.

19 HEARING OFFICER FABER: So under
20 Westmore neighbors on my screen, so that's fine.

21 Ms. Dzugas, do you want to say who is
22 with you as part of your group.

23 MS. DZUGAS: Sure. I thought they were
24 going to introduce themselves. I'm Donna Dzugas.
25 They elected me to represent them as a group because

1 you asked that only one person speak.

2 HEARING OFFICER FABER: Right.

3 MS. DZUGAS: And then we have Megan
4 Patton, and we have Kathy Holmes. At the other end
5 we have Andrew Zebrowski and we have Bob Fitzpatrick.
6 Unfortunately, something has happened with Liz Tucker
7 and she will not be able to make it today.

8 HEARING OFFICER FABER: Okay. So
9 Patton, Holmes, Zebrowski. Did I miss anybody?

10 MS. DZUGAS: Fitzpatrick. Bob
11 Fitzpatrick.

12 HEARING OFFICER FABER: I did miss
13 someone. Thank you. I'm just writing this down for
14 my own benefit here.

15 Thank you, Ms. Dzugas. Who is next
16 here? I lost my screen. What's going on here? I'm
17 only seeing four parties. Okay. Mr. Swain.

18 MR. SWAIN: Yes. Michael Swain here
19 with the Department of Public Service. Here with me
20 is my colleague, Matthew Bakerpoole, who will just be
21 viewing today. And Mike Buscher from T.J. Boyle.

22 HEARING OFFICER FABER: Great. Thank
23 you. And Mr. Seff.

24 MR. SEFF: Good morning. This is
25 Daniel Seff from MSK Attorneys in Burlington

1 representing the Petitioner ITW, or Industrial Tower
2 and Wireless, LLC. And with me today is Kevin
3 Delaney from ITW and also Louis Hodgetts from DuBois
4 & King. And my MSK colleague, Cooper Hayes, is like
5 Mr. Bakerpoole is here, but is just observing.

6 HEARING OFFICER FABER: Great. Thank
7 you.

8 MR. SEFF: Thank you.

9 HEARING OFFICER FABER: All right.
10 What is next? So one preliminary matter. I've
11 reviewed the objections you filed, Mr. Seff, last
12 week regarding the admission of certain testimony and
13 exhibits mainly related to a balloon test conducted
14 by the interveners and the town -- the admission of
15 the town telecom ordinance. And I've looked at the
16 responses to that as well.

17 In the interest of compiling a full
18 record, I'm going to allow these two -- these -- that
19 evidence to be admitted into the evidentiary record
20 in the case. I believe that most of your objections
21 go to the weight to be accorded to each of those
22 pieces of evidence. And you'll have ample
23 opportunity to address that in your briefs filed
24 after this proceeding.

25 MR. SEFF: Thank you very much.

1 HEARING OFFICER FABER: With that, do
2 you, Mr. Seff, have any thoughts on how best to
3 proceed with this hearing today?

4 MR. SEFF: Thank you. Well I'm only
5 planning on calling two witnesses, that's Mr. Delaney
6 and Mr. Hodgetts. And the introduction of their
7 prefiled testimony and exhibits and moving admission
8 -- of the admission thereof will be brief.

9 I don't know to what extent they are
10 going to be subjected to cross examination. But my
11 introduction of their testimonies and exhibits will
12 be brief. But I would propose that as the Petitioner
13 that ITW go first. And then between Mr. Swain and
14 Ms. Dzugas, it's your call.

15 HEARING OFFICER FABER: Are you
16 planning to do any cross examination yourself?

17 MR. SEFF: I think there is a
18 possibility, yes. And I think it would be very
19 limited. Particularly in light of the evidentiary
20 ruling on the objections.

21 HEARING OFFICER FABER: Who are you
22 seeking to cross examine? Which witness or --

23 MR. SEFF: It would probably be, you
24 know, each of the neighbors; interveners.

25 HEARING OFFICER FABER: Okay. All

1 right. Anyone have a question about that or a
2 problem with doing it that way? Ms. Dzugas, yeah?

3 MS. DZUGAS: I would like a little
4 input on that. I would actually like the reverse. I
5 would like, if possible, that he could do the
6 testimonies only because -- that's why I thought each
7 person was going to introduce themselves. Because
8 certain people have limitations, whether it's a
9 medical appointment or a health need or a job that
10 they have to go to. And they made themselves
11 available for this morning, and they were hoping that
12 they could be cross-examined this morning. At least
13 if we could do those two people because they will not
14 be available in the afternoon.

15 HEARING OFFICER FABER: Okay. Mr.
16 Seff, are you okay with doing it that way?

17 MR. SEFF: I think so. Can I just
18 inquire which two people are we talking about?

19 MS. DZUGAS: Yes. It's Ray Lanier and
20 Megan Patton.

21 MR. SEFF: Yeah. I mean if they have
22 prior commitments and their time is limited, and it
23 would be helpful to the process and to them, I don't
24 have an objection to them going first.

25 MS. DZUGAS: And I'm sorry. I'm

1 getting a wave on the other side of the room. There
2 is another person that has to get to work before
3 after lunch, and that's Andrew Zebrowski. He has
4 work.

5 MR. SEFF: I guess the only thing I
6 would ask is, you know, to what extent does Ms.
7 Dzugas have cross examination of either Mr. Delaney
8 or Mr. Hodgetts? Because if that's going to be
9 limited, I think the normal protocol is the
10 Petitioner would go first.

11 HEARING OFFICER FABER: Yeah. Do you
12 have questions for Mr. Seff's witnesses, Ms. Dzugas.

13 MS. DZUGAS: Yes. And to be honest,
14 first of all, I'm not a lawyer. So it's not going to
15 run as smoothly as it would for Mr. Seff or Mr.
16 Swain. And so you have to take that into account.

17 And second of all, I do have a fair
18 number of questions since those are the only two
19 witnesses that have submitted testimony in the case
20 -- in the extensive case. So there are a lot of
21 questions, particularly since he submitted a change
22 of the plan just this week.

23 And then the other thing, too, is that
24 I did reach out to Mr. Swain and Mr. Seff last week
25 to try to redo the schedule so we could kind of --

1 when we talk to you right now we would have known
2 what order to do it, and we could have been a little
3 more efficient on setting up a schedule ahead of
4 time. But we are where we are now, and I just think
5 we could move forward better in the interest of
6 everyone if you could just do those three people
7 because they are only available in the morning.

8 HEARING OFFICER FABER: Mr. Swain? Do
9 you have any input on this?

10 MR. SWAIN: I also do prefer the
11 Petitioner going first, but if that will limit the
12 participation of some of the neighbors, then I think
13 we should just allow them to go first and make sure
14 they can participate.

15 HEARING OFFICER FABER: Mr. Seff, I
16 guess it's your call. If you really have pressing
17 questions for these three witnesses, then I'll allow
18 them to go first. But if you don't have pressing
19 questions and you can ask the questions of other
20 parts of the intervenor group, you can certainly go
21 first. That's -- as would be per normal here.
22 That's what we usually do. So it's up to you.

23 MR. SEFF: Thank you. I mean I think I
24 would have probably one to three questions each for
25 each of those three people, would be my guess.

1 HEARING OFFICER FABER: So you're okay
2 with them going first?

3 MR. SEFF: I think so. I mean I don't
4 want to be mean and, you know, if they have to get
5 somewhere, I don't want to be responsible for having
6 them miss an appointment or something like that. So
7 if it's okay with you, and okay with Mr. Swain, just
8 to keep things going smoothly, I would be okay with
9 it.

10 HEARING OFFICER FABER: Okay. And
11 these three witnesses again, Ms. Dzugas, are -- that
12 need to go somewhere was Patton --

13 MS. DZUGAS: My tech person. Sorry
14 about that. The other thing is when you were asking
15 for appearances, we do have -- we have the
16 interveners that are on record, but we also have the
17 witnesses which was Dave Anderson and Ray Lanier.
18 And he was the one I was referring to that's only
19 available in the morning. Ray Lanier. He's not
20 actually an intervener. He's part of our witness
21 list.

22 HEARING OFFICER FABER: So who needs to
23 go first?

24 MS. DZUGAS: Well I believe Ray would
25 need to go first because his is a medical issue. So

1 I would prefer that Ray goes first.

2 HEARING OFFICER FABER: And is there
3 anyone else who has time constraints? You said there
4 were three.

5 MS. DZUGAS: Megan Patton does.

6 HEARING OFFICER FABER: Okay. So
7 Patton and Lanier. That's just two.

8 MS. DZUGAS: Well Zebrowski just said
9 he found out from work he doesn't have to leave
10 early, so he's willing to stay.

11 HEARING OFFICER FABER: Okay. Why
12 don't we start with Mr. Lanier. Is he here?

13 MS. DZUGAS: He's -- should be on. He
14 signed into the thing. I will have to call him.

15 HEARING OFFICER FABER: There he is.
16 I've got him now. Okay. Mr. Lanier, how are you?

17 MR. LANIER: Yeah. There we go.

18 HEARING OFFICER FABER: Turn your mic
19 on. Okay.

1 RAY LANIER

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: Yes. I do.

5 HEARING OFFICER FABER: Okay. Mr.
6 Seff, the witness is available -- oh, do you have any
7 testimony to admit into the evidence of this
8 proceeding?

9 THE WITNESS: Nothing that I haven't
10 already done.

11 HEARING OFFICER FABER: So you're
12 moving the admission of your prefiled testimony?

13 THE WITNESS: Yes.

14 HEARING OFFICER FABER: Any objections
15 to that?

16 (No response)

17 HEARING OFFICER FABER: Hearing none,
18 it's admitted.

19 (The Prefiled Testimony of Raymond
20 Lanier was admitted into the record.)

21 Prefiled Testimony of Raymond Lanier

22 <http://epuc.vermont.gov/?q=downloadfile/753490/197093>

1 HEARING OFFICER FABER: So Ms. Dzugas,
2 do you have any -- you don't have any questions for
3 Mr. Lanier. You don't need to set this up. I
4 realize you're not an attorney. So you're okay with
5 Mr. Seff just asking questions at this point?

6 MS. DZUGAS: Yes.

7 DIRECT EXAMINATION

8 BY MS. DZUGAS:

9 Q. Ray, do you stand by the testimony you
10 submitted?

11 A. Yes.

12 Q. Are there any changes you would like to make?

13 A. No.

14 Q. And any exhibits that you submitted you also
15 stand by those?

16 A. Yes, I do.

17 Q. That's all I ask.

18 HEARING OFFICER FABER: Okay. So that
19 testimony and exhibits are admitted.

20 (Exhibits RL-1 and RL-2 were
21 admitted into the record.)

22 RL-1

23 <http://epuc.vermont.gov/?q=downloadfile/753489/198631>

24 RL-2

25 <http://epuc.vermont.gov/?q=downloadfile/753488/198631>

1 HEARING OFFICER FABER: Mr. Seff, you
2 can proceed with your cross examination.

3 MR. SEFF: Thank you.

4 CROSS EXAMINATION

5 BY MR. SEFF:

6 Q. Good morning, Mr. Lanier.

7 A. Morning.

8 Q. Can you hear me okay?

9 A. Yes. I can. I'm a little hard of hearing,
10 but everything is okay right now.

11 Q. Okay. Good. I can hear you loud and clear,
12 and I can see you as well. So thank you.

13 Where do you reside, Mr. Lanier?

14 A. I reside in Concord, New Hampshire is my
15 permanent residence. And I'm a property owner on -- in
16 Westmore.

17 Q. And how close in proximity is your Westmore
18 property to the site of the proposed tower?

19 A. I'm going to say approximately a mile
20 and-a-half.

21 Q. Okay. And do you have any experience
22 analyzing or assessing the aesthetics of
23 telecommunications towers?

24 A. No. Nothing official. No.

25 Q. And have you ever testified in a proceeding

1 regarding the siting or permitting of a telecommunications
2 tower?

3 A. No, I have not.

4 MR. SEFF: No further questions.

5 HEARING OFFICER FABER: Thank you, Mr.
6 Seff. So next up is Ms. Patton. Ms. Dzugas?

7 MS. DZUGAS: There she is. She's right
8 with you there.

1 MEGAN PATTON

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: I do.

5 HEARING OFFICER FABER: Great. Thank
6 you.

7 Ms. Dzugas, do you want to move the
8 admission of her testimony and exhibits?

9 MS. DZUGAS: Sure.

10 DIRECT EXAMINATION

11 BY MS. DZUGAS:

12 Q. Megan, do you stand behind your testimony? Is
13 there anything you want to change in your testimony?

14 A. No.

15 HEARING OFFICER FABER: Okay.

16 BY MS. DZUGAS:

17 Q. Do you stand by all your exhibits, and is
18 there anything you want to change on your exhibits?

19 A. No.

20 HEARING OFFICER FABER: Any objections
21 to the admission?

22 MR. SEFF: None other than what we
23 stated in our written objection.

24 HEARING OFFICER FABER: Right. Thank
25 you. All right. Your witness, Mr. Seff.

1 MR. SEFF: Thank you, Mr. Faber.

2 CROSS EXAMINATION

3 BY MR. SEFF:

4 Q. Good morning, Ms. Patton.

5 A. Good morning.

6 Q. Can you see and hear me okay?

7 A. I can. Can you see and hear me?

8 Q. Yes, I can. Loud and clear. Thank you.

9 Where do you reside?

10 A. I live at 363 Westside Lane in Westmore.

11 Q. Okay. And how close is your property in
12 proximity to the proposed tower?

13 A. It would be around 900 feet.

14 Q. Okay. And do you have any experience
15 assessing or analyzing the aesthetics of
16 telecommunications towers?

17 A. No.

18 Q. And have you ever testified before in a
19 proceeding regarding the siting or permitting of such a
20 tower?

21 A. No.

22 Q. Were you present at a so-called balloon float
23 conducted by Mr. Anderson, David Anderson?

24 A. Yes. Present at my home. I was at my house.

25 Q. Oh, okay. Do you have any experience with

1 conducting or assessing balloon floats concerning the
2 siting of telecommunications towers?

3 A. No. Not specifically. But I could see the
4 balloon from my house.

5 MR. SEFF: Okay. No further questions.

6 Thank you.

7 HEARING OFFICER FABER: Thank you, Mr.

8 Seff.

9 Mr. Swain, do you have any questions
10 for these witnesses? I feel like I'm leaving you out
11 here.

12 MR. SWAIN: No worries. Thank you for
13 asking though. I have no questions for either of the
14 first two witnesses.

15 HEARING OFFICER FABER: Okay. Please
16 raise your hand or nudge me somehow if I skip over
17 you inadvertently.

18 Okay. So those are the two witnesses
19 with time constraints. Now we can get back to -- or
20 get to Mr. Seff's witnesses.

21 Is everyone okay with that? So Ms.
22 Dzugas, you're going to have some questions for both
23 these witnesses, I'm assuming. So Mr. Seff, why
24 don't you introduce your witnesses, and we will go
25 from there.

1 Ms. Patton's testimony and exhibits is
2 admitted into the evidentiary record. Thank you.

3 (The Prefiled Testimony of Megan Patton
4 was admitted into the record.)

5 (Exhibits marked MP-1 through 10 were
6 admitted into the record.)

7 Prefiled Testimony

8 <http://epuc.vermont.gov/?q=downloadfile/753466/198631>

9 MP-1

10 <http://epuc.vermont.gov/?q=downloadfile/753465/198631>

11 MP-2

12 <http://epuc.vermont.gov/?q=downloadfile/753464/198631>

13 MP-3

14 <http://epuc.vermont.gov/?q=downloadfile/753458/198631>

15 MP-4

16 <http://epuc.vermont.gov/?q=downloadfile/753457/198631>

17 MP-5

18 <http://epuc.vermont.gov/?q=downloadfile/753456/198631>

19 MP-6

20 <http://epuc.vermont.gov/?q=downloadfile/753455/198631>

21 MP-7

22 <http://epuc.vermont.gov/?q=downloadfile/753454/198631>

23 MP-8

24 <http://epuc.vermont.gov/?q=downloadfile/753453/198631>

25 MP-9

26 <http://epuc.vermont.gov/?q=downloadfile/753444/198631>

1 MP-10

2 <http://epuc.vermont.gov/?q=downloadfile/753443/198631>

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1 HEARING OFFICER FABER: All right.

2 It's up to you, Mr. Seff.

3 MR. SEFF: Great. Thank you, Mr.

4 Faber. I would like to call as the first witness,

5 Mr. Kevin Delaney.

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1 KEVIN DELANEY

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: Yes, I do.

5 HEARING OFFICER FABER: Thank you.

6 DIRECT EXAMINATION

7 BY MR. SEFF:

8 Q. Morning, Mr. Delaney. Can you see and hear me
9 okay?

10 A. Good morning. Yes, I can see you.

11 Q. I can see you and hear you as well. Please
12 state your name and occupation and job title.

13 A. Yes. My name is Kevin Delaney. And I work
14 for Industrial Tower and Wireless. And I'm the Vice
15 President of site acquisition and development.

16 Q. Thank you. And in conjunction with this
17 proceeding did you submit prefiled testimony and several
18 exhibits, specifically exhibits labeled KD-1 through KD-4?

19 A. Yes, I did.

20 Q. And do you have any changes to either your
21 prefiled testimony that was submitted or those exhibits?

22 A. No.

23 MR. SEFF: At that point then, Mr.
24 Faber, I would move the admission of Mr. Delaney's
25 prefiled testimony and his exhibits KD-1 through

1 KD-4.

2 HEARING OFFICER FABER: Any objections,
3 Ms. Dzugas, Mr. Swain?

4 (No response)

5 HEARING OFFICER FABER: Okay. The
6 testimony and exhibits are admitted into the record.

7 MR. SEFF: No further questions.

8 (The Prefiled Testimony of Kevin Delaney
9 was admitted into the record.)

10 (Exhibits marked KD-1 through KD-4 were
11 admitted into the record.)

12 Prefiled Testimony

13 <http://epuc.vermont.gov/?q=downloadfile/720080/198631>

14 KD-1

15 <http://epuc.vermont.gov/?q=downloadfile/745154/198631>

16 KD-2

17 <http://epuc.vermont.gov/?q=downloadfile/745158/198631>

18 KD-3

19 <http://epuc.vermont.gov/?q=downloadfile/745162/198631>

20 KD-4

21 <http://epuc.vermont.gov/?q=downloadfile/745166/198631>

1 HEARING OFFICER FABER: Okay. So are
2 you going to present Mr. Delaney for cross
3 examination now, Mr. Seff?

4 MR. SEFF: Yes.

5 HEARING OFFICER FABER: Okay. Thank
6 you.

7 MR. SEFF: Thank you.

8 HEARING OFFICER FABER: So Ms. Dzugas,
9 it's up to you now.

10 MS. DZUGAS: Okay. Between
11 technological things and my first time doing this,
12 please bear with me.

13 HEARING OFFICER FABER: I will.

14 MS. DZUGAS: Thank you. I appreciate
15 it. I mean all of you, not just one.

16 CROSS EXAMINATION

17 BY MS. DZUGAS:

18 Q. Okay. Mr. Delaney, on your testimony on page
19 1, I would appreciate if on -- let's see -- it's line 14
20 through 16, you talk about enhanced specialized mobile
21 radio network throughout New England and southern Florida
22 that you're responsible for. Correct?

23 A. Correct.

24 Q. And then -- so when you say New England, what
25 areas of New England are you responsible for?

1 A. That would include Massachusetts, Rhode
2 Island, Maine, New Hampshire, and Vermont.

3 Q. Okay. And your responsibilities, it says,
4 entails site selection, antenna selection, propagation
5 analysis, site layout, design, frequency planning and
6 coordination. Correct?

7 A. Yes.

8 Q. So you said you were -- what role do you play
9 in the site acquisition team?

10 A. I am the vice president of the site
11 acquisition and development team.

12 Q. And as vice president what does that entail in
13 discovering the sites that you choose?

14 A. I would -- I produce the search rings to our
15 site acquisition team for them to find potential sites
16 that fill in coverage gaps in our networks.

17 Q. And when you say fill in gaps in your network,
18 what is your network?

19 A. Our network is a 900-megahertz two-way radio.
20 It's an enhanced specialized mobile radio network.

21 Q. And is that a subscription service?

22 A. Yes.

23 Q. So anyone that wants to use that network would
24 have to pay for a subscription to use it?

25 A. Yes. That's correct.

1 Q. Could you give me an example of a likely
2 customer?

3 A. Sure. Utility companies. Blue collar
4 companies like construction companies. Plumbing
5 companies. Electrical contractors. People like that.

6 Q. And do you know approximately how many
7 customers you have that are in this particular area in the
8 Northeast Kingdom?

9 A. So at present, we don't have any customers
10 because we are building our network out so we can roll out
11 the system in Vermont.

12 Q. Okay. So when you're saying you're rolling
13 out the system in Vermont, and you are the vice president
14 of the site acquisition team, have you considered other
15 existing towers and sites that exist in the Northeast
16 Kingdom?

17 A. We have.

18 Q. You have. And have you considered any in the
19 immediate area which you refer to in your -- you refer to
20 in your map there is 10 within a 10-mile radius.

21 Have you connected with any of those?

22 A. We have reviewed those and reviewed the
23 coverage for those.

24 Q. And are you considering locating your service
25 on any of those towers?

1 A. No.

2 Q. Okay. You mention also that you've testified
3 in front of municipalities to explain coverage needs from
4 an RF propagation standpoint. Have you done that in the
5 Northeast Kingdom at all?

6 A. I have.

7 Q. And where have you done that?

8 A. I've done it in Enosburg, Vermont.

9 Q. Okay. And have you done it anywhere else?

10 A. Yes. In Worcester, Vermont.

11 Q. Have you done it in any close area -- closer
12 areas to Westmore?

13 A. No.

14 Q. Okay. You also mention -- because you've said
15 you testified in front of municipalities. Have you also
16 approached any of these municipalities, not on a legal
17 basis of testifying, but just approaching and talking to
18 the municipalities?

19 A. No.

20 Q. Okay. The next thing you said you have
21 testified as an expert witness in federal court cases.
22 Are any of those related to Vermont?

23 A. As far as actually testifying at court, not in
24 Vermont. No.

25 Q. None for Vermont. Okay.

1 A. No.

2 Q. On the next page, on page 2, you list that
3 you're responsible for filings with the FAA and the
4 federal -- and FCC?

5 A. Right.

6 Q. In this particular case anything that was
7 filed with the FAA or FCC for this particular tower are
8 you familiar with -- have you reviewed anything that ITW
9 has submitted to either one of those agencies --

10 A. Yes.

11 Q. -- for this tower? Did you sign off on it?
12 Are you the person responsible for anything that was
13 submitted on behalf of ITW to the FCC or the FAA?

14 A. To the FAA, correct. Yes.

15 Q. You didn't submit anything to FCC?

16 A. Not at this time.

17 Q. Not at this time. Okay. So would you say
18 that you're responsible for the accuracy, that is anything
19 that is submitted on ITW's behalf, to the FAA?

20 A. Yes.

21 Q. And would you say that -- you're saying --

22 MR. SEFF: I'm going to object to this
23 line of questioning. I'm trying to be judicious
24 here. But the neighbors have been admitted for a
25 very limited purposes in this case, and that is

1 aesthetics and compliance with the town plan. And
2 inquiring of Mr. Delaney about filings with federal
3 agencies strikes me as way beyond the scope of that
4 admission.

5 HEARING OFFICER FABER: Yeah. I tend
6 to agree, Mr. Seff. Ms. Dzugas, where are you going
7 with this questioning?

8 MS. DZUGAS: Well because later on when
9 you get further down, you'll see how that will
10 dovetail into something else with the aesthetics and
11 the planning. But I'll move on a little faster. I
12 will try -- once again, I'm not a seasoned trial
13 attorney, Mr. Seff, and --

14 HEARING OFFICER FABER: I know. But if
15 you could dovetail that a little bit faster. You
16 know, like get to the part where he's talking about
17 aesthetics, town plan, that makes sense. But FAA,
18 I'm not sure what you're getting at there.

19 MS. DZUGAS: Okay. I can only go by
20 his testimony, what he testified to. Okay.

21 So when I, as a mere tax paying citizen
22 in this town, I have to go by what he's saying. And
23 it does eventually tie into the two things you have
24 limited us to. Okay?

25 HEARING OFFICER FABER: Right.

1 MS. DZUGAS: And so I'm sorry that I
2 can't be as quick as you would like, because I don't
3 have the skill set.

4 HEARING OFFICER FABER: It's fine. I
5 just want to remind you that all of his testimony is
6 in the record. So you don't have to, you know,
7 question him on stuff.

8 MS. DZUGAS: I understand that. I will
9 try to be more succinct. I apologize.

10 HEARING OFFICER FABER: All right.

11 Thank you.

12 BY MS. DZUGAS:

13 Q. The next one -- which it's relevant because it
14 goes to his experience and his role in this process.
15 Okay. And that's -- anyway. Let me just continue.

16 The next part of the thing was he says that on
17 question 3 that he has been involved with some Vermont
18 cases: Fairfax, Eden, Ira, and the next one I believe is
19 Enosburg. And all of them are under the Certificate of
20 Public Good. Correct, Kevin Delaney?

21 A. I'm sorry. That's a question?

22 MR. SEFF: I'm going to object to the
23 form of that question. I don't quite understand it
24 myself.

25 THE WITNESS: Right.

1 HEARING OFFICER FABER: What are you
2 asking Mr. Delaney? I'm not sure, Ms. Dzugas,
3 either. I was a little confused by that.

4 MS. DZUGAS: Well part of the thing
5 that goes to aesthetics and planning is they are
6 choosing a location in Vermont that happens to be in
7 our neighborhood. Okay?

8 HEARING OFFICER FABER: Right.

9 MS. DZUGAS: And these are the only
10 ones so far that they have experience with that they
11 are mentioning in their testimony. So I'm just
12 confirming those are the four, three of which have
13 gotten a Certificate of Public Good and one has not.
14 And I was just -- because he states that it is in
15 federal court. And I believe it is -- is it still in
16 federal court? The Enosburg case?

17 MR. SEFF: Again, objection. This is
18 not about Enosburg. This is about Westmore.

19 MS. DZUGAS: The similarities are that
20 Enosburg was also limited to aesthetics, and we are
21 limited to aesthetics and town plan, same as
22 Enosburg. So the correlation is relevant. And it's
23 in Vermont.

24 HEARING OFFICER FABER: Hold on, Ms.
25 Dzugas. I'm just not sure what you're asking. Are

1 you asking whether a site or a project in Enosburg
2 got a CPG?

3 MS. DZUGAS: He testified -- in his
4 testimony he's saying that it's in review in federal
5 court for Enosburg; that the other three did get
6 CPGs. This is relevant because it is Vermont. If we
7 are talking about planning, talking about orderly
8 development which falls under the -- one of our few
9 things we are allowed to talk about, which is the
10 town plan and orderly development, anything that they
11 have done in Vermont which is -- I'm not saying --
12 talking about New Hampshire or Maine or anywhere
13 else. I'm saying let's just talk about Vermont.

14 We are doing orderly planning, and
15 Westmore's site that they are proposing should be
16 part of the orderly planning for the State of
17 Vermont. Because that's why Certificate of Public
18 Good is not --

19 HEARING OFFICER FABER: Okay. I'm
20 going to stop you right there. So you're getting off
21 the subject of aesthetics or the compliance with the
22 town plan. I need you to focus on those two issues
23 because that is your -- that is what you were granted
24 intervention on. Okay?

25 So if you can move to the actual

1 aesthetics of this project, and the actual compliance
2 of this project with the town plan, that would be
3 great.

4 BY MS. DZUGAS:

5 Q. Okay. So let's go on to number 4. Mr.
6 Delaney, is what -- your answer to number 4; is that
7 accurate to the best of your knowledge at this particular
8 point today?

9 A. Sorry. Which number 4 are you asking about?
10 My prefiled testimony?

11 Q. Your testimony. Your testimony about the
12 location of the project. And the subject of the 248
13 filing.

14 Are you standing by that nothing has changed
15 since you testified, that you wrote this testimony?

16 A. Other than what was submitted this week that
17 was mentioned. There was a modification to the site plan.

18 Q. Okay. And once again, would you agree that
19 question 5 that you say goes back to your subscription
20 service, that the ITW -- you're proposing this tower -- in
21 your words: The project will provide the needed coverage
22 and capacity to allow ITW subscribing, living in, working
23 in or passing through Westmore area to be able to use the
24 ITW network.

25 And that's the sole purpose of the tower at

1 this point?

2 A. You're asking if I agree to what I stated?

3 Q. Yes.

4 A. Yes.

5 Q. Okay. Because now we are eventually going to
6 get into aesthetics. I'm making sure that we are saying
7 -- it goes into -- anyway. I'm not going to go on. I'm
8 sorry.

9 HEARING OFFICER FABER: It's okay.

10 MS. DZUGAS: Once again, this is all
11 new to me. I'm trying my best. Okay?

12 HEARING OFFICER FABER: Yup.

13 BY MS. DZUGAS: And you'll have to -- I
14 just have to take some time. It does tie back to the
15 aesthetics, so sometimes if I'm not getting right to
16 the point, just let me know.

17 BY MS. DZUGAS:

18 Q. When you were doing the site -- this is
19 aesthetics. When you were looking for the site, and
20 you're the vice president of site acquisition, did you
21 consider any town-owned land, Westmore town-owned land?

22 A. We reviewed the search ring that would provide
23 the coverage that was needed for the site, and within that
24 area there was no town land available.

25 Q. If your site acquisition team considered the

1 town-owned lands, do you know approximately how many
2 pieces of town-owned land and where they were located in
3 Westmore around Lake Willoughby that they were?

4 A. I do not.

5 Q. Would you say that -- so you are stating right
6 now that whichever town-owned lands, you don't know how
7 many you considered, you don't know where they were
8 located, and but whichever ones you did do you're saying
9 they would not serve your purposes?

10 A. I'm just saying --

11 MR. SEFF: Objection. Argumentative
12 and misstates the testimony.

13 HEARING OFFICER FABER: Could you -- so
14 what is the question, Ms. Dzugas?

15 MS. DZUGAS: The question is he's in
16 charge of the site acquisition committee. Goes to
17 aesthetics. What other places has he considered in
18 our town so that perhaps the aesthetics could be
19 better met? They could be better mitigated.

20 HEARING OFFICER FABER: Okay. So that
21 question I understand. Do you understand that
22 question, Mr. Delaney? Have you evaluated other
23 sites in the town? That seems fairly
24 straightforward.

25 THE WITNESS: I do. So we reviewed

1 properties in the general area of our proposal,
2 because it's in the western portion of town at a good
3 distance away from the lake and sensitive areas, and
4 it provides coverage needed to operate a 900-
5 megahertz network.

6 BY MS. DZUGAS:

7 Q. When you say it's a good distance from the
8 lake, what distance would that be?

9 A. It's about three quarters of a mile.

10 Q. And so -- and am I understanding you correctly
11 that you just said you only considered that area of
12 Westmore, the west side of the lake, the northwest side of
13 the lake?

14 A. Because of the propagation characteristics of
15 the terrain of the town, yes.

16 Q. So you're saying that you did look at other
17 propagation areas of the town, but none of them -- you
18 didn't consider the south beach. You didn't consider the
19 west side -- the east side of the lake. You didn't
20 consider other areas. You only did the northwest side?

21 A. To provide the propagation characteristics
22 that we needed to fulfill, yes, we considered the west
23 side.

24 Q. Okay. Maybe it's my ignorance. But what do
25 you mean by the propagation -- your propagation needs?

1 Can you explain?

2 A. The coverage needs for the site.

3 Q. Just for your radio service?

4 A. Correct.

5 Q. Okay. When we are talking about -- because we
6 are doing aesthetics. We are talking about the site
7 acquisition.

8 Do you remember participating in a February
9 22, 2024, informational meeting at the town of Westmore
10 via Zoom?

11 A. Yes. I don't recall the exact date. But if
12 that's the date that you're saying it was. Then --

13 Q. Okay. And do you recall what you shared with
14 the people present at that meeting?

15 A. I don't remember exactly what it was. It's
16 been some time now.

17 Q. This was the required meeting that was after
18 the answer that was -- I'm sorry -- the application that
19 was submitted on December 15, 2023?

20 A. Which is the 60-day notice?

21 Q. Right. So we do agree it was outside the 60
22 days. The meeting was held outside the 60 days?

23 A. I would have to --

24 MR. SEFF: Objection.

25 THE WITNESS: -- look at a calendar.

1 BY MS. DZUGAS:

2 Q. At that meeting do you recall if anyone -- if
3 the people present asked about aesthetics and their
4 concern with the tower rising above the trees, being close
5 to residences, being in an agricultural place?

6 A. I recall questions about the aesthetics. Yes.

7 Q. Okay. As far as when you considered the
8 aesthetics of this particular tower in that location, did
9 you consider the closest houses to -- how close the houses
10 are to that particular location?

11 A. We reviewed the location, and we reviewed the
12 Google Earth, and obviously we are on the property as
13 well. And we felt that the visibility would be fairly low
14 for those surrounding homes.

15 Q. Do you know approximately how many homes you
16 could see from the location? Well I'm sorry. Let me
17 backtrack.

18 What time of the year -- when you're saying
19 you made that decision and you were on site, do you know
20 what time of the year it was?

21 A. I have been on site different times of year.
22 Whether it was the fall, or the spring and the winter.

23 Q. So pretty much all seasons except summer. So
24 at any of those times that you visited as the site
25 acquisition and taking the aesthetics into account, could

1 you see any neighbors' houses? Could you see them --

2 A. No.

3 Q. -- when you stand at the site?

4 A. No.

5 Q. And the site -- the site that you're
6 proposing, how did you access that site?

7 A. Through the existing road that leads to it.

8 Q. Can you clarify that?

9 A. Frog Hollow Lane.

10 Q. Okay. So are you referring to the road -- the
11 right of way that comes off of Westside Lane?

12 A. I'm referring to Frog Hollow Lane is how I
13 accessed the site to get there.

14 Q. Okay. So when you went on to Frog Hollow Lane
15 and you went to the site, and where your platform and
16 thing is being proposed, did you actually go into that
17 wooded area where the platform would be to assess the
18 aesthetics from that point? And that's at ground level?

19 A. Yes. Of course.

20 Q. And you couldn't see any houses from there
21 when you assessed it amongst those trees?

22 A. No.

23 Q. Okay. As far as the aesthetics, and we are
24 just talking about ground level right now. Can you
25 explain you're saying -- I'm sorry.

1 Can you explain what the actual compound is
2 going to look like?

3 A. Of course. So the compound itself is a 50
4 foot by 50-foot square compound which will have chainlink
5 fence surrounding it. And there will be a tower in the
6 very center of that compound. And it's a lattice-style
7 tower. It's 140 feet in height. And there will be some
8 ground equipment that's basically like an outdoor cabinet
9 that will sit on a concrete pad.

10 Q. Will there only be one cabinet?

11 A. At present, yes. Well I'm sorry. Let me
12 change that. There will be one cabinet as well as some
13 underground utilities which will also have some cabinets
14 that will connect to our equipment at the site. So there
15 will be multiple cabinets on the ground within the 50 foot
16 by 50 foot of compound.

17 Q. And the chainlink fence, did you say how high
18 that's going to be?

19 A. It's 8 feet high.

20 Q. Eight feet high. Now when you're talking
21 about these cabinets, so just for your radio frequency for
22 what you're proposing this tower for, it will be multiple
23 cabinets just for that? Just for that service?

24 A. No. It will just be one cabinet for that
25 service.

1 Q. Then I'm sorry. I misunderstood what you said
2 about the other cabinets for utilities. Wouldn't that be
3 needed?

4 A. There will be a utility cabinet for the
5 transformer for the site, too. So the power company would
6 own that.

7 Q. Okay. You have to bear with us, because I'm
8 representing a group of interveners, and sometimes someone
9 has a question.

10 A. No. Sure. No problem.

11 Q. Okay. I'm going to need that question back.
12 I'm not going to remember it. Sorry. Can you take
13 another piece of paper and start over? Okay. I'm sorry.

14 I've got a few questions from a few
15 interveners. That's why I wish they could ask their own
16 questions. I was getting to that. No, that's very good.
17 They are all thinking the same.

18 So back to cabinets, there is a mention with
19 the aesthetics. So right now it's being proposed for your
20 radio tower, and I believe you submitted that Glover
21 ambulance you are, for free, granting Glover ambulance
22 space on the tower; correct?

23 A. Correct.

24 Q. Will they need their own cabinet?

25 A. They will.

1 Q. Okay. So that's another cabinet that will be
2 put right on that same -- you're saying 50 by 50 compound?

3 A. Within the 50 by 50 compound. Correct.

4 Q. Okay. All right. And then there is a
5 question I missed here from one of the interveners. When
6 I was asking about other land sites that you might have
7 considered that -- did you -- were you aware that the --
8 I'm sorry. That's not the one.

9 That half a mile away at the same elevation
10 there is a piece of town land that is owned by the town?

11 A. I'm not aware of that. No.

12 Q. Okay. Thank you. Before I ask that other
13 question, I have to finish with aesthetics. There is a
14 question they have about town plan, and I'm trying to stay
15 organized.

16 Now back to the aesthetics. So this might be
17 more for Mr. Hodgetts, and it might not be for you. But
18 so correct me if you say it's outside your purview and I
19 should save it for the next witness.

20 When you considered this particular site, how
21 much input did you get from any of the state agencies
22 considering -- for the aesthetics and the wildlife, which
23 is part of the aesthetics because we like our bears and
24 our elk and our moose and deer and everything.

25 So did you talk to any state agencies, any of

1 them, using ANR as an example, about how that might affect
2 any wildlife and the aesthetics and how they live amongst
3 there?

4 MR. SEFF: I'm going to object on the
5 wildlife component of the question. I believe in the
6 motions to intervene there was an attempt to
7 intervene with regard to wildlife and that it was
8 rejected.

9 HEARING OFFICER FABER: Yeah. Mr. Seff
10 is correct, Mr. Dzugas -- Ms. Dzugas, sorry. You've
11 got to keep your questions to aesthetics. Wildlife
12 is not aesthetics. It's a different thing. So --

13 MS. DZUGAS: Okay. I would just like
14 it on the record that some of us moved here -- we do
15 consider that part of the natural environment, and
16 therefore, the way we describe aesthetics is it
17 includes the water, the animals, the trees, the fresh
18 air, the less houses, the less development.

19 So it's a whole aesthetics thing, but
20 if you don't want me to continue down there, I just
21 want it on the record that as far as we are concerned
22 it's part of the aesthetics.

23 HEARING OFFICER FABER: We are just
24 looking at visual impacts here for the most part on
25 aesthetics. So if you want to keep it to that, that

1 would be great.

2 MS. DZUGAS: Okay. Perhaps -- which I
3 failed in the beginning -- Cynthia Kriebel, who is
4 our aesthetics expert, she perhaps can address that.
5 Okay. Next thing. I will have to -- I might have
6 left it in the other room. I had a whole page of
7 questions. Okay. I might have to go back to
8 aesthetics. It's just now I'm a little
9 discombobulated.

10 BY MS. DZUGAS:

11 Q. One of the interveners asked -- actually it is
12 aesthetics. He says does the tower conform to the town
13 plan aesthetically?

14 MR. SEFF: Object to the form of that
15 question. If you understand the question, Kevin, you
16 can answer.

17 THE WITNESS: I'm not sure that I do
18 really understand the question.

19 BY MS. DZUGAS:

20 Q. Okay. Are you familiar with Westmore town
21 plan? I'll break it down. Are you familiar with the
22 Westmore town plan?

23 A. Portions of it.

24 Q. Which portions would you say you're most
25 familiar with?

1 A. The portion that had to do with the five-year
2 plan.

3 Q. I'm not sure what you're referring to, on a
4 five-year plan about what?

5 A. About the operation of our system at the site.

6 Q. Okay. That's not in our town plan. All
7 right. That's your understanding of the town plan. And
8 that's the only part that you're referring to in the town
9 plan? You're not familiar with any other part of the town
10 plan?

11 A. No.

12 Q. Okay. That makes that easy. Okay. I have a
13 question on page 4. It starts on page 3 of your
14 testimony. Did you have your testimony in front of you?

15 A. I do.

16 Q. Okay. The bottom of page 3 it says: Please
17 identify all existing telecommunications facilities within
18 the area to be served by the Westmore site. And for each
19 existing facility include a project of the coverage and an
20 estimated -- estimate of the additional capacity that
21 would be provided if the Chester site were located on the
22 existing facility.

23 Could you explain that?

24 A. Which portion do you want me to explain?

25 Q. What is the Chester site?

1 A. Yeah. That was a typo. It should say
2 Westmore.

3 Q. Oh, okay. So this goes to your Exhibit 1
4 first. The propagation plot that you created for this
5 site. But not the Chester site. The propagation is for
6 the Westmore site?

7 A. Correct.

8 Q. Okay. I just want to make sure there wasn't a
9 mistake there. So and you say the population density is
10 quite low, so ITW and other carriers seek to provide
11 coverage with the least number of facilities.

12 My concern is you're saying other carriers.
13 So we are going back to aesthetics in that first we are
14 just talking about a tower for radio frequency going
15 straight up, but when you do other carriers you're going
16 to be filling up a tower, and the aesthetics is going to
17 change.

18 A. Potentially.

19 Q. Okay. And then that's -- when you talk about
20 that there is a radius of 10 miles, there are 10 towers?

21 A. Correct.

22 Q. And could you say what do they serve? Like
23 why can't any of those towers work together with your
24 tower?

25 A. I provided coverage studies within my prefilled

1 testimony that show that they do not meet the coverage
2 objective that we are hoping to get.

3 Q. Your tower is trying to cover what area?

4 A. We are trying to provide coverage that will
5 connect to our approved site in Fairfax, Eden, and Morgan.
6 And this tower here in Westmore will interconnect with
7 those two. Those three rather. Sorry.

8 Q. Okay. As far as aesthetics are you aware of
9 other towers in Westmore?

10 A. I am.

11 Q. Could you talk about those towers?

12 A. There is one existing tower in the town of
13 Westmore that's owned by a company called VTel.

14 Q. And do you know any more about it?

15 A. I do. I have information on it. What is it
16 that you're looking for?

17 Q. Aesthetically, since there is a tower already
18 in Westmore, why could you not use that same location
19 instead of adding -- aesthetically adding another
20 industrial tower in a residential/agricultural area?

21 A. Well with regard to why we can't add equipment
22 to that existing tower, it's full of antennas. It's a 90-
23 foot tower. It's full of panel antennas and microwave
24 antennas. So there is no room on that tower to put our
25 equipment.

1 And even if there was, even if we
2 reconstructed a tower at that site, at 140 feet in height
3 it still does not provide the coverage that we need.

4 Q. So you're familiar where that tower is and the
5 location and the aesthetics of that tower?

6 A. I'm familiar with it, yeah. I know where it
7 is, and I'm familiar with the aesthetics.

8 Q. And you don't feel that if you worked in
9 conjunction with VTel that that tower could be expanded
10 and serve your purpose and their purpose as well?

11 A. It absolutely will not serve our purposes. We
12 have analyzed that site in quite detail.

13 Q. And you did reach out to VTel to find out if
14 it was a possibility and you two could work together?

15 A. There was no purpose to do that because, as I
16 mentioned, even if we built a new tower at that same
17 location, at 140 feet in height it would not meet coverage
18 objective.

19 Q. Which is to reach Fairfax and where else?

20 A. Morgan, Vermont.

21 Q. And you are sure that if you could -- 140-foot
22 tower with the making it 153 with the antenna, at the
23 LaCross location, present location, you are sure that you
24 would not reach Morgan nor Fairfax. And this is solely
25 for your two-way radio?

1 A. Correct.

2 MS. DZUGAS: Okay. Can you write in
3 pen? Pencil is getting hard to read. I'm sorry.
4 They are passing me letters, things in pencil.

5 MR. SEFF: Could I just interject here?
6 I don't want to interrupt your flow. Do we have a
7 time limit today by which we need to complete the
8 hearing, Mr. Faber?

9 HEARING OFFICER FABER: I would like to
10 get -- conclude this hearing today. I've only
11 scheduled for one day. I'm not sure how much more
12 Ms. Dzugas has.

13 Can you give me an estimate, Ms.
14 Dzugas?

15 MS. DZUGAS: No. This is all new to
16 me. I'm doing the best I can. And I wouldn't want
17 to tell you a certain amount of time, and then you're
18 saying oh, you said it was only going to be that much
19 longer. And I don't really know as it's going --
20 because I can't predict what his answers are and what
21 it's going to lead me to.

22 HEARING OFFICER FABER: Okay. All
23 right. Well I hope that answers your question, Mr.
24 Seff. So go ahead, Ms. Dzugas.

25 BY MS. DZUGAS:

1 Q. So this is from an intervener. They want to
2 know does ITW have any collocated tower in any states? In
3 other words, like what we were just talking about with
4 VTel. So could you collocate with other existing towers?

5 HEARING OFFICER FABER: I'm going to
6 stop you.

7 MR. SEFF: Objection.

8 MS. DZUGAS: That adds to aesthetics.
9 To less towers.

10 HEARING OFFICER FABER: We are getting
11 into collocation. If you want to talk about the
12 aesthetics of this particular tower, and you know,
13 possible mitigation by locating on a nearby tower,
14 that's one thing. But now you're talking about other
15 states' collocation policies? Can you just get to
16 this tower?

17 MS. DZUGAS: Okay. It was an
18 intervener's question. It wasn't my original
19 question. So --

20 HEARING OFFICER FABER: That's fine.

21 MS. DZUGAS: If they want to clarify
22 it, I will let them clarify it, because I can't
23 clarify what their thought was. Okay? So I will --
24 we can withdraw that question. If they want to redo
25 it, I will let them. Okay?

1 HEARING OFFICER FABER: And I would
2 also suggest that Mr. Delaney is not the aesthetics
3 witness for the Petitioner here. It's Mr. Hodgetts.
4 So maybe you want to save these questions for Mr.
5 Hodgetts? You can talk about collocation with Mr.
6 Delaney and propagation, but he's not really the
7 aesthetics guy. So you want to think about that.

8 MS. DZUGAS: I will. Thank you. I
9 appreciate that.

10 HEARING OFFICER FABER: All right.

11 MS. DZUGAS: I will try to stay on
12 point there.

13 BY MS. DZUGAS:

14 Q. So yeah, when we are talking about collocation
15 and Glover ambulance, did you approach them if they had a
16 need for their antenna for their service?

17 A. I personally did not. But someone on my team
18 did.

19 Q. Okay. And you had -- they wrote a letter
20 after you offered them free space on the tower, at the top
21 of the tower, where all these antenna are going to be
22 hung?

23 A. You're asking if Glover ambulance wrote a
24 letter?

25 Q. Yes.

1 A. Yes. They did.

2 Q. And at your request?

3 A. I think it was to solidify -- to show that
4 they had a need, and that we were providing them with the
5 service. Yes.

6 Q. The letter -- does it show that they have a
7 need or that they were accepting your offer for free
8 space?

9 A. I would have to look at the letter to see
10 exactly what it said, but with discussions with the
11 ambulance company and discussions with my site acquisition
12 specialist who talked to them, they absolutely had a need.

13 Q. Oh, they did. And was there a need for a
14 140-foot tower with 13 additional feet so it would stick
15 above the tree line? Is that their need?

16 A. I'm sorry. Could you ask the question again?
17 I didn't understand it.

18 HEARING OFFICER FABER: Ms. Dzugas,
19 again, we are -- this line of questioning with the
20 ambulance company or with the Glover ambulance, I'm
21 not seeing where it's going as far as aesthetics.

22 MS. DZUGAS: I apologize, but you just
23 told me about -- try to get my questions to his
24 propagation and collocation. And the ambulance --

25 HEARING OFFICER FABER: No, but

1 you're --

2 MS. DZUGAS: -- is collocation. And it
3 affects the aesthetics.

4 HEARING OFFICER FABER: I'm not sure
5 how the Glover ambulance part. I don't get that.
6 What are you trying to get at here?

7 MS. DZUGAS: Okay. Well because the
8 aesthetics of the tower, when you put stuff at the
9 top of the tower, okay? The more antenna that are
10 going to be hanging from the tower.

11 HEARING OFFICER FABER: Yeah.

12 MS. DZUGAS: Which Glover ambulance is
13 now going to be one and the radio service is going to
14 be one, and we don't know how many more. That does
15 affect the aesthetics. Because you have -- I'm
16 actually not supposed to be testifying. I'm supposed
17 to be asking questions.

18 HEARING OFFICER FABER: Right. So if
19 you want to ask like are you planning to put another
20 antenna up for the Glover ambulance, that's fine.
21 This whole thing about letters and who asked for it.
22 You know, you're getting off track there.

23 MS. DZUGAS: Well it's part of the
24 record -- the letter is part of their exhibits that
25 they put in. And they call it a municipal need, and

1 it's not. Anyway. That will be addressed in the
2 brief. Never mind. I'm sorry that's -- I'm starting
3 to learn. I'm understanding I'm supposed to stick to
4 the questions for him. I apologize.

5 HEARING OFFICER FABER: Right. Right.

6 MS. DZUGAS: I appreciate your
7 patience, all of you.

8 HEARING OFFICER FABER: Okay.

9 BY MS. DZUGAS:

10 Q. Now as far as the antennas that would be
11 needed, whether it's for ITW or Glover ambulance at the
12 top, can you tell us the heights and the -- what those
13 antenna will look like?

14 A. Of course. Yes. So they are Omni antennas,
15 so they are whip antennas. They are about 13 feet in
16 length and about two and three quarter inch in diameter.
17 So they are -- they are basically whip style antennas, if
18 you're familiar with the terminology.

19 Q. I'm not. Do those go up or do they hang down?

20 A. So the transmit antennas for ITW will all go
21 up 13 feet in height. And then the receive antenna for
22 ITW will go down 13 feet in height.

23 Q. Okay. And what about the Glover ambulance?

24 A. They have an antenna that will go up in
25 height.

1 Q. And not one down?

2 A. No.

3 Q. And I noticed in your testimony there is a
4 footnote about the antennas as far as the colors and the
5 size and things like that. You can't guarantee us what
6 color they are going to be, what size they are going to
7 be, because you might change where you purchase them from.

8 A. No. At this point in time we have committed
9 to both style antennas, and they will be exactly as
10 described.

11 Q. So your footnote on page 3, I can cross it
12 out?

13 MR. SEFF: Objection. The testimony
14 and the -- prefiled testimony and the spoken
15 testimony speak for themselves here.

16 MS. DZUGAS: They both can't be true.

17 MR. SEFF: No crossing out.

18 MS. DZUGAS: Okay.

19 BY MS. DZUGAS:

20 Q. So I would just like -- Mr. Delaney, the
21 footnote on page 3. Could you read that into the record?

22 MR. SEFF: Objection.

23 HEARING OFFICER FABER: It's already in
24 the record, Ms. Dzugas.

25 BY MS. DZUGAS:

1 Q. Okay. Mr. Delaney, if you read that to
2 yourself, and not into the record, what you just said to
3 me, is that in total agreement with what's already
4 testified in the record? Or what you just said to me is
5 it different than that?

6 MR. SEFF: Object to the form.

7 HEARING OFFICER FABER: So I think
8 what's happening here, Ms. Dzugas, is that when they
9 file these applications they haven't committed to
10 certain vendors. Is that the case, Mr. Delaney?

11 THE WITNESS: We typically use the same
12 vendor, but I think the footnote is there just in
13 case somebody went out of business and we had to use
14 a different, you know, antenna manufacturer. But the
15 height and the diameter of the antennas are typically
16 the same because they are made for our 900-megahertz
17 frequency spectrum, so that's typically the height
18 and size they come in.

19 HEARING OFFICER FABER: Okay. Does
20 that answer your question?

21 MS. DZUGAS: Partially.

22 BY MS. DZUGAS:

23 Q. Why I am tying that into aesthetics is because
24 we have all seen different towers and antennas and that.
25 And depending on how the light hits it, depending on how

1 the wind moves it, depending on a lot of things, they can
2 be more visible or less visible. So that is why I was
3 asking the questions of you saying can you guarantee us
4 that the visibility affecting the aesthetics of the
5 antenna are going to remain the same than what you're
6 testifying to now and what you testified to when you wrote
7 this?

8 A. Yes. I testified that they will be the same.

9 Q. Okay. That's very helpful. Because then the
10 aesthetic experts that all sides have used will remain
11 constant. Because they are basing it on what you're
12 saying on the antenna.

13 All right. Have you retained a commitment for
14 Glover ambulance? Have you retained a commitment from any
15 other municipality service or anything for more antennas
16 for the top of the tower?

17 A. No.

18 Q. Have you reached out to anyone?

19 A. Not at this time. No.

20 Q. Okay. I'm just making it clear. So the 140-
21 foot tower with the another 13 feet of antenna are going
22 to serve your radio service and Glover ambulance. And
23 that's it at this point?

24 A. Correct.

25 MS. DZUGAS: Okay. So now I'll save

1 the aesthetics for Mr. Hodgetts. Would you mind if I
2 just took -- rather than get a bunch of notes from
3 people, can I just take a three to five-minute break
4 to make sure that I've gotten anything that they
5 would want me to ask? Would that be okay before we
6 dismiss you or whatever? Three minutes?

7 HEARING OFFICER FABER: Yeah. Let's
8 get back here at 10:37. How's that? Gives you 5
9 minutes.

10 MS. DZUGAS: That's wonderful.

11 HEARING OFFICER FABER: Okay.

12 MS. DZUGAS: Thank you very much.

13 HEARING OFFICER FABER: Yup.

14 (Recess was taken.)

15 MS. DZUGAS: They gave me some good
16 advice which you all have been giving too. I think
17 we have covered almost all of it except for the
18 actual compound that -- oh, the people changed. I
19 was looking in the center first. There you are.

20 BY MS. DZUGAS:

21 Q. Mr. Delaney, when the changes that were
22 submitted this week, can you tell me how that affects the
23 project?

24 MR. SEFF: Objection. That's the
25 purview of Mr. Hodgetts.

1 MS. DZUGAS: Oh, that's solely to him?
2 Okay. I'll save it.

3 MR. SEFF: It's his testimony. It's
4 Hodgetts' testimony that you're asking about.

5 MS. DZUGAS: But it's not -- so it's
6 not -- has nothing to do with Delaney and what -- the
7 project that was proposed?

8 HEARING OFFICER FABER: You're asking
9 about Mr. Hodgetts' testimony. So why don't you ask
10 that question to him when he's up here, when you're
11 crossing him.

12 MS. DZUGAS: Okay, I will save it for
13 him.

14 HEARING OFFICER FABER: Okay.

15 BY MS. DZUGAS:

16 Q. Mr. Delaney, do you know approximately how
17 many -- if down the road, for speculation, how many
18 collocators you might add to that tower?

19 A. It really depends on what somebody else would
20 propose for equipment on the tower.

21 Q. Who is someone else?

22 A. You didn't specify. You just asked if there
23 was room on the tower for additional collocators.

24 Q. How many -- well how much -- the way the tower
25 is proposed, how many collocators could be put on that

1 tower?

2 A. It's structurally capable to hold multiple
3 collocators. Several.

4 Q. 1, 2, 4, 10?

5 A. Again, I would -- we would need to analyze
6 exactly what they are proposing to do to see how many
7 would be able to go on it.

8 Q. Would you agree that the number of collocators
9 on the tower would affect the aesthetics?

10 A. It would be more antenna equipment on the
11 tower. So it would affect the aesthetics slightly.

12 Q. Okay. Do you know what the tree line stops at
13 at that particular location?

14 A. I think that would be a question that Mr.
15 Hodgetts would be able to answer because he analyzed that.

16 Q. Okay. I will save that for him. But when you
17 were doing your propagation maps and that, did you take
18 into consideration the tree line and the tower height?

19 A. Yes.

20 MS. DZUGAS: Okay. I do believe from
21 what -- all you've helped me with -- the rest of the
22 questions are really for Mr. Hodgetts.

23 THE WITNESS: Okay. Thank you.

24 HEARING OFFICER FABER: All right.

25 Thank you, Mr. Delaney.

1 Mr. Swain, do you have any questions?

2 MR. SWAIN: No questions. Thank you.

3 HEARING OFFICER FABER: Any follow up,
4 Mr. Seff?

5 MR. SEFF: Just very briefly. Thank
6 you, Mr. Faber.

7 REDIRECT EXAMINATION

8 BY MR. SEFF:

9 Q. Mr. Delaney, are you familiar with the phrase
10 line-of-sight technology?

11 A. Yes.

12 Q. And is ITW's service something that is
13 line-of-sight technology?

14 A. Yes, it is.

15 Q. Can you explain what line-of-sight technology
16 is and how it plays a role here?

17 A. Yes. Quite simply it's exactly what it sounds
18 like. An antenna needs to be at a height high enough to
19 be able to see what it's projecting to or what it's
20 propagating to. So if you were to build a tower behind,
21 say a mountain, there is no line of sight on the other
22 side of that mountain. So there would be no coverage
23 provided to the other side of that mountain.

24 So 900-megahertz spectrum is very line of
25 sight dependent. So you need to basically see where

1 you're going to propagate to in order for it to work.

2 MR. SEFF: Thank you. I have no
3 further questions.

4 HEARING OFFICER FABER: All right. Did
5 that raise a question for you, Ms. Dzugas?

6 MS. DZUGAS: My tech person here.
7 Okay. Sorry. Yes.

8 RECROSS EXAMINATION

9 BY MS. DZUGAS:

10 Q. So when you're just -- thank you for
11 explaining the line of sight. When you're explaining
12 that, you were saying that this proposed tower will
13 provide ITW with the line of sight to which towers?
14 Morgan was one of them.

15 MR. SEFF: We went over this already.

16 THE WITNESS: Yeah.

17 BY MS. DZUGAS:

18 Q. I didn't understand the line of sight. He
19 just explained it, and I'm making sure that I understand
20 that the height of this tower, with the 153 feet with the
21 antennas, are you saying that the 153 feet for the height
22 of this tower with the antennas will reach which towers
23 for your service?

24 A. So I'm not saying that line of sight to the
25 towers that we have proposed or constructed. I'm saying

1 that they will connect to the existing coverage from those
2 other proposed towers.

3 MS. DZUGAS: Does anyone have a
4 question on that? Okay. I think that takes care of
5 it.

6 HEARING OFFICER FABER: All right.
7 Thank you. Mr. Seff, your next witness.

8 MR. SEFF: Thank you, Mr. Delaney.
9 Thank you, Mr. Faber. Our next witness we would call
10 Louis Hodgetts.

11 MS. DZUGAS: A request, if possible.
12 And this is --

13 HEARING OFFICER FABER: What's going
14 on?

15 MS. DZUGAS: Well I need a few minutes
16 to get ready for Mr. Hodgetts because some of the
17 questions I had for Delaney you said was appropriate
18 for him, and I just need to, in the interest of time,
19 I would just like to be able to put it -- organize a
20 little better.

21 So perhaps Mr. Seff could finish his
22 witnesses so that I become more organized because I
23 don't have to be with those witnesses. The
24 interveners or -- I would put it this way. I would
25 be much more efficient and much quicker with Mr.

1 Hodgetts if I was given that time. And Mr. Seff in
2 the meantime could move ahead with who he wants to
3 cross examine. Just a suggestion.

4 MR. SEFF: I would object to that.

5 HEARING OFFICER FABER: Yeah.

6 MR. SEFF: We accommodated Ms Patton
7 and Mr Lanier. By the way, I think I still see Ms.
8 Patton sitting there next to you.

9 Mr. Faber, I would prefer we continue
10 with Mr. Hodgetts at this point.

11 HEARING OFFICER FABER: Right. I
12 agree. If you need a couple of minutes, I mean I can
13 give you that, Ms. Dzugas, if you need more like
14 three or four minutes to get your questions together.

15 But this is, you know, this is the
16 hearing. These are the witnesses. You need to be
17 prepared beforehand. It's not fair to everybody if
18 you're just, you know, taking your time on this
19 stuff. So we need -- I can give you like three or
20 four minutes if that would be helpful.

21 MS. DZUGAS: Respectfully, I would have
22 to respond to you that I tried to attempt this last
23 week with two emails to Seff and Swain and also to
24 the PUC clerk to help me better prepare to be
25 efficient. And it went unheard.

1 HEARING OFFICER FABER: Again, if you
2 need a couple of minutes, that's fine. But we have
3 to proceed in a certain order in order to be fair to
4 everybody.

5 MS. DZUGAS: Okay. Then we will take
6 that couple of minutes.

7 HEARING OFFICER FABER: Okay. Let's
8 come back at 10:50. Okay?

9 (Recess was taken.)

10 MS. DZUGAS: Okay. During the break,
11 Meggie changed over to a different laptop so that she
12 can leave. That was why she could not leave was
13 because we were using her laptop. So she can now go
14 back to work. Bye, Meggie.

15 Whose cup is this one? Okay. All
16 righty. I'm ready to start. Go ahead.

17 HEARING OFFICER FABER: Okay. Hold on.
18 There is Mr. Hodgetts.

1 LOUIS HODGETTS

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: I do. Yes.

5 HEARING OFFICER FABER: Okay. Mr.

6 Seff.

7 MR. SEFF: Thank you, Mr. Faber.

8 DIRECT EXAMINATION

9 BY MR. SEFF:

10 Q. Good morning, Mr. Hodgetts. Can you see and
11 hear me okay?

12 A. I can. Yes.

13 Q. Okay. I can see and hear you loud and clear
14 as well. Thank you.

15 Mr. Hodgetts, how are you employed?

16 A. I am a senior project manager for DuBois &
17 King Engineering. I have been retained by our client,
18 Industrial Tower and Wireless, to design and assist with
19 the permitting of their telecommunication tower in
20 Westmore, Vermont.

21 Q. Thank you for that. And in that -- in the
22 course of that employment role for ITW, did you submit
23 prefiled testimony and exhibits in this proceeding?

24 A. Yes, I have.

25 Q. Specifically initially prefiled testimony and

1 exhibits LH-1 through LH-8?

2 A. Yes.

3 Q. And other than the minor change that you made
4 with your supplemental prefiled testimony recently in
5 Exhibit LH-9, are there any changes to your original
6 prefiled testimony or exhibits LH-1 through 8?

7 A. No.

8 MR. SEFF: Okay. With that, then I
9 would move the admission of Mr. Hodgetts' prefiled
10 testimony and his original exhibits LH-1 through
11 LH-8.

12 HEARING OFFICER FABER: Any objections?

13 (No response).

14 HEARING OFFICER FABER: Hearing none,
15 the testimony is admitted. And the supplemental
16 testimony.

17 (The Prefiled and Supplemental Prefiled
18 Testimony of Louis Hodgetts was admitted into the record.)

19 (Exhibits marked LH-1 through LH-8 were
20 admitted into the record.)

21 Prefiled Testimony

22 <http://epuc.vermont.gov/?q=downloadfile/720115/198631>

23 Supplemental Prefiled Testimony

24 <http://epuc.vermont.gov/?q=downloadfile/761523/198631>

25 LH-1

26 <http://epuc.vermont.gov/?q=downloadfile/745170/198631>

1 LH-2

2 <http://epuc.vermont.gov/?q=downloadfile/745174/198631>

3 LH-3

4 <http://epuc.vermont.gov/?q=downloadfile/745178/198631>

5 LH-4

6 <http://epuc.vermont.gov/?q=downloadfile/745182/198631>

7 LH-5

8 <http://epuc.vermont.gov/?q=downloadfile/745186/198631>

9 LH-6

10 <http://epuc.vermont.gov/?q=downloadfile/745190/198631>

11 LH-7

12 <http://epuc.vermont.gov/?q=downloadfile/745194/198631>

13 LH-8

14 <http://epuc.vermont.gov/?q=downloadfile/745198/198631>

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1 HEARING OFFICER FABER: Mr. Seff?

2 MR. SEFF: Thank you. Yes, I was
3 getting to that.

4 BY MR. SEFF:

5 Q. Mr. Hodgetts, did you recently also submit
6 supplemental prefiled testimony along with an additional
7 single exhibit that's been labeled LH-9.

8 A. Yes.

9 Q. Any changes to your supplemental prefiled
10 testimony or Exhibit LH-9?

11 A. No.

12 MR. SEFF: With that, then Mr. Faber, I
13 would move the admission of Mr. Hodgetts'
14 supplemental prefiled testimony and Exhibit LH-9.

15 HEARING OFFICER FABER: Any objections
16 to the admission of the testimony?

17 MS. DZUGAS: No.

18 HEARING OFFICER FABER: Okay. That
19 testimony and exhibit is admitted.

20 (A document was marked Exhibit LH-9 for
21 identification.)

22 LH-9

23 <http://epuc.vermont.gov/?q=downloadfile/761524/198631>

24

25

1 MR. SEFF: No further questions at this
2 time for Mr. Hodgetts, and he's available for cross
3 examination.

4 HEARING OFFICER FABER: All right.
5 You're on, Ms. Dzugas.

6 CROSS EXAMINATION

7 BY MS. DZUGAS:

8 Q. Thank you. Mr. Hodgetts, in layman's terms,
9 because I'm trying to make this quick, what you testified
10 here -- your role in the proposal of this tower. If you
11 could summarize it rather than me asking a million
12 questions.

13 A. So we are retained as a consultant to
14 Industrial. We conduct an initial site evaluation to
15 determine a number of environmental, aesthetics, physical
16 features of the subject property. That subject property
17 is previously identified by Industrial as a site location.

18 We go to the site. We evaluate the site on a
19 number of factors; environmental. We survey the site. We
20 do design reviews. We come up with conceptual plans based
21 on Industrial's needs. We put that together.

22 We coordinate with the Agency of Natural
23 Resources for any environmental concerns that they have.
24 We coordinate with the -- another sub consultant for
25 historic impact evaluations, NEPA evaluations,

1 archeological, an ESA phase 1 analysis, just if there is
2 any potential issues, historic issues with the property.

3 We also conducted a balloon float at this
4 parcel, and assist with testimony and exhibits, as
5 necessary, for the permitting process through the PUC.
6 And in the event of an Agency of Natural Resources permit
7 is required, we have also assisted with that, although
8 none was required on this particular project.

9 Q. Okay. I just have to take notes when you're
10 asking, just in case.

11 So the initial site evaluation that you did
12 was after ITW chose that site?

13 A. Yes.

14 Q. So they didn't ask you to check any other site
15 out in the Westmore-Lake Willoughby area?

16 A. No.

17 Q. Okay. Thank you. When you say that you
18 surveyed the site, could you explain what that involved?

19 A. We have an in-house survey crew that goes and
20 does a topography survey as well as getting average tree
21 heights. And then we also have a natural resources
22 specialist that goes out and surveys the site for natural
23 resources features; so wetlands, rare, threatened and
24 endangered species, non native invasive species, a typical
25 plant survey. Just so that when we submit filings to the

1 Agency of Natural Resources we have a fairly complete
2 survey of the entire project area.

3 Q. Okay. And so these people that you
4 subcontract with, they -- I have to word this right.
5 Whatever reports that they submitted in this particular
6 case, you stand behind them? You've checked them out?
7 You're accepting what they wrote --

8 A. Yes.

9 Q. -- as accurate? They are accurate for this
10 site?

11 A. Yes.

12 Q. Okay. Thank you. When you were talking about
13 some of your sub consultants, EBI would be one of them?

14 A. Correct.

15 Q. Then I think I'm understanding it a bit. You
16 also talked about balloon floats. Do you know the dates
17 of those -- you said a balloon float.

18 A. We conducted two balloon floats at this
19 property. We conducted one for an internal review of the
20 aesthetic assessment. That was conducted on February 15,
21 2024. I personally conducted that balloon float. I went
22 to the site. I set the balloon at the proposed tower
23 height. I drove around the town of Westmore within a
24 two-mile radius.

25 I actually went out a little bit further to

1 get some key vantage points or very scenic vantage points
2 that surround the town that could have been a concern.
3 And then at the request of the town we conducted another
4 balloon float for public observation on April 26, 2024,
5 which I was also present for and conducted.

6 Q. And when you were present for the April 26,
7 2024, balloon float, you were present -- can you tell us
8 where you were and what areas of Westmore you did during
9 the balloon float?

10 A. So I redrove pretty much every public road
11 that I had previously driven on February 15 to confirm
12 that the balloons were still in the same relative location
13 as our previous balloon float. I don't believe I went to
14 any beyond that, because I did a fairly comprehensive
15 review originally in February.

16 Q. Do you remember -- the February balloon float
17 no neighbors were notified, nobody in the town was
18 notified. You're saying it was just a balloon float for
19 your purposes?

20 A. Correct. We used that to develop -- to take
21 photos at various vantage points that we then provide to
22 the PUC, and were provided to the PUC. But yes, that was
23 just an internal evaluation that was conducted on our own,
24 and no public notice was provided.

25 Q. Okay. So the February 15, 2024, balloon float

1 was solely for your purposes and to submit to PUC as your
2 petition?

3 A. As -- yes, a component of our petition.

4 Q. Okay. You must be -- are you referring --
5 which exhibit -- I'll ask you to label it. Which exhibit
6 are you referring to?

7 A. I believe that is Exhibit 6. LH-6.

8 MS. DZUGAS: I forgot to ask this. I'm
9 sorry, Mr. Faber. I am not skilled with internet
10 screen sharing or anything. And in order to share
11 exhibits, I was hoping someone on that end was going
12 to be able to do that. That was one of my questions
13 that I had for the clerk last week.

14 HEARING OFFICER FABER: What do you
15 need to share?

16 MS. DZUGAS: Exhibits. They are kind
17 of important. He just referred to Exhibit 6. Is
18 there a way for us to screen share it?

19 HEARING OFFICER FABER: Let's see. I
20 don't know -- well, I don't know how to do it from
21 your end. So I'm not sure I can help you there.

22 MS. DZUGAS: It's their exhibit. Can
23 they do it from their end?

24 HEARING OFFICER FABER: What is it you
25 would like to point out? I mean --

1 MS. DZUGAS: Well that's why I need to
2 screen share it, because as I'm talking to him, then
3 I'll know what I need to point out.

4 HEARING OFFICER FABER: Well he has the
5 exhibit in front of him. You have the exhibit in
6 front of yourself.

7 MS. DZUGAS: No, I do not. It's their
8 exhibit. I do not have it.

9 HEARING OFFICER FABER: Well then you
10 can't share it. So Ms. Dzugas, I'm lost.

11 MS. DZUGAS: Okay. Well I think I'm
12 more lost than you, so don't worry about it. That's
13 why I reached out for assistance last week. Between
14 the two attorneys, they did not answer. So I reached
15 out to the clerk. I tried to explain I was
16 preparing. And this was one of the issues was I said
17 how are we going to do screen sharing? Explain it to
18 me.

19 The reason why you and I were burdened
20 with it today is because the question went
21 unanswered. I couldn't prepare for it because nobody
22 got back to me.

23 MR. SEFF: I'm not going to waste time.
24 I'm not going to waste time deconstructing and
25 refuting what Ms. Dzugas is saying about the

1 communications about this.

2 But the exhibits have been submitted to
3 the PUC. They are online. They have been there for
4 close to a year. So the fact that she doesn't have
5 access to them is -- that's their issue, I believe.
6 It's not our role to share exhibits for her.

7 In fact, as I look at the GoToMeeting
8 screen here, my share tab is grayed out, so I
9 couldn't even share it for you if I wanted to. So
10 exhibits -- you have the exhibits. Mr. Hodgetts has
11 the exhibit. I have the exhibit. If you have a
12 question about the exhibit, I would suggest you ask
13 the question.

14 MS. DZUGAS: Mr. Seff, this is
15 addressed to what you just said. If I knew this was
16 going to be a problem, I would have asked for the
17 hearing in person and not through GoToMeeting. Okay?

18 HEARING OFFICER FABER: Ms. Dzugas, let
19 me stop you there. So you don't have the exhibits?

20 MS. DZUGAS: I have certain ones, but
21 to screen share it's easier. I have been involved
22 with other board meetings, and when we screen share
23 it's easier because we are all looking at the same
24 thing. You can point out exactly what you're looking
25 at. It's more efficient and it's more productive.

1 But if we don't have that available, we don't have it
2 available. I understand. But I did try to ask for
3 it last week.

4 So I do have Exhibit 6. But the
5 problem is when I look at it, I'm going to have to
6 hold it this way and say blah-blah-blah; right? So
7 you have Exhibit 6 in front of you. I have Exhibit 6
8 in front of me, but we are not screen sharing it. So
9 it needs to be on the record if there is a mistake
10 made. Okay? We are not screening sharing. That's
11 what -- normally in a hybrid meeting it's screen
12 sharing.

13 So I'll do the best I can with the
14 exhibit in front of me.

15 BY MS. DZUGAS:

16 Q. Is this Exhibit 6, Mr. Hodgetts?

17 A. It is a portion of Exhibit 6. Yes.

18 Q. It doesn't have the front page.

19 A. It appears to be anyway.

20 HEARING OFFICER FABER: So all of those
21 photos, Ms. Dzugas, are numbered. So if you want to
22 say photo -- photo 1 of Exhibit 6, then Mr. Hodgetts
23 can look at that, and you can ask him questions about
24 it. I'm not sure why you need to share it.

25 MS. DZUGAS: Okay. All right.

1 HEARING OFFICER FABER: We have all
2 seen the photos.

3 MS. DZUGAS: We will proceed.

4 BY MS. DZUGAS:

5 Q. The first question I have it says: ICW
6 Westmore. What does that mean?

7 A. That was intended to be Industrial Tower and
8 Wireless. It was a typo on that. Should be ITW Westmore.
9 It's just an abbreviation of Industrial Tower and
10 Wireless, and then the site name is Westmore.

11 Q. Okay. So throughout the exhibit even though
12 it says ICW, it was meant to be ITW?

13 A. Correct.

14 Q. Just want to make sure. And all these photos
15 were taken on February 15, 2024, unannounced, for solely
16 internal purposes?

17 A. Well we provided them to the town. But yes.
18 It was not a publicly notified balloon float.

19 Q. Okay. The other computer is going off. Oh,
20 decline. Hit decline. Oh, Jesus. All right. I'm sorry.
21 I missed your answer.

22 A. Yes. All of these photos were taken on
23 February 15. It was not a publicly notified balloon float
24 though.

25 Q. Did you take these photos?

1 A. I did.

2 Q. Okay. So you did see the balloon as you drove
3 around, and that's depicted in these photos?

4 A. Correct.

5 Q. Okay. Was this your first visit to Westmore?

6 A. No. I have -- I'm a Vermont resident. I have
7 been to Westmore many times.

8 Q. That's good to know. Beautiful place, isn't
9 it?

10 A. It is.

11 Q. There is page one. It's labeled: Probable
12 visibility map.

13 Can you explain what that means?

14 A. So this is a geographic information map that
15 we produce using ArcGIS. It's a data service using
16 information publicly available through the Vermont Center
17 of Geographic Information, including the road locations,
18 the structures which are identified as the little orange
19 squares.

20 And then we produce a visibility map using
21 that computer software to depict possible visibility. The
22 yellow-shaded area on this map is what could see a portion
23 of the tower provided there were no trees or visual
24 obstructions, using just a very base level ground
25 topography excluding all trees and structures.

1 The yellow-shaded area is where you could
2 potentially see the tower or a portion of the tower. We
3 then do a secondary analysis using Lidar data of a surface
4 model that the Vermont Center of Geographic Information
5 makes available. And that produces the blue-shaded areas
6 where obstructions from vegetation are accounted for. And
7 so the blue-shaded areas on this map are areas where you
8 can see -- where you're likely to see a portion of the
9 tower above the tree line, or with no visual obstructions
10 in your foreground.

11 Q. Okay. I want to make sure I understand this
12 right, and everyone else in this room. The blue-shaded
13 areas you would have a clear view of the tower?

14 A. Not necessarily. The blue-shaded areas are
15 where you could potentially see -- are likely to see a
16 portion of the tower. Most -- this was modeled at the
17 140-foot height at the top of the tower. So in the blue-
18 shaded areas you likely do not have an obstruction to the
19 top of the tower. That does not mean the entire tower is
20 visible. It just means at the 140-foot elevation, at the
21 top of the tower, you could potentially see it.

22 Q. And the yellow-shaded areas you are or are not
23 going to see it?

24 A. The yellow-shaded areas are where you would
25 see the tower if there were no trees or structures at all.

1 If it was just flat earth. So some of the yellow-shaded
2 areas you could potentially see the tower if -- but you're
3 looking through trees and other obstructions.

4 Q. Okay. A question being passed to me. I don't
5 know what you wrote. Oh, actual.

6 This is an intervener's question. So this map
7 is not actual and can be worse? In other words, more
8 visible? You're doing it on a -- it's being proposed,
9 it's probable, it's not actual?

10 A. It is a computer rendition of probable
11 visibility. I did produce this map prior to the balloon
12 float, and I did drive around all the public roads, and
13 confirmed that for -- as best I could tell, the visibility
14 was accurate.

15 Q. So you did the balloon float. You drove
16 around, took pictures, but then you went back to the
17 office and did this map. You didn't have this map with
18 you when you did the balloon test?

19 A. No. That's the opposite. I did -- I
20 conducted this analysis prior to conducting the balloon
21 float and verified it while in the field that the
22 visibility appeared to be consistent.

23 Q. Thank you for clarifying that for me. So the
24 other thing that you mentioned -- because it's labeled:
25 Probable visibility map. But you use the term possible

1 visibility. Is there a difference in the way you use that
2 word? Or same word, same meaning?

3 A. In the legend I list the blue area as probably
4 visible. And the yellow-shaded area as potentially
5 visible. So between the two of those it's possibly
6 visible within this area, within the shaded area.

7 Q. So we have potential, probable, and possible?

8 A. Correct.

9 Q. Okay. Now when you're looking at this map,
10 you did mention -- you said you did it at 140 feet.

11 Correct?

12 A. Correct.

13 Q. But there is going to be 13 additional feet
14 for the antennas that are -- for what the purpose of this
15 two-way radio tower is for?

16 A. Correct.

17 Q. So is there any reason why you didn't make
18 this map on 153 feet that it's being proposed, the
19 tower --

20 A. There is two reasons. One is the Omni
21 directional antennas, given their very limited diameter of
22 only two inches, are very hard to discern at any distance
23 greater than a few hundred feet. So the likely visibility
24 of those 13 feet is negligible. I also -- while I did not
25 produce it as this testimony, I do an analysis. I

1 typically do an analysis, or I have in the past, on other
2 project sites. And the visibility difference between that
3 additional 13 feet is negligible on this type of mapping
4 situation.

5 Q. So you're saying that 13 feet with we don't
6 know how many -- right now two antennas are being proposed
7 by ITW and Glover ambulance. And are you saying that
8 their two-inch antenna you're predicting -- how are you --
9 I don't understand how you're predicting and showing this
10 on this map how visible those antennas are going to be.
11 Because -- yeah.

12 How are you predicting how visible those
13 antennas are going to be?

14 A. On this particular map I am not predicting how
15 visible those are going to be. However, with almost 200
16 or possibly 300 tower sites in my 20 years' experience
17 providing these, I am very confident that the whip
18 antennas that are proposed on this tower will have a
19 negligible impact on this particular map.

20 Q. When you say negligible impact, does that
21 include any reflection according to weather, sunlight,
22 wind, different things in the environment where --
23 affecting the visibility of those antenna?

24 A. So the proposed Omni antennas are a matte
25 finish. They rarely reflect any significant light. They

1 are such small diameter that they are hardly discernible
2 at any distance more than a few hundred feet.

3 So just my personal experience I know that
4 they are -- visibility of those antennas is negligible
5 compared to the tower itself.

6 Q. When you just mentioned a few hundred feet, do
7 you know how many homes or residences or businesses are
8 within a few hundred feet of that tower?

9 A. I mean it really depends on the definition of
10 a few hundred feet. Based on the map in front of us, I
11 would say there appears to be approximately -- well less
12 than 50 properties within 500 -- within a half mile of the
13 project area.

14 Q. And when you were there in person, were you on
15 any of those premises or near, like, maybe on the road in
16 front their house or in front of their business? Did you
17 -- yeah.

18 When you drove around, did you see in front of
19 any of those places that you said it will be visible in a
20 few hundred feet, and those places are within a few
21 hundred feet?

22 A. The immediate residences in proximity to the
23 tower are very set within a wooded tree line. Their
24 ability to observe the tower completely and identify
25 especially the antennas at the top of the tower are -- is

1 fairly limited given the obstructions from the vegetation
2 in the foreground.

3 And then as you extend outward in the one-mile
4 radius and the two-mile radius, the visual impact of the
5 tower, given its lattice structure, is very hard to
6 discern for an untrained person trying to identify a tower
7 of this nature.

8 Q. For an untrained person to identify the tower,
9 but they would see a tower. They don't have to identify
10 the tower, what kind of tower --

11 A. I mean in past instances where I have observed
12 similar towers to this, even me, who knows where the tower
13 is located and what I am actively looking for, has had
14 trouble identifying similar towers to this within a one to
15 two-mile radius.

16 Q. Okay. Did ITW share with you any of the
17 intervener photos, the drone photos, the still photos.
18 Any photos taken by the neighboring abutters?

19 A. They did not directly share that information.
20 It is public information through the PUC. I did briefly
21 look at them, but I did not evaluate any of the photos.

22 Q. And the -- let's just refer to the photos that
23 were -- that involved your balloon test on April 22 -- 24,
24 2024. Did you look at those photos that were submitted as
25 evidence?

1 A. I did not take any photos on April 24 or 26th.

2 Q. I'm sorry. It was April 26. I have the wrong
3 date. April 26, 2024. You said it's public record. It's
4 on the PUC site pertaining to this case. There is drone
5 photos. There is still photos taken from various
6 abutters, different areas.

7 Did you review those? Did you have an opinion
8 on those?

9 A. I saw that they existed. I briefly scrolled
10 through them, but I did not evaluate any of those photos.

11 Q. And you were present at that balloon test?

12 A. I was. Yes.

13 Q. Were you on the site where the balloon was
14 floated?

15 A. I initially set the balloon at the site. I
16 remained there for, I believe, about half an hour. I then
17 proceeded to drive around the community to observe the
18 balloons while in the air to confirm my previous balloon
19 float in February.

20 Q. So since we weren't privy to the February one,
21 I need to stick to the April one, the April 2024 balloon
22 test. So you set it up, and you were there approximately
23 a half an hour. And then you drove around. The balloon
24 was unattended?

25 A. Correct.

1 Q. Okay. When you set it up, did you set it up
2 exactly where the tower will be on the platform?

3 A. Within -- within a 10-foot radius. I mean we
4 have to be cognizant of the existing vegetation in the
5 area. So I was within 10 feet of the tower location.

6 Q. And did you experience any problems floating a
7 balloon amongst the thickly forested area there?

8 A. I did not.

9 Q. When you left the balloon after 30 minutes,
10 did you notice any -- I forget what that's called, but it
11 dropped in altitude.

12 A. So there is, with all balloon floats, there is
13 the potential for drift due to wind. There is no way to
14 really manage that short of putting up a structure itself.
15 It is something we are cognizant of when we do these
16 balloon floats.

17 I, as I said before, I've probably conducted
18 over a hundred balloon floats throughout Vermont. We are
19 very aware of the limitations of a balloon float. And we
20 take that into account while evaluating the potential for
21 drift post production of the --

22 Q. I'm sorry. I didn't mean to stop you.

23 A. I think I was done. Sorry.

24 Q. Okay. So can you just detail that balloon
25 float, the height -- you had two balloons; correct?

1 A. On February 15 I had two balloons. On the
2 April, I believe I only had one balloon.

3 Q. Okay.

4 A. But I cannot recall exactly.

5 Q. Do you want to look at your -- any of your
6 exhibits to clarify or reassure yourself?

7 A. I'm confident on February 15 I had two
8 balloons. I am almost positive on April 26 I only had
9 one. If I did have two, and you have evidence to that,
10 then it's possible I put up two. But I'm fairly confident
11 I only put up one balloon on April 26.

12 Q. Okay, so I'll move on to the next thing. We
13 are trying to stick to aesthetics, and details matter in
14 this. What was the diameter of the balloons?

15 A. Oh, the balloons are a three-foot diameter
16 weather balloon. It is a standard balloon we have used
17 over the last 20 years. On the February 15 balloon float
18 I conducted we had two balloons.

19 I believe the bottom of the bottom balloon was
20 set at 140 feet, and the top of the top balloon was at
21 approximately 150 feet or 153 feet.

22 Q. Okay. My train of thought just left me. So
23 you were present at both balloon floats. But I want to
24 emphasize the April one that was open to the public and
25 listed. It was an advertised balloon float. And it was

1 at the request of the interveners actually, that we had
2 the town do it at request from you guys to do it.

3 But I want to make sure, did -- did anyone
4 else other than you see the location of where the balloon
5 float originated?

6 A. The landowner was present when I put the
7 balloon in the air.

8 Q. Okay. And nobody else? It was just the two
9 of you?

10 A. I believe so. I don't recall anyone else
11 being on site.

12 Q. Did you -- since it was at the request of the
13 town, did you invite the town to be there too? Or anyone
14 from the town? Planning board? Select board?

15 A. I personally did not, but I was not in contact
16 with the town at the time.

17 Q. Okay. All right.

18 A. So we did inform the town of when the balloon
19 float was going to happen. As to how that was
20 disseminated, I do not know.

21 Q. Okay. Do you remember on the April balloon
22 float how long you planned on floating the balloon? What
23 it was advertised for?

24 A. I do not recall off the top of my head as to
25 how long it was advertised that it would be up for. I do

1 believe it was up for at least three hours, if not four.

2 Q. And do you know if there was any communication
3 on your behalf or ITW with the town how long a balloon
4 float they might have requested or asked you to have?

5 A. Not that I recall.

6 Q. Okay. You said you've done many balloon
7 floats. Is that a typical amount of time that you would
8 allow for the balloons to float?

9 A. Yes.

10 Q. Three to four hours?

11 A. Yes. Outside of three to four hours the
12 likelihood of the wind picking up to cause the balloons to
13 drift greatly increases. The balloons are also at risk of
14 popping as they shift, and just normal weather conditions
15 can sometimes cause a balloon to pop while it's in the
16 air.

17 So we highly recommend that we limit the
18 amount of time that the balloons are up wherein an average
19 person can get to all vantage points within the community.

20 Q. Okay.

21 A. And three to four hours tends to be a fairly
22 standard amount of time for that.

23 Q. Okay. So when you left after a half an hour
24 of setting it up, the balloon was on its own. There was
25 no one manning the balloon or watching to see if it was

1 floating high up or drifting or anything like that?

2 A. That's correct. However, while I was driving
3 around and observing it, the balloon -- it was visible the
4 entire time. And then when I returned it was still in its
5 original location. So --

6 Q. Do you have a record of exactly when you
7 pulled the balloon? You were the one that dismantled it,
8 pulled it down?

9 A. Yes.

10 Q. Do you know approximately -- do you have a
11 record of it somewhere recorded what time you pulled it
12 down?

13 A. Not at hand. I may have one, but I don't have
14 one at hand.

15 Q. It's not anywhere in the reports that you've
16 submitted for this testimony?

17 A. It is not in the reports for the submittal.

18 Q. That's fine. I want to make sure I'm not
19 missing something.

20 So when you left it to travel around, and you
21 took pictures then on April, too, because the pictures in
22 L-6 is from February.

23 A. I did not take any photos in April.

24 Q. Oh, you did not. Okay. So there is no photos
25 of that balloon float. So you traveled around town and

1 you went to the same sites as you did on the February
2 2024?

3 A. Yes.

4 Q. Okay. That's taken care of. On the
5 probability map that you have, the two circles, the black
6 and the red, is there any particular reason why you didn't
7 go further out knowing that Lake Willoughby area's formed
8 by a glacier, so you have very steep things. So you may
9 not have to travel that far, but you go high?

10 A. Yeah. So in our normal analysis we limit it
11 to a two-mile radius only because outside of a two-mile
12 radius the impact of a tower on the visual landscape is
13 very hard to discern. A photograph outside of a two-mile
14 radius is almost impossible to identify a -- the balloons
15 or the tower itself if a simulation is produced.

16 Just the pixel density of even a highend
17 camera does not really allow for a significant -- a
18 valuable return on that. However, knowing that Lake
19 Willoughby area is highly scenic area and there are
20 several vantage points where -- of concern for the town, I
21 personally did conduct -- I did drive outside of that two-
22 mile radius, especially down 5A to the southern end of the
23 lake to try and look back and see the tower.

24 I also went up to Sentinel Rock and tried to
25 look back to find the tower. Both of those are in the

1 three to five-mile range from the tower. And I was not
2 able to identify the balloons. I did, while I was on
3 February, I did take a photo from Sentinel Rock looking
4 back in the tower vicinity to try and find the balloon
5 after the fact. And I was not able to do so at the time.

6 So our ability to produce a photo from those
7 areas was limited. At the southern end of the lake the
8 topography made it impossible to see the tower. The hill
9 immediately south approximately just under two miles from
10 the tower impedes any potential visibility from the
11 southern end of the lake that would have any possible view
12 of the tower.

13 Q. So you're saying when you went down to the
14 southern end of the lake, the southern end of the lake is
15 pretty big; correct?

16 A. It is. Yup.

17 Q. Yup. And what area of the southern end of the
18 lake did you say you couldn't see the balloon?

19 A. Realistically I don't think I could see the
20 balloon anywhere outside of the two-mile radius. While
21 driving down 5A, I did go to the access -- the parking lot
22 access for Mt. Pisgah and the southern beach. I did try
23 and look for it.

24 Again that -- the hill in between prevented
25 any visibility of the tower from that location. And even

1 if I could potentially see it through the hillside, the
2 likelihood of seeing the balloon or ultimately seeing the
3 tower is near zero.

4 I mean I can't say with 100 percent certainty
5 that there is not a small gap where you could potentially
6 see it. But the likelihood of seeing it for any duration
7 or to any noticeable intent -- extent is just so
8 negligible that I would consider it not visible to the
9 average public.

10 Q. Okay. So when you're saying down to the south
11 end, you're saying the south beach and the scenic --
12 Vermont scenic byway, 5A, that's in the regional plan and
13 has a designation of a scenic byway.

14 You're saying when you drove both directions,
15 both driving towards the south beach and then driving back
16 to the balloon which would be driving north, you never saw
17 it from 5A?

18 A. I did not say that. I did see it from
19 portions of 5A, which are identified as photo 9, photo 7,
20 photo 5, and photo 6. I did not see it to the north
21 beyond photo 6, and I did not observe it to the south of
22 photo 9.

23 Q. Okay. So you did see it from 5A. The other
24 thing is when you're saying the south end of Lake
25 Willoughby, you are aware that that's a national natural

1 landmark area?

2 A. I am.

3 Q. And you agree that it has a special -- very
4 special designation since 1967.

5 A. Yes. I am aware that it has a national
6 designation.

7 Q. And are you saying that from that national
8 natural landmark area -- designated area, that this tower
9 -- so the diameter -- the top of the tower, do you know
10 what the diameter is going to be with the antenna on it?

11 A. For a typical industrial tower, the top of the
12 tapered portion of the tower itself is approximately five
13 feet at the top of the tower. It's a triangular tower.
14 So it's a five-foot face width. It's an open lattice
15 structure so you can see through it. So you're looking at
16 the individual members of the legs and the cross support
17 arms.

18 Q. And what's going to support the antenna?

19 A. That structure. So they are directly pipe
20 mounted to that structure. The antennas themselves, as we
21 have stated previously, are 13 feet long by about two and
22 three quarter inches diameter. They are directly bolted
23 to the tower structure itself.

24 Q. So they don't go wider than the five feet that
25 you're saying, they don't go outside that five feet

1 diameter?

2 A. The industrial tower -- or antennas pointing
3 up, do not. Obviously, there is one antenna pointing
4 down. That will have a standoff arm. I believe it's a
5 two-foot standoff arm that extends out and then points
6 down and runs alongside the leg of the tower.

7 Q. So that would bring us to at least seven feet
8 at the width -- for the width; right?

9 MR. SEFF: Objection.

10 HEARING OFFICER FABER: Yes, Mr. Seff?

11 MR. SEFF: I just -- I think it
12 misstates the testimony and the form of the question
13 calls for an objection.

14 MS. DZUGAS: I'm open to have --

15 HEARING OFFICER FABER: You're trying
16 to ascertain the width of the tower at the top, Ms.
17 Dzugas?

18 MS. DZUGAS: Yes.

19 HEARING OFFICER FABER: Okay. So he's
20 testified it's typically a five foot. About five
21 feet wide at the top. And then they are going to
22 have standoff arms pointing down. Those arms will be
23 thin, whiplike structures. So that doesn't increase
24 the diameter of the actual tower. However, it will
25 have these structures attached to it. Is that clear?

1 I mean that's --

2 MS. DZUGAS: Well what I thought he
3 said that was two-foot piping that will bring that
4 downward antenna out.

5 HEARING OFFICER FABER: Right. That
6 doesn't increase the diameter of the tower itself.
7 So it is what it is. You're going to have a standoff
8 arm on that -- outside that five-foot diameter. But
9 it doesn't increase the size of the -- of the width
10 of the tower.

11 MS. DZUGAS: No, but it increases the
12 visibility of the stuff on the tower.

13 HEARING OFFICER FABER: Okay. That's
14 fine.

15 MS. DZUGAS: Thank you for helping me
16 get to that point.

17 HEARING OFFICER FABER: Yup.

18 BY MS. DZUGAS:

19 Q. Okay. Back to the national natural landmark.
20 That's where I was going that -- when you went down to the
21 south beach and you went to the parking lot, did you go
22 into the national natural landmark? Did you go on the
23 trails? Did you hike the mountains to see where the tower
24 might and might not be seen, be visible?

25 A. I did not. I am familiar with the area. I

1 have climbed Mt. Pisgah in the past. I have taken photos
2 personally of the vantage points from Mt. Pisgah. I am
3 very familiar with the trails in the area. And while I
4 have not been on the beach itself, I can make a very
5 educated assessment.

6 Again, from the south beach looking north,
7 there is an intervening hill in between the tower location
8 and the beach. The probability of seeing the tower
9 extending up is near zero. I mean I just -- based on my
10 professional opinion, there is no visibility from that
11 south end of the beach, from the hiking trails around the
12 southern end of the beach.

13 And up to Mt. Pisgah it is a heavily wooded
14 area, except for a few vantage points, where you have
15 large, wide open views. There is a small possibility that
16 you could see them from some of those vantage points, but
17 while walking on the trails and the surrounding
18 vegetation, there is no way that you could possibly
19 discern the tower through the tree -- through the heavily
20 forested tree canopy.

21 And then even from the upper end of Mt. Pisgah
22 with the overlook you are looking -- if you look to the
23 southwest, you are looking at the -- the wind turbines
24 which are a much more prevalent obstruction within the
25 overall view plane, and the likelihood of even possibly

1 seeing the tower, let alone discerning that it is a tower,
2 is so negligible that I would say from the vantage points
3 at the peak of Mt. Pisgah, you're highly unlikely to see
4 any sort of identifiable tower.

5 Q. Okay. Correct me if I am wrong, but you're
6 basing this on your opinion, your hiking, not on the day
7 of the balloon test, your familiarity of previous hiking.
8 So this is your opinion. It's not really professionally
9 proven in any form. This is just your opinion putting
10 your visit together with previous knowledge of the area?

11 A. Yes. And 20 years of experience looking at
12 telecommunication towers throughout the state.

13 Q. Do you have -- how about the experience you
14 might have with the national natural landmark at the south
15 end of Lake Willoughby?

16 A. Again, we are at such a distance, that
17 discerning and identifying the tower is a negligible, if
18 it's not obstructed by the existing terrain anyway.

19 Q. So did you check with the Department of
20 Interior -- Anterior, that oversees the natural national
21 landmark with ANR?

22 A. I did not.

23 Q. Okay. Did you check with any hiking clubs,
24 any community clubs that are familiar with the area
25 regularly, spend a lot of time, appreciate the area for

1 the hiking trails at the south end to find out if -- what
2 their input might be since they have a lot of knowledge?

3 A. I did not.

4 Q. You did not. Okay. Oh, the balloon that you
5 did float on April -- when you went down to the south
6 beach, you did say that the top of the tower is five feet
7 and the balloons were only three feet. Correct?

8 A. Correct.

9 Q. Okay. And you said one balloon was flown and
10 it was at 140 feet.

11 A. I believe so. But I cannot recall directly.

12 Q. Okay. If we can go back to Exhibit L-6. And
13 I would -- I had asked about -- back to why you only have
14 two circles, one at one mile and one at two miles; is that
15 correct? Is that --

16 A. It does indicate two circles; one at one-mile
17 radius and one at a two-mile radius. Yes.

18 Q. Thank you. Now does your software pick that
19 mileage? Or you pick the mileage and you didn't want to
20 do a three-mile one, a two and-a-half mile one, a mile
21 and-a-half?

22 A. I picked the diameter circle that we
23 illustrate on this plan. That is the common industry
24 standard in 20 years of experience doing these. It is a
25 fairly standard visibility evaluation that both we have

1 internally conducted as well as several third-party
2 analysts as well.

3 Q. I appreciate -- it's common industry standard?

4 A. Industry standard. Yes.

5 Q. So you didn't adjust it to the particular
6 area, to Westmore, to Lake Willoughby, to the area that
7 you were in, to the top -- to the topography and the
8 glacialness of the area. You didn't adjust the common
9 industry standard to the area that the tower is proposed?

10 A. I did not. I mean I am aware of the
11 topography and the special conditions. And in my
12 professional judgment, the two-mile radius was an
13 acceptable approach in this location.

14 Q. And so any of the photos that were submitted
15 for public record from the interveners or any expert
16 aesthetic experts that are on record, did you, upon
17 viewing those photos, and some are outside your probable
18 visibility map, did you view them?

19 A. I did view the photos, as I previously stated.
20 I did not evaluate the photos. Mostly because the meta
21 data provided with the photos was not provided with the
22 photos. So knowing what the focal length of the cameras
23 were, whether people had zoomed in or not, whether that's
24 an accurate viewing of the photos, these are all kind of
25 up to personal opinion.

1 However, there was no -- not enough data
2 provided in those photos to make a professional
3 determination on the accuracy or -- of that visibility.

4 Q. So you're doing it solely on professional and
5 the data, not on real life living that people would see
6 24/7, seven days a week?

7 MR. SEFF: Objection.

8 THE WITNESS: I don't know what people
9 are going to see on a regular basis because I do not
10 have the data to say that someone didn't take a
11 telephoto -- a zoomed in photo of the balloon.

12 Obviously, cameras operate at a wide
13 range of focal lengths, and that can significantly
14 impact the visibility of a balloon. And without that
15 data, it really is not profession -- in my
16 professional opinion, it is limited in its
17 applicability.

18 BY MS. DZUGAS:

19 Q. Okay. And so you're saying none of the photos
20 had any of the data -- had any of the data that you would
21 require or need. They all lacked it, all the photos?

22 A. The photos provided by the Department of
23 Public Service in the third-party evaluation by Michael
24 Buscher of T.J. Boyle Associates, did provide that data.
25 I did not see any of that data in the information provided

1 by the neighbors and interveners.

2 Q. And you felt that that data is relevant and
3 would be needed for you to make a determination?

4 A. Yes.

5 Q. And at any time did you ask for that data?

6 A. No.

7 Q. Okay. All righty. So on your photos you have
8 the GPS coordinates on all your exhibits there. Did you
9 notice, too, that the drone photos submitted into public
10 record also had the GPS coordinates with the photo of the
11 balloon?

12 A. I saw that the drone photo existed. However,
13 I did not review the drone photos.

14 Q. Okay. Have you ever used a drone when you're
15 doing this testing to get more data?

16 A. We have. We have found that the information
17 provided by the drone can be limited. So we don't use it
18 routinely.

19 Q. Would you find that it could put -- it could
20 add to what you do already submit? It could enhance what
21 you submit?

22 A. There are some benefits to it. However, the
23 benefits -- we have not found them to be exceptional in
24 benefits. So we don't use it personally or within our
25 review.

1 Q. Okay. And both dates of the balloon test, the
2 one you did internally in February, and then the one you
3 did for the public notice one in April, at any time did
4 you reach out or speak with -- on either one of those days
5 speak with any community members, any people visiting the
6 area? Anyone talk to you about, hey, look at that
7 balloon? Or did you talk to anyone?

8 A. I did not speak with anyone on the February
9 balloon float. I did speak with one or two people, I
10 believe, on the April balloon float. I spoke with the
11 landowner while he was on site. And then when I came back
12 he was still on site, and we discussed it briefly.

13 I believe I also ran into another person while
14 they were out photographing the balloons. But I don't
15 recall having a detailed discussion or what that was in
16 regards to.

17 Q. So you didn't get any input from any community
18 member, any neighbor, anyone that lives there regularly?

19 A. Not during the balloon float. No.

20 Q. Did you get input from anybody any other time?

21 A. I did hear from someone after the fact that
22 there was a group that had climbed up to -- up Mt. Pisgah
23 access up the trails. And they were not able to identify
24 the balloon. But that was third party. I don't remember
25 who mentioned that to me. So --

1 Q. So you didn't talk to the people that actually
2 hiked. It was hearsay. You heard it from someone?

3 A. Yeah. Correct.

4 Q. That's fine. So in our discovery you do know
5 that it's admitted that it does fall in the viewshed of
6 the national natural landmark, the tower location.

7 A. It is observable from portions of the natural
8 landmark. Yes.

9 Q. Okay. Also another admission in the discovery
10 questions was that -- it's best for me to read it than
11 paraphrase it. In reference to your Exhibit LH-1 and C-9
12 it was admitted that the project will, at its height, apex
13 will be a hundred feet or higher.

14 A. Yes.

15 Q. Okay. I'm just checking to make sure. And
16 your reference to your Exhibit L-6: It will be viewable
17 from various spots along the lake, including the national
18 natural landmark, 5A -- the scenic byway 5A, national
19 natural landmark, and the north beach?

20 A. It will not be visible from the north beach.
21 There was no visibility from the north beach. I actually
22 walked that area extensively and was not able to identify
23 the balloons from that location, primarily because the
24 intervening topography and vegetation limit the visibility
25 from the north beach.

1 There are portions along the eastern shore and
2 along 5A where the tower is visible. I will agree to
3 that.

4 Q. Okay. I'm sorry. I just had it. Here it is.
5 Okay. Oh, you want them out? Do I have it upside down?
6 I have it upside down. Okay.

7 On your Exhibit LH -- and it's where it -- it
8 says: Probable visibility map.

9 The photo locations, your little red squares,
10 there is one at north beach. And I don't see where that
11 photo lines up here.

12 A. So that's photo 11. Which --

13 Q. And our photos only go up to 10.

14 A. Photo 11 I took. It was not included in the
15 report because there was no visibility of the tower. But
16 I had observed that location. Again, I could not find the
17 tower at all. The balloons were not visible. So it was
18 not included in the actual submittal.

19 Q. Okay. So you're not aware -- you don't have
20 any photos that show it from the north beach, doesn't mean
21 that it wasn't seen from the north beach?

22 MR. SEFF: Objection. Can't speculate
23 about what somebody else may or may not have seen.

24 HEARING OFFICER FABER: Right.

25 BY MS. DZUGAS:

1 Q. Okay. So the question is: You have no photos
2 of the balloon from the north beach during either of your
3 balloon floats?

4 A. I do not, because I was not able to observe
5 the balloons from the north beach.

6 Q. Thank you. Okay. Now I would like to move on
7 to you and ITW, in conjunction, submitted changes this
8 week to your exhibits and testimony.

9 A. That is correct.

10 Q. And I would like you to, if you have those
11 available, to pull those out in front of you. I need the
12 testimony that he changed. We just have to -- since there
13 is no screen sharing, we have to find our -- should be in
14 the front folders. Okay, we have got it. Beautiful pink
15 color.

16 Now if you could -- rather than go through the
17 two exhibits comparing every little single thing, if you
18 could point out Exhibit LH-9. And I have a revised permit
19 plan dated 5/12/25.

20 If you could tell us what things were revised
21 in the original exhibit of LH-9.

22 A. So it's easiest to see on drawing C-8.

23 Q. That all depends on your eyesight.

24 A. It's the most zoomed in one.

25 Q. I don't have a screen thing. And it's a

1 printed out, tiny, little whatever. Okay let's try. I'm
2 ready.

3 A. So what we did at the request of ITW and MSK
4 was we included the nonexclusive right of way, the 75-foot
5 nonexclusive right of way that traverses through the
6 property along Frog Hollow Lane. And then we identified
7 that a portion of the proposed turnaround was within that
8 75-foot right of way. So we shifted it approximately five
9 feet closer to the tower to make sure that all parking and
10 all surface improvements of any semipermanent nature would
11 be outside of that nonexclusive right of way.

12 That was the only change other than a couple
13 notes indicating that proposed right of way.

14 Q. So by you doing that are you going any closer
15 or will it require, for the aesthetic purposes, will it
16 require adjustments to the trees, the greenery that's
17 there already? Will that change anything?

18 A. No. That whole area was the trees were to be
19 removed, and the grading was -- there was no changing to
20 the grade. It was just narrowing the proposed revegetated
21 area between the tower and the turnaround area. But there
22 is no additional tree clearing required. No additional
23 impervious area. No additional -- no effective change
24 that would be noticeable beyond just moving that
25 turnaround outside of the right of way.

1 Q. Would it affect -- you're moving the
2 turnaround area closer to the compound; correct?

3 A. Correct.

4 Q. So is there nothing in the plans to camouflage
5 or mitigate the compound, the eight-foot fence, the
6 whatever else was going to be seen on foot?

7 A. Frog Hollow Lane is a private right of way. I
8 believe it's just one residence beyond the property
9 owner's parcel. Completely surrounding that is a densely
10 forested area. We did not propose any screening given the
11 densely vegetated nature of the site location.

12 Q. But to install this, to prepare the site,
13 install the tower, and to make the -- these turnarounds,
14 it's going to now be an open area. All those trees are
15 going to be knocked down, and you have no plans to
16 camouflage the bottom of the tower, the bottom of the
17 compound?

18 A. Correct. Because the existing area
19 surrounding the tower, between the tower location and the
20 nearest adjacent residence, is heavily forested already.
21 So planting additional trees immediately in front of the
22 tower location serves minimal purpose for screening the
23 lower section of the tower.

24 Q. So the open spot that's going to be exposed to
25 Frog Hollow Lane and exposed on the northern side a bit

1 more because of the turnaround, you're saying they are not
2 important in your plans as far as aesthetics?

3 A. I did not say that. I said the existing
4 vegetation completely surrounding the site will
5 significantly limit the visibility of the lower portion of
6 the tower outside of the property limits of the subject
7 property.

8 Q. Do you agree that you're opening up a space
9 for the compound and the construction of this, and you are
10 telling me that you're leaving that open, the trees that
11 were there, the vegetation, everything that were there,
12 you're not replacing it?

13 A. We are not replacing it. No. We are removing
14 a handful of trees, I believe, probably less than 20, 30
15 trees maybe in an area that's approximately 100 by 100 so
16 that we can construct the site. All areas outside of the
17 proposed access road turnaround and the 50 by 50 compound
18 will be allowed to naturally revegetate over time.

19 So the grass will grow up. The trees will
20 grow in over time. But we are not proposing to plant any
21 trees as currently proposed.

22 Q. To mitigate the view of the compound? You're
23 not --

24 A. Again --

25 Q. Okay.

1 A. Again, there is a significant amount of
2 screening with the existing vegetation between this
3 proposed tower location and any adjacent public right of
4 way or residence.

5 Q. Okay. Are you reconstruction --
6 reconstructing any portion of that right of way, deeded
7 right of way, Frog Hollow Lane?

8 A. At this time, no. Obviously, if there is any
9 damage caused by the construction of the access road, that
10 will need to be repaired. But there is no proposed
11 improvements to Frog Hollow Lane other than the proposed
12 turnoff to get to the tower location.

13 Q. So where Frog Hollow Lane leaves Westside
14 Lane, you have no improvements in mind for that section to
15 get to the tower compound?

16 A. Other than temporary construction measures to
17 make sure that it's stable for construction vehicle
18 traffic, there is no proposed improvements. And then any
19 maintenance issues that have to be addressed following
20 construction, but there is no -- again, there is no
21 proposed improvements to Frog Hollow Lane. Other than
22 maybe some -- just confirm -- I was just checking to make
23 sure we weren't planning to do any tree clearing or
24 trimming, edging.

25 We are not proposing to do anything to Frog

1 Hollow Lane at this point.

2 Q. Okay. So you're not widening any portion of
3 the present part of Frog Hollow Lane from Westside to the
4 compound, you're not widening it at all?

5 A. No.

6 Q. Do you know how wide the road is right now?
7 You have been there twice. February and --

8 MR. SEFF: I'm going to object.

9 THE WITNESS: I have been there --

10 MR. SEFF: Hold on a second. I'm going
11 to object. I have been trying to be respectful and
12 judicious here, but the right of way, and the
13 condition of the road, and the access and so forth is
14 not only outside the scope of the intervener's
15 intervention, but I believe, with respect, that it's
16 beyond the scope of the PUC's jurisdiction.

17 MS. DZUGAS: If I may answer that, Mr.
18 Farber [sic] --

19 HEARING OFFICER FABER: Hold on.

20 MS. DZUGAS: Sorry.

21 HEARING OFFICER FABER: I tend to agree
22 with Mr. Seff. What are you getting at here with the
23 road, Ms. Dzugas?

24 MS. DZUGAS: Well let's see. Let's
25 talk about the proper planning, and what's that

1 called? I've got the wrong technology -- Oh, God,
2 the planning, the aesthetics. It makes a big
3 difference if the road is presently 25 feet and it's
4 dirt and they are going to -- what they are going to
5 do and how they are going to maintain it. That
6 definitely is aesthetics. It's aesthetics for the
7 property owner, and it's aesthetics for anyone that
8 lives on Westside Lane. It's aesthetics for the
9 person using the right of way to get there.

10 HEARING OFFICER FABER: Okay. I hear
11 you. He already said that they are not planning on
12 doing any improvements to the road. So you need to
13 move off from that. I mean I can understand that is
14 part of aesthetics, if they are doing clearing along
15 the road. I get it. I'm with you on that. But he's
16 already answered that.

17 MS. DZUGAS: Okay. All right.

18 BY MS. DZUGAS:

19 Q. So you're saying that -- Mr. Hodgetts, there
20 is not going to be any of that section of the road from
21 Westside to your compound, you're not going to be removing
22 any more trees to widen the road, to get your equipment
23 down there in that?

24 A. There is no plan to remove any trees or widen
25 Frog Hollow Lane.

1 Q. Okay. Do you know what kind of construction
2 equipment is going to have to be used to make the
3 compound, such as cement trucks or whatever, and they will
4 be able to handle the existing road as is?

5 A. That is my professional opinion. Yes.

6 Q. Okay. So -- all right. Do you know how many
7 days it will take approximately to go up and down that
8 section of Frog Hollow Lane with construction equipment,
9 with the parts to the tower? Do you have a project plan
10 for that? Approximately how many days?

11 A. I do not. I know that on average a site of
12 this nature takes three to four months to construct.
13 However, that's not daily traffic. Because there is a lot
14 of lag time between pouring concrete and letting it set
15 before you can move onto the next stage.

16 So but overall project construction time is --
17 generally averages three to four months. However, it's
18 not daily traffic.

19 Q. And what hours do they usually do this work?

20 A. It's standard construction hours, are
21 typically 7 a.m. to 7 p.m. at the upper end. Five days a
22 week. Weekdays. Obviously there are different factors
23 that can address that or can adjust that. But I would say
24 at the upper end it's five days a week. 12-hour day.

25 Q. And this is going to be done over months as

1 you're saying. And you're saying in your professional
2 opinion these cement trucks, industrial trucks, and the
3 frequent trafficking of building this isn't going to
4 affect the present Frog Hollow Lane nor Westside Lane
5 which is also a dirt road.

6 A. It is. And it will be the contractor's
7 responsibility to make sure that those roads maintain
8 their serviceability to all users. And if they do
9 inadvertently damage a portion of that road, it will need
10 to be repaired.

11 However, the nature of the road is consistent
12 with existing telecommunications sites that we have
13 constructed throughout the state. And the nature of the
14 construction equipment is fairly standard construction
15 equipment that is -- that uses these service roads. So --

16 Q. Can you tell me what equipment are they going
17 to be? Pile drivers, cranes, to get this tower up?

18 MR. SEFF: Again, I'm going to object
19 again. The methods of construction, and the lengths
20 of the construction, and the types of vehicles, and
21 the potential impact to the road during the
22 construction are way beyond the scope of the
23 interveners' --

24 HEARING OFFICER FABER: Yeah.

25 MR. SEFF: -- testimony.

1 HEARING OFFICER FABER: Hold up, Ms.
2 Dzugas. Yes, Mr. Seff is correct. Again, if you're
3 talking about widening the road or clearing, that's
4 one thing. But talking about the exact kind of
5 equipment, that's way outside the scope of your
6 intervention.

7 MS. DZUGAS: All right. If I may --

8 HEARING OFFICER FABER: Can you move
9 on?

10 MS. DZUGAS: Sure. But I do have to
11 get this on the record. If I may, the abutters who
12 are here, and are neighbors, live on Westside Lane,
13 are going to be putting up with this for a couple
14 months as he just said. They are concerned. They go
15 to work, they commute to work, they commute to
16 school, whatever. They are concerned about accessing
17 their homes, about not getting a flat tire, about not
18 getting damage to their cars because the road may be
19 left in a bad condition.

20 And I want to know who is going to be
21 responsible for that and who is going to be
22 overseeing it so that doesn't occur. That does go to
23 aesthetics.

24 HEARING OFFICER FABER: No, no.

25 MS. DZUGAS: They are used to being on

1 the road.

2 HEARING OFFICER FABER: It really
3 doesn't. It goes to public safety.

4 MS. DZUGAS: And proper planning.

5 HEARING OFFICER FABER: Well no. It
6 doesn't. I don't agree. I need you to move on to
7 questions about aesthetics. So if you want to do
8 that, that would be great.

9 MS. DZUGAS: Okay.

10 BY MS. DZUGAS:

11 Q. How familiar are you with the Westmore town
12 plan?

13 A. I've read through the town plan. I have taken
14 relevant sections, and I've reviewed them in conformance
15 with the proposed tower. I've not actively studied the
16 town plan. So I'm aware of the town plan and I'm aware of
17 portions of the town plan. I can't say I'm an expert in
18 the town plan.

19 Q. Do you know what sections you have felt were
20 relative -- relevant to the proposed site?

21 A. The sections that are listed within my
22 testimony I felt were relevant to the proposed site.

23 Q. Okay. We would have to go through your
24 testimony. You're going to have to give me more time
25 because we had it designated in a different way. So --

1 MR. SEFF: Can I just interject? It
2 looks like Ms. Dzugas is going into another subject
3 area. I don't want to interrupt her flow, but since
4 there is a natural break there.

5 Mr. Hearing Officer, I'm concerned
6 about the pace of this and knowing that there are
7 multiple witnesses that, I think, Ms. Dzugas is
8 planning to call, as to whether we would be able to
9 finish today.

10 HEARING OFFICER FABER: Yes.

11 MR. SEFF: Is there a lunch hour built
12 in? Is there a time which we stop at the end of the
13 day? I'm just trying to gauge whether we have a
14 chance to actually finish today.

15 HEARING OFFICER FABER: Well it's a
16 good question, Mr. Seff.

17 Ms. Dzugas I know you have some
18 questions for Mr. Hodgetts on the town plan. Is
19 there anyone else you're seeking to ask questions of
20 aside from Mr. Hodgetts and Mr. Delaney?

21 MS. DZUGAS: Perhaps I was ignorant on
22 this fact. I thought as far as the witness, I could
23 only ask those that have filed testimony.

24 HEARING OFFICER FABER: That's right.
25 Is there anyone else you want to ask questions of?

1 MS. DZUGAS: Well the only ones that
2 Mr. Seff gave us filed testimony was Mr. Hodgetts and
3 Mr. Delaney. So I'm limited.

4 HEARING OFFICER FABER: Okay. So you
5 have questions for those two.

6 MS. DZUGAS: We have finished one
7 already. Mr. Delaney.

8 HEARING OFFICER FABER: Right. So
9 you're just going to finish up with Mr. Hodgetts here
10 on the town plan.

11 MS. DZUGAS: The town plan and probably
12 it will overlap a little bit with the aesthetics. I
13 wouldn't mind a break. What time is it? I don't
14 even know. It's 12:11. How about we do a lunch
15 break. Lunch and bathroom break.

16 HEARING OFFICER FABER: Well again, see
17 we need to get this hearing done today. So that's
18 why I'm asking you sort of approximate time frames
19 here. Mr. Seff is interested in that as well as
20 myself. And I'm sure Mr. Swain is interested in
21 that.

22 Do you have a -- how many more
23 questions do you think you have for Mr. Hodgetts?

24 MS. DZUGAS: I have at least another
25 hour.

1 HEARING OFFICER FABER: Another hour.

2 Okay.

3 MS. DZUGAS: Yeah.

4 HEARING OFFICER FABER: That's fine.

5 If you have an hour, Mr. Swain, do you have any
6 questions for Mr. Hodgetts that you're thinking of?

7 MR. SWAIN: I have no questions for Mr.
8 Hodgetts.

9 HEARING OFFICER FABER: Okay. So I
10 think it's 12 after 12. I think we could take a
11 short lunch break. Come back. Do your hour of
12 questioning. Allow Mr. Seff any time for redirect.

13 And that would give us -- we will
14 definitely be done by today, at least early afternoon
15 it sounds like. Is that good with anybody?
16 Everybody? Sorry. So we would take a break until
17 12:45. Quarter to 1 we will be back.

18 MS. DZUGAS: I have one question, if
19 I'm hearing you right. So because I said at least an
20 hour, I'll try to keep it as close to an hour as
21 possible.

22 HEARING OFFICER FABER: All right.

23 MS. DZUGAS: I still have no clue what
24 Mr. Seff has planned for cross examination.

25 HEARING OFFICER FABER: Mr. Seff

1 doesn't have anything planned except for redirect.

2 MS. DZUGAS: No. I'm talking about the
3 other witnesses or experts that we have.

4 HEARING OFFICER FABER: I don't believe
5 Mr. Seff has questions for the other witnesses. Do
6 you have questions for the other witnesses, Mr. Seff?

7 MR. SEFF: I don't know -- I don't know
8 yet which other witnesses are going to be called.
9 But I do reserve -- Ms. Dzugas has misrepresented the
10 email communications between herself and me. I'm not
11 going to get into that and waste time.

12 I told her in an email recently that I
13 reserve the right to cross examine any witnesses that
14 she calls. And I don't know, as I sit here, which if
15 any additional witnesses beyond the two that she
16 called this morning she plans to call. But if she
17 does, I would like to have the option to cross
18 examine them. Yes.

19 HEARING OFFICER FABER: Do you plan to
20 call anybody else, Ms. Dzugas?

21 MS. DZUGAS: It's my ignorance on this
22 process. The only people I can call are the ones
23 that submitted testimony for cross examination.
24 Isn't this the purpose of the evidentiary hearing,
25 it's for cross examination? So I can't have my own

1 witnesses to cross examine. Mr. Seff would cross
2 examine them. What am I misunderstanding?

3 HEARING OFFICER FABER: Well you need
4 to call your witnesses to admit their testimony.

5 MS. DZUGAS: Okay. And then I'm
6 limited to redirect. And only Mr. Seff can cross
7 examine them.

8 So I can't say how long his cross
9 examination is going to take.

10 HEARING OFFICER FABER: That's right.

11 MS. DZUGAS: So we are back to square
12 one. You asked me how long my cross examination is
13 going to take of Mr. Hodgetts. I'm estimating an
14 hour; maybe a little more. And I haven't heard from
15 Mr. Seff how long his cross examination after I admit
16 my witnesses. That's all.

17 We just want an estimate in the
18 afternoon how long does he think it will take him for
19 cross examination of my witnesses, and how many of
20 them.

21 HEARING OFFICER FABER: Right.

22 MR. SEFF: It depends how many people
23 you're going to call, and which of those people you
24 call. But I suspect that any cross of any of those
25 people would be brief.

1 HEARING OFFICER FABER: Okay.

2 MR. SEFF: I said that earlier too.

3 HEARING OFFICER FABER: All right.

4 MS. DZUGAS: Let's take a lunch break
5 so we can refresh. That's great.

6 HEARING OFFICER FABER: Okay.

7 MR. SWAIN: Very quickly, I would also
8 like to remind everyone that I brought Mr. Buscher
9 here today, and he will be made available for cross
10 examination.

11 Ms. Dzugas, do you plan on cross
12 examining Mr. Buscher?

13 MS. DZUGAS: I have a question about
14 that. He didn't submit testimony.

15 MR. SWAIN: He submitted a report with
16 appendices.

17 HEARING OFFICER FABER: Yeah. He did
18 submit testimony, Ms. Dzugas.

19 MS. DZUGAS: So you're saying his
20 report is his testimony?

21 HEARING OFFICER FABER: Well yes. He
22 has a report, and he has some exhibits attached to
23 it.

24 MS. DZUGAS: Okay. So -- then yeah.
25 Of course. I have questions for him.

1 HEARING OFFICER FABER: Okay. So
2 that's different. I thought you were just going to
3 ask Mr. Hodgetts and Mr. Delaney. You didn't mention
4 Mr. Buscher.

5 MS. DZUGAS: I was dealing with Mr.
6 Seff. I didn't realize --

7 HEARING OFFICER FABER: Okay. Well
8 let's take a break until 12:45.

9 MS. DZUGAS: Okay.

10 HEARING OFFICER FABER: And then you
11 can continue your questioning of Mr. Hodgetts. But
12 I'm going to caution you to keep it brief, and I'm
13 going to keep you on the path of aesthetics and
14 orderly development. Okay? No more getting off into
15 these tangents. And then maybe we can get this done
16 today. That's my hope. And that's my goal here is
17 to get everybody a chance to ask their questions, but
18 conclude this hearing today.

19 So I'll see everyone back here at
20 12:45.

21 (Recess was taken.)

22 HEARING OFFICER FABER: Okay. It looks
23 like the pertinent parties are here. Kim, are you
24 back?

25 THE COURT REPORTER: Yes, I am. I'm

1 all set.

2 HEARING OFFICER FABER: Before we get
3 started here, I was pondering things during the
4 break. And I was wondering, in order to move things
5 along, Mr. Seff, I was wondering if you would,
6 notwithstanding your objections to the testimony and
7 exhibits, would you be willing to stipulate to the
8 admission of the testimony of Ms. Dzugas's witnesses?

9 MR. SEFF: Yeah. That's a fair
10 question, and we want to do everything within
11 possibility to speed things along. I would say yes
12 with the exception of one.

13 HEARING OFFICER FABER: Okay.

14 MR. SEFF: And that one that we would
15 object to in toto would be Cynthia Kriebel, if Ms.
16 Dzugas is planning on calling her.

17 HEARING OFFICER FABER: So you want to
18 cross examine Kriebel.

19 MR. SEFF: No. I want to object to her
20 being able to testify at all. And if she is
21 permitted to testify over that objection, then I
22 would cross examine her in addition to any other
23 witnesses that they call.

24 HEARING OFFICER FABER: Okay.

25 MR. SEFF: I can explain the objection

1 if this is the right time.

2 HEARING OFFICER FABER: Please do.

3 Yeah. Go ahead.

4 MR. SEFF: When the scheduling order
5 was set, the deadline for prefiled testimony from the
6 non petitioners was March 7, 2025. And that was set
7 back in November or December of last year, as I
8 recall.

9 On March 7, Mr. Swain made a motion to
10 extend the deadline for him to file the independent
11 aesthetics report of Mr. Buscher. And you granted
12 that motion on March 14th, 2025. And you gave Mr.
13 Swain and Mr. Buscher until March 28, 2025, to file
14 that report. And as I recall, Mr. Swain filed it
15 through ePUC on the 28th.

16 Also on the 28th Ms. Dzugas filed what
17 purports to be some sort of expert report of Ms.
18 Krieble. I don't think she's an expert, but putting
19 that aside. And it appears that from my vantage
20 point that the interveners misinterpreted your order
21 of March 14 to allow them extra time to file prefiled
22 testimony as opposed to just the movant, which is the
23 DPS.

24 So in other words, Ms. Krieble's
25 testimony was filed three weeks too late.

1 HEARING OFFICER FABER: I see. Okay.
2 Well I mean I'm looking at the scheduling order, and
3 it does say deadline for non Petitioners' testimony.

4 MR. SEFF: I saw that too. But if you
5 read the actual text above it, it's clear that it was
6 intended to allow additional time for Mr. Swain and
7 DPS to submit.

8 It couldn't have been the case, Mr.
9 Faber, that Ms. Dzugas and her colleagues thought
10 that that was the invitation to reopen the deadline
11 for them to submit testimony. You may recall that
12 they submitted a boat load of documents on the 7th.
13 They understood very well that that was the deadline,
14 and they certainly met it with a lot. To come in
15 three weeks late on the 28th with Ms. Kriebel just
16 seems to be beyond the pale.

17 HEARING OFFICER FABER: Yeah. I think
18 this was a mistake on my part. I should have --

19 MS. DZUGAS: Can I say something? When
20 do I get a chance to respond to that?

21 HEARING OFFICER FABER: You will. Hold
22 on.

23 MS. DZUGAS: Okay.

24 HEARING OFFICER FABER: Let me just say
25 what I was going to say first. I think the mistake,

1 it was on my part, Mr. Seff. I think I should have
2 been more specific when I said -- when I did the
3 scheduling order. Because if you read the text, it's
4 clearly focused on the Department, but the letter of
5 the schedule does say deadline for filing non
6 Petitioner testimony. So that could have been
7 interpreted as a deadline for all non Petitioner
8 testimony.

9 So I'm going -- I would allow the
10 testimony over your objection. And we can have Ms.
11 Dzugas call Ms. Kriebel, and you can ask her
12 questions, if you would like. You can cross examine
13 her if that's -- if you would still like to do so.
14 But I think I will allow the testimony because it's
15 my mistake there so --

16 MR. SEFF: I greatly appreciate the
17 candor, and I understand what you're saying, and I
18 know exactly what you mean in that order where it
19 says deadline for non Petitioner testimony. But it's
20 chronologically impossible that the interveners could
21 have relied on that because they knew and understood
22 that their deadline was the 7th, and that order which
23 contains that reference that you're talking about
24 didn't come out until the 14th. So they thought, oh,
25 this is an open invitation to submit more testimony

1 when it really was not intended that way, I don't
2 think.

3 HEARING OFFICER FABER: It was not
4 intended that way. However, it does say that. I'm
5 going to err on the side of letting it in because
6 they are non parties' attorneys, and maybe they did
7 not understand it the way you and I would. So I'm
8 going to allow it in.

9 We can call -- I can have Ms. Dzugas
10 call Ms. Kriebble if you have questions for her. Or
11 we can allow the evidence in over your objections.

12 MR. SEFF: Yeah. I mean thank you. I
13 understand and respect the ruling, and we have our
14 objection for the record. If she is going -- Ms.
15 Dzugas is going call Ms. Kriebble in light of your
16 ruling, then I would have some very brief questioning
17 for her. And I mean brief.

18 HEARING OFFICER FABER: What I'm trying
19 to avoid is going through Ms. Dzugas calling every
20 single witness just to get -- just to enter their
21 testimony. I would rather just have a blanket
22 stipulation to allowing -- agreeing to the admission
23 of all the testimony of all of her witnesses,
24 notwithstanding your objections, which are on the
25 record. That way we can avoid having Ms. Dzugas call

1 each witness individually just to admit their
2 testimony.

3 MR. SEFF: I see. Yes. If you think
4 that would be helpful and expedite the process, then
5 I would agree to that on behalf of ITW, and I would
6 just cross examine them each individually and
7 briefly.

8 HEARING OFFICER FABER: Okay. So you
9 want -- you want Ms. Dzugas to call each witness.

10 MR. SEFF: Well I mean what's the
11 alternative? That I would call them for cross
12 examination?

13 HEARING OFFICER FABER: Well I was -- I
14 was thinking --

15 MR. SEFF: I don't know who is here. I
16 actually don't know who of that litany of witness or
17 prefiled testimony she submitted is actually
18 available. I have been focused on the camera box and
19 not looking at the big picture who is here.

20 Yes, I would probably have some
21 questioning for each of the prefiled that she
22 submitted.

23 MS. TUCKER: This is Liz Tucker. I'm
24 sorry to interrupt. I have not been able to get into
25 video on you guys. I have been here since

1 essentially the beginning, and I'm available for any
2 questioning or what have you. Sorry to interrupt.
3 But it's been frustrating not being able to get the
4 video.

5 HEARING OFFICER FABER: I can't help
6 you with your video feed. I'm sorry. Okay.

7 Ms. Dzugas, did you have some comments
8 here?

9 MS. DZUGAS: I think you took care of
10 most of them, but I just want to let you know, Liz,
11 you're not getting the video because the only videos
12 are the people -- are the ones who are active right
13 now. There is only one video for each party. If you
14 were here present with us, you would be in my house.

15 Am I correct with that? Because
16 everyone else just comes up letters and they only
17 have voice, anyone else that's listening to this
18 hearing.

19 HEARING OFFICER FABER: That's right.

20 MS. DZUGAS: No one else is on Zoom.
21 That's the way it works. So Liz, it's not your
22 video. It's the way the system works. But Liz, you
23 are available. Because he's saying anyone that has
24 submitted testimony, and I'm going to present, which
25 you are one of them, he has a few questions for

1 everybody, so we will need you available in a little
2 while. An hour.

3 HEARING OFFICER FABER: Okay. All
4 right. Ms. Dzugas, please continue your questioning
5 of Mr. Hodgetts.

6 MS. DZUGAS: There is one other little
7 housekeeping thing. Since I just found out that I
8 will have to cross examine the aesthetic expert that
9 Michael Swain had, because since there was no
10 testimony submitted, it was my understanding that his
11 report serves as his testimony.

12 So I will need to cross examine him,
13 and I prefer that he's at the end of the day when Mr.
14 Seff is done doing his cross examination of my
15 witnesses and experts.

16 HEARING OFFICER FABER: Yeah. That's
17 fine. We will do -- yeah. We will do ITW's
18 witnesses. Then we will do yours, and then we will
19 do the Department's witnesses.

20 MS. DZUGAS: I appreciate that. Thank
21 you. Okay.

22 BY MS. DZUGAS:

23 Q. Mr. Hodgetts, are we ready to continue?

24 A. I am ready.

25 Q. Great. I would like to move on to the town

1 plan. Since that is the other prong that we are allowed
2 to address. You mentioned that you are familiar with the
3 town plan.

4 Are you familiar only with the sections that
5 were submitted as an exhibit?

6 A. When we originally proposed our application, I
7 did skim through the entirety of the town plan. However,
8 I did not do a detailed analysis of the town plan at that
9 time. And it's been over a year at this point, so my
10 memory is what it is. But I can try to the best of my
11 ability.

12 Q. Okay. I don't want to do more than I have to
13 do here. The first thing, Westmore town plan is written
14 in conjunction with NVDA. You're aware of that, with the
15 regional plan?

16 A. Yes.

17 Q. Okay. So all right. Are you familiar with
18 the very initial part of the town plan on page 3 about the
19 unique and special character of Westmore because of its
20 historic, rural, seasonal character of the community and
21 the significance of all the diversity of the scenery in
22 that, and why people live here, come here, and what makes
23 Westmore Westmore.

24 Are you familiar with that part of the town
25 plan?

1 A. Yes, I'm aware of that portion of the town
2 plan.

3 Q. Okay. And in that same section it tells you
4 that it is part of the national natural landmark
5 designated, and it's one of only 600 in the country. And
6 that it's the obligation of Vermont and the local
7 community to maintain the national natural landmark in its
8 natural condition.

9 A. Is there a question there?

10 Q. Did you see that part in -- of the town plan
11 address that?

12 A. Yes.

13 Q. The importance of the national -- okay. You
14 did see that. The other part of the town plan, did you
15 notice the significance of the state-designated scenic
16 byway, route 5A?

17 A. Yes.

18 Q. And if you notice that, what did that mean to
19 you in relation to this proposed project?

20 MR. SEFF: Object to the form.

21 HEARING OFFICER FABER: I'm sorry.

22 What's your objection, Mr. Seff?

23 MR. SEFF: Just objecting to the form
24 of the question. "What did that mean to you."

25 HEARING OFFICER FABER: Yeah. Could

1 you be more specific, Ms. Dzugas? What are you
2 asking?

3 MS. DZUGAS: Does he acknowledge that
4 5A that runs along the east side of the lake is a
5 state designated scenic byway?

6 THE WITNESS: Yes.

7 BY MS. DZUGAS:

8 Q. Okay. I'm sorry. Okay. On page 24 of the
9 town plan there is discussion about the unique topography
10 -- sorry if I say that wrong -- with the many beautiful
11 ridgelines that contrast the valleys, the lakes and the
12 ponds.

13 Did you take a look at that section of the
14 town plan?

15 A. I recall reading that section of the town
16 plan. Yes.

17 Q. And did you review the viewshed maps, the
18 ridgeline maps, and all the maps that are associated with
19 that section of the town plan?

20 A. I believe I skimmed them. But I can't speak
21 to them directly at this time.

22 Q. So would you say that even though you may have
23 skimmed them, that you did not include them in your report
24 with the maps you presented?

25 A. I did not.

1 Q. Okay. Did you also notice that it was pointed
2 out that Fox Hall, on the west side of the lake, within
3 your visibility map Fox Hall is on the national historic
4 register of the country?

5 A. I do not recall that. But --

6 Q. That's fine. And the town plan under section
7 2 of the town plan on page 6, if you're familiar with it,
8 do you recall this is directly from the plan? The lake
9 area in the village are at the bottom of a unique
10 topographical pole configuration -- bowl configuration
11 that creates a spectacular 360 degree viewshed.

12 A. Do not recall that line specifically, but I
13 have no reason to disagree with it or not agree that it's
14 there.

15 Q. Did that state -- did you include that actual
16 statement, that allows a 360-degree viewshed, in your
17 report?

18 A. Did not.

19 Q. Okay. Also under the town plan it says:
20 Forest, mountaintops and ridgelines. It's on page 24.
21 Did you read that section and find any of that relevant to
22 your recommendations in your report?

23 A. Sure, I read it. But I don't believe I found
24 it relevant to my determination.

25 Q. Thank you. All right. Did you -- do you

1 recall reading a statement in the town plan that says:
2 Any new development should not create a visual intrusion
3 into the viewshed as viewed from any public right of way,
4 body of water, or any vantage point within the town.

5 A. I'm confused with that statement because there
6 is lots of development within the town that is viewed from
7 that area. So there is a lot of existing and ultimately
8 future development within -- that's visible. So I'm
9 confused as to the form of that question.

10 Q. I'm referring only to the tower that might
11 create a visual intrusion in the viewshed of different
12 areas of town because of the height, because above the
13 100-foot height that the town plan limits it to.

14 A. Sorry. I believe I'm missing the reference
15 that you're referring to.

16 Q. Were you aware in the town plan that it says
17 nothing -- houses don't go over 32 feet, and anything else
18 should not go above a hundred feet because of the visual
19 intrusion that would be in the viewshed of our community?

20 A. I'm not aware of that statement --

21 Q. Okay.

22 A. -- in the town plan.

23 Q. Okay. So as far as -- did you also
24 familiarize yourself with any other town -- the
25 municipality of Westmore, any other -- any other documents

1 that are relevant to the town plan? Such as our bylaws
2 come off the town plan, our ordinances come off the town
3 plan. Did you familiarize yourself with any of those?

4 A. I have read some of the documentation
5 available on the town website, including some of the
6 ordinances, but I can't speak specifically to each -- to
7 all of them.

8 Q. Did you and -- did you find anything relevant
9 in any of those to include in your report for this -- for
10 the proposal of this tower?

11 A. I don't believe so, because I did not include
12 any outside of the town plan and the regional plan.

13 Q. Okay. I have to ask you to go back to what
14 you submitted this week for the changes to the
15 construction of the tower. The plan. The plan for the
16 construction of the tower that was submitted on Monday.

17 You were saying what changes are on here. On
18 number 2, on project description, it says that it's going
19 to go on a 69.58 acre parcel. Is that accurate?

20 MR. SEFF: Where are you?

21 MS. DZUGAS: It's their exhibit, their
22 most recent exhibit that they submitted on May 12.
23 It says project changes. And it's on -- it's project
24 description, and number 2.

25 MR. SEFF: Are you asking about whether

1 the number 69.58 is the correct number?

2 MS. DZUGAS: It's his exhibit. Is that
3 accurate?

4 THE WITNESS: That is the number that
5 is listed on the exhibit. I have also seen that that
6 parcel is 59.38 acres. At hand, currently, I cannot
7 tell you which of the two is the accurate number.

8 BY MS. DZUGAS:

9 Q. I just didn't know why it changed. Because
10 you're saying this is changes to your plan, and you
11 changed a fact. So I'm just wondering what the value of
12 that fact going from 59.3 to 69.58 and why it went to a
13 bigger parcel.

14 A. On our plan it hasn't changed between the
15 initial submittal and this current submittal. That number
16 did not change. I know in other testimony it is listed as
17 a 59.38, and I'm not sure which one is the correct one.
18 But the plan -- the value on the plan did not change
19 between the two exhibits.

20 Q. The value -- so is it 59 or 69 that you're
21 proposing? Because it's --

22 A. The plan as submitted originally and as
23 amended both list the parcel size as 69.58 acres. I
24 believe my testimony lists the parcel as 59.38 acres. I
25 do not know off the top of my head which one is the

1 accurate number. There is obviously a discrepancy there,
2 and I'm not sure which one is incorrect. I was not aware
3 of that conflict prior to you bringing it to my attention.

4 Q. Okay. Thank you. On that same page, it's not
5 a change, it's consistent with your initial submission.
6 On number 5 it says: Total acreage of tree clearing.
7 It's only .29 acres. Can you tell me what -- like are you
8 taking all possible tree clearing into consideration and
9 that will be all including up the roads, down the roads,
10 and at the location?

11 A. As previously stated, there is no proposed
12 tree clearing outside of the compound itself which is the
13 100 by 100 area, surrounding the 50 by 50 compound, plus
14 the access driveway and the turnaround cut down to Frog
15 Hollow Lane. So it's just that area immediately
16 surrounding the tower.

17 Q. Okay. And then same thing with number 6. The
18 area of permanent earth disturbance. You would say that's
19 only referring to the immediate compound, nowhere else?
20 Not the roadways, not the side, not the utility easement
21 or anything like that?

22 A. Those are all existing. So there is no
23 proposed permanent earth disturbance outside the driveway
24 into the compound; the turnaround, and the compound
25 itself. The area surrounding the compound will be allowed

1 to naturally revegetate so that would not be considered
2 permanent earth disturbance.

3 Q. Okay. In your testimony, make sure I have the
4 right one here. Yup. Okay. In your testimony -- I'm
5 sorry. That's -- I forgot that doesn't fit in aesthetics,
6 so I'm just correcting myself.

7 Your testimony on page 10 -- page 10, the top
8 of page 10, aesthetically -- it says: The nature of the
9 facility should have negligible impact and -- on the use
10 of the area by wildlife.

11 You stand by that, and there is no changes to
12 that?

13 A. That's correct.

14 Q. Okay. That's good. Where the compound is
15 proposed, it's in the center of a mature sugar maple
16 forest with mature trees. Do you know the average height
17 of those trees?

18 A. I believe it is 72.1 feet as we measured in
19 2023. So there might have been slightly taller than that
20 now.

21 Q. And the tower would rise how much above that?

22 A. The proposed tower is 140 feet, so it would be
23 an additional almost 70 feet.

24 Q. Plus the 13 for the antennas?

25 A. Correct.

1 MS. DZUGAS: Okay. All right. I just
2 -- anyone else have any other questions on that
3 particular area? No. Okay. Any other questions
4 about the town plan?

5 I just want to let you know that half
6 an hour did us good. They said let's consolidate,
7 this and we are finished. Thank you very much.

8 HEARING OFFICER FABER: Mr. Seff, do
9 you have any redirect?

10 MR. SEFF: Yes. Thank you, Mr. Faber.
11 Very briefly.

12 REDIRECT EXAMINATION

13 BY MR. SEFF:

14 Q. Mr. Hodgetts, is this tower -- proposed tower
15 located on a ridgeline?

16 A. It is not.

17 Q. And in your experience you were asked about
18 the discrepancy in acreage, 69 versus 59. Do you recall
19 that question and answer --

20 A. I do.

21 Q. -- testimony? In your experience have you
22 encountered discrepancies between the grand list acreage
23 and the acreage related to an on-the-ground survey
24 utilizing GIS data?

25 A. I am. There are several different acreages

1 listed between various different maps and information. So
2 there are some discrepancies between GIS data and grand
3 list data and actual deeded property boundary data.

4 Q. Okay. If I were to represent to you that the
5 grand list acreage of this parcel was 59.38 acres, and the
6 GIS acreage is 69.78 with an approximately 16.1 percent
7 difference, does that help explain the discrepancy?

8 A. It could very well explain the discrepancy.

9 Q. And regardless of which acreage is used, does
10 the acreage of the parcel itself, 59 versus 69, have any
11 impact whatsoever on the aesthetics of the tower?

12 A. It does not.

13 MR. SEFF: No further questions.

14 MS. DZUGAS: May I?

15 HEARING OFFICER FABER: If those
16 questions raised any additional questions for you,
17 Ms. Dzugas.

18 MS. DZUGAS: Yes, it does. You said --
19 I'm sorry. Could the court reporter read the first
20 part of the statement that -- the first question that
21 Mr. Seff asked.

22 (The record was read as requested)

23 MS. DZUGAS: Thank you.

24 RECROSS EXAMINATION

25 BY MS. DZUGAS:

1 Q. I thought he said seen from the ridgeline. So
2 that's why I'm glad you corrected that for me.

3 It's not located on the ridgeline. Is it
4 going to be seen from the ridgeline? That was to Mr.
5 Hodgetts. Will it be seen --

6 A. I'm trying to think about that. I have not
7 personally evaluated whether it's going to be visible from
8 the ridgelines. However, as most of the ridgelines within
9 the town are heavily forested, you would have to be above
10 the tree canopy in order to see it. So I would say that
11 the likelihood is very small.

12 Q. Okay. And then on the second question that
13 Mr. Seff addressed, with the data, GIS compared to the
14 grand list, and things like that. You're saying it's
15 irrelevant to your report.

16 A. It is. I believe so.

17 MS. DZUGAS: Thank you so much.

18 HEARING OFFICER FABER: Okay. Thank
19 you. Let's see. So we are going to move to Mr.
20 Swain and Mr. Buscher's testimony.

21 MS. DZUGAS: No. I thought we were
22 saving that for last. We were going to do the
23 interveners now. I specifically asked for --

24 HEARING OFFICER FABER: Oh, my bad.
25 Okay. So what we need to do here, Ms. Dzugas, if you

1 want to have the evidence of your witnesses entered
2 into the record, you need to call them and move the
3 admission of their testimonies and exhibits. Okay?

4 MS. DZUGAS: Yes. Okay.

5 HEARING OFFICER FABER: But first, let
6 me -- Mr. Swain, you did not have any questions for
7 Mr. Hodgetts; is that correct?

8 MR. SWAIN: That's right.

9 HEARING OFFICER FABER: Okay. Thank
10 you. So if you want -- that's what we are going to
11 do. Ms. Dzugas, call your witness, move the
12 admission of their testimony and exhibits. And then
13 Mr. Seff will have a chance to cross examine them.

14 MS. DZUGAS: Okay. Liz, are you still
15 there? Because I would like to call you first.

16 HEARING OFFICER FABER: You can call
17 them all at the same time and move to enter their --
18 you can move -- move to enter the evidence.

19 MS. TUCKER: Yes, yes. I'm here.

20 HEARING OFFICER FABER: The evidence
21 and testimony -- or testimony and exhibits of all
22 your witnesses, and then Mr. Seff can decide which
23 ones he wants to cross examine.

24 MS. DZUGAS: Then I will do that, and
25 thank you for that instruction. I'll begin with -- I

1 would like to move to enter Elizabeth Tucker's
2 exhibit -- exhibits and testimony, and Andrew
3 Zebrowski's exhibits and testimony, Kathy Holmes'
4 exhibits and testimonies, Cynthia Kriebble's exhibit
5 and testimonies, and Bob Fitzpatrick's exhibit and
6 testimony. My own, Donna Dzugas-Smith, exhibits and
7 testimony, and Dave Anderson's exhibit and testimony.

8 HEARING OFFICER FABER: Okay. Now Mr.
9 Seff, I know you have objections to most, if not all,
10 of this testimony. And you've written those, and
11 your objections are on the record.

12 So do you have any further objections
13 to those testimonies? To admitting that testimony?

14 MR. SEFF: The only objections to the
15 testimony are what are in our written objections
16 dated April 30, 2025. And then what I stated on the
17 record earlier about Ms. Kriebble and the timing of
18 her filing.

19 HEARING OFFICER FABER: Right. So out
20 of those witnesses would you like to cross examine
21 one or all of the --

22 MR. SEFF: I would say all. But very
23 briefly as to each.

24 HEARING OFFICER FABER: Okay. So we
25 will start with Ms. Tucker. If that's okay, Ms.

1 Dzugas. You tell me which order you want me to go.

2 MS. DZUGAS: Yes, if we could do
3 Elizabeth Tucker first. So Liz, he's going to
4 question you.

5 MS. TUCKER: Okay. Sounds great. I'm
6 sorry. It says on here that they are having
7 technical difficulties this entire hearing, and it's
8 not allowing me to turn my camera on.

9 HEARING OFFICER FABER: Okay. Let me
10 just swear you in here.

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1 ELIZABETH TUCKER

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: Yes. I, Elizabeth M.
5 Tucker, swear.

6 HEARING OFFICER FABER: Okay. Thank
7 you. All right. Mr. Seff.

8 MR. SEFF: Thank you.

9 CROSS EXAMINATION

10 BY MR. SEFF:

11 Q. Good afternoon, Ms Tucker. Can you hear me
12 okay?

13 A. Yes.

14 Q. You can't see me; right?

15 A. Right.

16 Q. Okay. I can hear you and cannot see you. So
17 we are equal on that front.

18 A. It's Dr. Tucker, Daniel.

19 Q. Where do you reside?

20 A. I'm a physician.

21 Q. Oh. Dr. Tucker. Okay. I didn't see any
22 indication of that in your prefiled. But --

23 A. It's not on my testimony actually. Go ahead.

24 Q. Says "My name is Elizabeth M. Tucker." In any
25 event, you said you have an undergraduate degree in

1 geology?

2 A. I do.

3 Q. I'll call you Dr. Tucker if that's what you
4 prefer.

5 A. I'm a physician so -- I do prefer it, if you
6 address other people as Ms. or Mr., doctor is appropriate.
7 Thank you.

8 Q. Got it. Where do you reside?

9 A. I reside at 571 Long Pond Road in Westmore.

10 Q. And how far is that from the tower site?

11 A. Probably about a mile.

12 Q. Okay. So from the tower site to your home is
13 roughly one mile?

14 A. To my dwelling. I have a 50-acre parcel here.
15 So to my field, it's probably more like three quarters of
16 a mile or less.

17 Q. Okay. And do you have any experience
18 assessing the aesthetics of telecommunications towers?

19 A. Not professionally. No.

20 Q. Were you involved at all in a so-called
21 balloon float on or about March 3, 2025?

22 A. No. I observed it, but I wasn't involved in
23 -- is that what you mean by I observed it?

24 Q. From where did you observe it?

25 A. From my property on Long Pond Road as well as

1 my property at 319 LaCross Lane in Westmore.

2 Q. Okay. Do you know whether -- do you know who
3 conducted that balloon float, so-called balloon float?

4 A. I don't.

5 Q. Okay. And so I take it then from that
6 testimony that you don't know whether the person who
7 conducted it had any knowledge or experience with the
8 conducting of balloon floats for tower siting purposes?

9 A. Right. I observed the first one and the
10 second one, and I am not clear on the date of the second
11 one. But yes, I did observe both of them, and I do not
12 know who did either one of those.

13 Q. Well just to be clear, I'm asking about the
14 one on March 3, 2025. As in like two months ago.

15 A. You know, I apologize. I was thinking that
16 you were asking about last year.

17 Q. No. I'm talking about the one on March 3,
18 2025.

19 A. No, I did not observe that one. I apologize.

20 Q. You did not observe it?

21 A. Not this year. No.

22 Q. So on page 3 of your testimony when you say at
23 lines 3 and 4 quote: I also took photos of the same view
24 when David Anderson flew balloons on March 3, 2025.
25 That's not correct?

1 A. I thought there were three balloon tests. The
2 one in my testimony is correct. I'm sorry. I thought
3 there were three.

4 Q. Well there were two conducted by
5 representatives of ITW. And I'm only asking you about the
6 third one.

7 A. Okay. I observed the one that I documented in
8 here, and the -- I believe the first one by ITW.

9 Q. Okay. I'm only, again, I'm only asking you
10 about the third one.

11 A. Sorry.

12 Q. Do you know who conducted the third one on
13 March 3, 2025, the so-called --

14 A. No. No, I do not.

15 Q. So then I take from that that you don't know
16 whether the person or persons who conducted it knew
17 anything about conducting balloon floats for tower siting?

18 A. That's correct.

19 Q. Okay. I have no further questions for Ms.
20 Tucker. Dr. Tucker. Excuse me.

21 A. It's okay.

22 HEARING OFFICER FABER: Ms. Dzugas, do
23 you have any redirect for Ms. Tucker? Dr. Tucker.

24 MS. DZUGAS: Yes. If I could help Dr.
25 Tucker a little bit on that clarification as did Mr.

1 Seff help Mr. Hodgetts.

2 REDIRECT EXAMINATION

3 BY DZUGAS:

4 Q. When you talk about the two balloon tests,
5 Liz, the one was done in April 2024, and that was the one
6 that was warned and in the local paper.

7 A. Right.

8 Q. And your photos -- the photos in your exhibit,
9 your exhibit that you submitted, those photos, that's the
10 balloon test those photos are referring to?

11 A. That's correct.

12 Q. Okay. The March balloon test, I think where
13 they confused you, there was one in February that none of
14 us knew about in 2024. So the two balloon tests that you
15 did see was -- just correct me -- was April 2026 and this
16 past March 2025. You never saw --

17 A. 2024. You said 2026. You meant 2024.

18 Q. Yeah. 2025. It's April 2024.

19 A. Yup.

20 Q. And March 2025. You never saw February 2024?

21 A. That's correct.

22 Q. Okay. I think we just got confused with the
23 -- there is three balloon tests.

24 A. Yeah. Sorry.

25 Q. I just wanted to make sure that was corrected.

1 Thank you.

2 HEARING OFFICER FABER: Mr. Swain, do
3 you have any questions?

4 MR. SWAIN: I have no questions. No.

5 HEARING OFFICER FABER: Thank you.
6 Okay. So Ms. Tucker is done.

7 Ms. Dzugas, you need to move that her
8 testimony and exhibits be entered into the
9 evidentiary record.

10 MS. DZUGAS: Okay. I don't understand
11 the process. I thought I did them all at once.

12 HEARING OFFICER FABER: You did.
13 That's right. So yes, I'm going to admit all of the
14 testimony and exhibits, Kim, for the record.

15 (The Prefiled Testimony of Elizabeth
16 Tucker was admitted into the record.)

17 (Exhibit ET-1 was
18 admitted into the record.)

19 Prefiled Testimony

20 <http://epuc.vermont.gov/?q=downloadfile/753537/198631>

21 ET-1

22 <http://epuc.vermont.gov/?q=downloadfile/753536/198631>

1 HEARING OFFICER FABER: Let's get back
2 to -- I guess who would you like to call next? Mr.
3 Zebrowski?

4 MS. DZUGAS: Sure. Andrew. He's here.
5 So he can be seated. Musical chairs.

6 THE WITNESS: Hello.
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1 ANDREW ZEBROWSKI

2 Having been duly sworn, testified
3 as follows:

4 HEARING OFFICER FABER: Thank you.

5 Okay. So we have already moved your testimony and
6 exhibits into evidence. Mr. Seff, your witness here.

7 MR. SEFF: Thank you.

8 CROSS EXAMINATION

9 BY MR. SEFF:

10 Q. Good afternoon, Mr. Zebrowski. Can you hear
11 and see me okay?

12 A. I can.

13 Q. Okay. I can hear you and see as well. Thank
14 you. Where do you reside?

15 A. 5812 Willoughby Lake Road.

16 Q. And that's in Westmore?

17 A. Yes.

18 Q. And how far is your home, your actual house,
19 from the tower site?

20 A. Approximately, just about half a mile.

21 Q. Okay. And do you have any experience with
22 assessing the aesthetics of a telecommunications tower?

23 A. Professionally, no.

24 Q. Or testifying about the aesthetics of a
25 telecommunications tower?

1 A. No.

2 Q. Were you at all involved in a so-called
3 balloon float or balloon test in early March of 2025?

4 A. Just how is that relevant to my testimony?
5 Because I did not put anything in my testimony referring
6 to that test.

7 Q. Okay. So a couple things. One, I'll ask the
8 questions here. And if the answer is no, you can just say
9 no, or I don't know, or I don't understand or anything
10 like that.

11 But you have nothing to do with the March 3,
12 2025, balloon float? You didn't observe it? You didn't
13 participate in it and --

14 A. I did see it. Yes.

15 Q. You did see it.

16 A. Yes.

17 Q. Okay. But you're not offering any testimony
18 in relation to it; is that right?

19 A. Based on that test, no.

20 MR. SEFF: Okay. I have no further
21 questions for Mr. Zebrowski.

22 HEARING OFFICER FABER: All right.
23 Thank you. Is Ms. Dzugas there? I'm assuming she
24 is. Do you have any redirect for Mr. Zebrowski?

25 MS. DZUGAS: No, I do not.

1 HEARING OFFICER FABER: Mr. Swain, any
2 questions?

3 MR. SWAIN: No questions.

4 HEARING OFFICER FABER: Thank you. Who
5 would you like to call next, Ms. Dzugas?

6 MS. DZUGAS: Kathy, would you like to
7 go next? No, she doesn't, but she is going to,
8 reluctantly. Kathy Holmes.

9 HEARING OFFICER FABER: Okay.

10 MS. HOLMES: Good afternoon.

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1 KATHY HOLMES

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: Yes, I do.

5 HEARING OFFICER FABER: Thank you. So
6 we have already moved your testimony and exhibits
7 into the record. Mr. Seff, your witness.

8 MR. SEFF: Thank you, Mr. Faber.

9 CROSS EXAMINATION

10 BY MR. SEFF:

11 Q. Good afternoon, Ms. Holmes. Can you see and
12 hear me okay?

13 A. Yes, I can.

14 Q. Okay. I can see and hear you as well. Thank
15 you.

16 Where do you reside?

17 A. I reside at 942 Peene Hill Road in Westmore.

18 Q. Okay. And how far is your actual house from
19 the tower site in feet, if you know? Approximately.

20 A. I don't know in feet. I would say it's maybe
21 an eighth of a mile.

22 Q. Okay. And do you have any experience
23 assessing the aesthetics of a telecommunications tower?

24 A. No, I do not.

25 Q. Have you ever testified before about -- in a

1 proceeding regarding the siting or permitting of a
2 telecommunications tower?

3 A. No, I have not.

4 Q. Were you involved in any way in the so-called
5 balloon float or balloon test in early March of this year?

6 A. Only as an observer from afar.

7 Q. Do you know who conducted that March 2025
8 balloon float?

9 A. No, I do not.

10 Q. I take it from that then you don't know
11 whether the person or persons who conducted that balloon
12 float were experienced in balloon floats?

13 A. No, I do not.

14 Q. No further questions.

15 A. Thank you.

16 HEARING OFFICER FABER: Thank you, Mrs.
17 Holmes. Any redirect, Ms. Dzugas?

18 MS. DZUGAS: No thank you.

19 HEARING OFFICER FABER: Any questions,
20 Mr. Swain?

21 MR. SWAIN: No.

22 HEARING OFFICER FABER: Thank you. Who
23 would you like to call next, Ms. Dzugas?

24 MS. DZUGAS: Mr. Fitzpatrick. Now Mr.
25 Fitzpatrick is hard of hearing, so you will have to

1 say it loud. I have the speaker as loud as my
2 computer will go.

3 HEARING OFFICER FABER: Okay. Good
4 afternoon, Mr. Fitzpatrick.

1 ROBERT FITZPATRICK

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: Yes.

5 HEARING OFFICER FABER: Okay. Thank
6 you. We have already moved your exhibits and
7 testimony into the record. Mr. Seff, your witness.

8 MR. SEFF: Thank you, Mr. Faber.

9 CROSS EXAMINATION

10 BY MR. SEFF:

11 Q. Good afternoon, Mr. Fitzpatrick. Can you see
12 and hear me okay?

13 A. Yes. Yes.

14 Q. Okay. Can you? If you need me to speak up
15 just say so. Okay? I don't have a volume control on my
16 mic, but I can raise my voice if that will help.

17 A. I turned my hearing aids up as high as they
18 go.

19 Q. Well if you need me to speak louder, just say
20 so. Okay?

21 A. Yes, sir.

22 Q. Okay. Where do you reside, Mr. Fitzpatrick?

23 A. 532 Peene Hill Road. Westmore, Vermont.

24 Q. And how far is your house from the tower site,
25 if you know?

1 A. It abuts it. About two football fields.

2 Q. Two football fields. So a football field is a
3 hundred yards, so that's about 600 feet?

4 A. Yeah. 600 to 900 feet from where the proposed
5 tower is going to be.

6 Q. Okay. Thank you. And do you have any
7 experience analyzing or assessing the aesthetics of a
8 proposed telecommunications tower?

9 A. No. I don't have any expertise. I just know
10 -- I don't.

11 Q. And have you ever testified before in a
12 proceeding regarding the siting or permitting of a
13 telecommunications tower?

14 A. No. No, sir.

15 Q. Okay. Were you in any way involved in a
16 so-called balloon float on or about March 3, 2025?

17 A. No.

18 MR. SEFF: No further questions.

19 HEARING OFFICER FABER: Thank you, Mr.
20 Seff. Any redirect, Ms. Dzugas?

21 MS. DZUGAS: No thank you.

22 HEARING OFFICER FABER: Any questions,
23 Mr. Swain?

24 MR. SWAIN: No thanks.

25 HEARING OFFICER FABER: Okay. Who is

1 next, Ms. Dzugas?

2 MS. DZUGAS: It would be Dave Anderson.

3 He's not here in person. There he is.

4 MR. ANDERSON: Good afternoon.

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1 DAVID ANDERSON

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: I do.

5 HEARING OFFICER FABER: Thank you. Mr.
6 Seff. Oh, we have just put on the record that we
7 have moved your testimony and exhibits into the
8 record.

9 Mr. Seff, it is your witness.

10 MR. SEFF: Thank you, Mr. Faber.

11 CROSS EXAMINATION

12 BY MR. SEFF:

13 Q. Good afternoon, Mr. Anderson. Can you see and
14 hear me okay?

15 A. I can. Yes.

16 Q. Okay. I can see and hear you as well. So
17 thank you. Where is your permanent residence, full-time
18 permanent residence?

19 A. My permanent residence is in Manchester,
20 Connecticut. Do you need the actual address?

21 Q. The town is fine. Did you say Manchester?

22 A. Manchester, Connecticut. Not to be confused
23 with Manchester, Vermont.

24 Q. Right. Thank you. And do you own property in
25 the town of Westmore, Vermont?

1 A. Technically my right of way exists in the town
2 of Westmore. My residence here, which I'm at my residence
3 here in Vermont right now, is technically in Barton,
4 Vermont.

5 Q. Okay. Thank you for that clarification. So
6 your house that you're sitting in right now is in Barton,
7 Vermont?

8 A. Yes.

9 Q. But you access that home, that Barton, Vermont
10 home, via a road that traverses through Westmore?

11 A. It's actually my driveway which when I first
12 moved here was known as Westside Lane. 220 Westside Lane.

13 Q. What is that -- what is that driveway known as
14 now?

15 A. It's now known as Frog Hollow Lane.

16 Q. Okay. So is your Barton, Vermont address Frog
17 Hollow Lane?

18 A. 600 Frog Hollow Lane.

19 Q. 600 Frog Hollow. Okay. Thank you.

20 A. Yeah.

21 Q. So how many days a year approximately are you
22 at your Vermont property as compared to your Connecticut
23 property?

24 A. That depends on the year. But I would say I
25 try to get up here 10 to 12 weeks a year. Something to

1 that effect. Sometimes it could be as much as 15. But I
2 plan to retire here. Assuming a tower doesn't go up, it's
3 going to be my permanent residence.

4 Q. Okay. So are you currently employed?

5 A. I'm self employed. I own a business.
6 Manufacturing.

7 Q. So do you have any experience assessing the
8 aesthetics of a proposed telecommunications tower?

9 A. Other than the March 3 launch that I headed
10 up, balloon launch, prior to that, no.

11 Q. Have you ever testified before in a proceeding
12 regarding the siting or permitting of a telecommunications
13 tower?

14 A. No.

15 Q. All right. So were you the person that
16 conducted the so-called balloon float on March 3, 2025?

17 A. I was.

18 Q. Okay. And prior to conducting that balloon
19 float, did you have any experience, the March 3, 2025,
20 one, did you have any experience conducting balloon floats
21 for purposes of assessing the aesthetics of a tower?

22 A. No.

23 Q. What did you do on March 3 to conduct that
24 balloon float?

25 A. How detailed --

1 Q. How did you do it? How did you do it?

2 A. We conducted a two-balloon float utilizing two
3 32-inch Mylar helium-filled balloons that were tethered
4 together separating their distance of 10 feet each. And
5 then 140 feet down to the base launch site.

6 Q. And how did you come to decide on that
7 particular protocol for the so-called float?

8 A. Based on other floats that I read about. And
9 including the one that was done prior to the one that I
10 did.

11 Q. Now where did you actually launch, if I can
12 use that word, the balloons from where? Were you
13 physically standing --

14 A. We were standing in the middle of my driveway,
15 also known as Frog Hollow Lane. And in front of what
16 could potentially, hopefully not, be the access road to
17 the tower site.

18 Q. So you didn't launch the balloon from the
19 actual tower site, did you?

20 A. That's correct. But --

21 Q. Okay.

22 A. We were as close as we could get without
23 jeopardizing the test and endangering ourselves with
24 overhead power lines.

25 Q. Okay. So how many feet were you -- would you

1 say where the balloon was launched from from the actual
2 site of the proposed tower?

3 A. 80 feet.

4 Q. Okay. And that's actually depicted in one of
5 your exhibits; right? I think it's Exhibit DA-1.

6 A. Right. That's correct.

7 Q. Do you have that in front of you?

8 A. Yes, I have it.

9 Q. So on DA-1 look at the reference to Frog
10 Hollow Lane there. I see a red pin cushion next to an X.
11 Do you see that?

12 A. Yes. That's the site location of the launch.

13 Q. Okay. So that's where you were when you
14 launched the balloons, where that X is and that pin
15 cushion? Yes?

16 A. Thereabouts.

17 Q. Okay. And if you look to the -- up into the
18 left from that, do you see the triangle where the proposed
19 tower is in the compound; right?

20 A. Correct.

21 Q. So are you saying -- well just tell me what is
22 the distance from the center of that triangle where the
23 proposed tower is to where that X is with the pin cushion
24 in feet approximately?

25 A. Again, 80 feet.

1 Q. Okay. And do you feel that launching the
2 balloon 80 feet off of the access of the actual tower is
3 an accurate method of conducting a balloon float?

4 A. I'm sorry. I didn't catch the first part of
5 your question. Could you repeat that?

6 Q. Do you think that conducting the -- launching
7 the balloon 80 feet away from the site of the actual tower
8 is an accurate way to conduct a balloon float for these
9 purposes?

10 A. It was as accurate as I could make it.

11 MR. SEFF: No further questions.

12 HEARING OFFICER FABER: Thank you, Mr.

13 Seff. Ms. Dzugas, do you have any redirect?

14 MS. DZUGAS: Yes. I do.

15 HEARING OFFICER FABER: Okay.

16 REDIRECT EXAMINATION

17 BY MS. DZUGAS:

18 Q. I had a few, and I just got handed one. Okay.
19 You flew it 80 feet away from the tower where the tower is
20 proposed to be built?

21 A. The launch?

22 Q. Correct.

23 A. Correct. Based on a scale provided with the
24 original package.

25 Q. And you mentioned and I -- unfortunately, I

1 don't have the greatest memory for that, but you did
2 mention there is a reason why you did that.

3 Was it have to do with to avoid trespassing on
4 your neighbor's property?

5 A. Three reasons. One was to avoid trespassing.
6 Two was to avoid the tree depicted in the middle of the
7 tower -- proposed tower site. My observation is that that
8 tree would have been a big problem for a balloon launch,
9 and I'm guessing probably have to be outside of the tower
10 itself for that balloon launch to be successful. The
11 other was the overhead power lines which put us off
12 another 20 feet from what could have been an ideal spot
13 closer to the tower.

14 I don't know if that answers your question.
15 But --

16 Q. It does. The overhead power lines are the
17 lines that would be serving the compound?

18 A. Currently serving my property and my house.

19 Q. And eventually would be serving the compound?

20 A. I assume so. Seems logical.

21 Q. Okay. So you just mentioned a tree where the
22 tower is. So could a balloon launch be held at that tree,
23 is that --

24 A. There is no -- there is not enough information
25 to determine that. But if you do look at my exhibit,

1 which was in part provided by ITW, shows a fairly large
2 tree in the middle of that tower base. So I suspect from
3 my observations that from the road, and I looked at it
4 many, many times, it's a pretty significant tree. And I
5 don't know how you could possibly launch a balloon within
6 a 10-foot radius of that tree. It's got to be way outside
7 of that, in my opinion, to be safe.

8 So the question is, you know, what's an
9 acceptable distance away from the absolute center of that
10 tower? There is obviously, for some reason, radius of 10
11 feet seems okay, but 80 feet is unacceptable apparently.

12 Q. Okay. You didn't attend any of the other
13 balloon launches. Any particular reason?

14 A. No. And it's the primary reason why I decided
15 to do my own launch because I wasn't privy. I was never
16 invited to -- I was never approached about the possibility
17 of a balloon launch. So being probably the most affected
18 by this entire project, I felt a responsibility to myself
19 to understand what I was going to be up against in terms
20 of how close, how tall. So that's why I did it.

21 Q. Okay. You had no knowledge of the February
22 2024 balloon launch or the April 2024 balloon launch that
23 ITW arranged?

24 MR. SEFF: Objection. Beyond the scope
25 of the cross.

1 THE WITNESS: No.

2 HEARING OFFICER FABER: We are getting
3 a little far afield here for redirect.

4 MS. DZUGAS: I'm just clarifying to
5 make sure. Because --

6 HEARING OFFICER FABER: No. You have
7 to base your questions on Mr. Seff's questions.
8 Okay? You can't just go into new areas. Not on
9 redirect anyway.

10 MS. DZUGAS: Okay. We will stop there
11 then.

12 HEARING OFFICER FABER: Okay. Any
13 questions --

14 THE WITNESS: Yes, I do have some
15 corrections to my testimony. Is this an appropriate
16 time to do that?

17 HEARING OFFICER FABER: Corrections?
18 What do you mean? Okay. Sure. For the record, if
19 you have typos, let me know.

20 THE WITNESS: Okay, I do. There is a
21 couple. Let me know when.

22 HEARING OFFICER FABER: What are they?

23 THE WITNESS: Okay. So in my testimony
24 on -- of March 7 on page 12 of 15, there is a line 3.
25 There is a reference to Exhibit CA-01. That should

1 be DA-01 which is my exhibit.

2 HEARING OFFICER FABER: Okay. Is that
3 it?

4 THE WITNESS: No. And there is another
5 one on page 13 of 15, and on line 1, where there is a
6 reference to the drone videos put in with -- it's
7 reading now Megan Patton's testimony. Should read
8 Donna Dzugas's testimony.

9 HEARING OFFICER FABER: Okay.

10 THE WITNESS: And I want to reference
11 her Exhibit DD-1.

12 HEARING OFFICER FABER: Okay. All
13 right. Thank you.

14 Mr. Swain, do you have any questions
15 for Mr. Anderson?

16 MR. SWAIN: No questions. Thank you.

17 HEARING OFFICER FABER: All right.
18 Thanks. So who is left, Ms. Dzugas? Mr. Kriebble?

19 MS. DZUGAS: Yes. I will let her say
20 her name so that everyone will say it correctly. She
21 is here and she is going to take the seat.

22 HEARING OFFICER FABER: Okay. Good
23 afternoon, Ms. Kriebble.

24 MS. KRIEBBLE: Good afternoon. It's
25 Kriebble.

1 HEARING OFFICER FABER: Krieble.

2 Sorry.

3 THE WITNESS: Yes. That's okay. It's
4 a common mistake.

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1 CYNTHIA KRIEBLE

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: I do.

5 HEARING OFFICER FABER: All right.

6 Your testimony and exhibits have been moved into the
7 record. Mr. Seff, your witness.

8 MR. SEFF: Thank you, Mr. Faber.

9 CROSS EXAMINATION

10 BY MR. SEFF:

11 Q. Good afternoon, Ms. Kriebel. Did I say it
12 right?

13 A. That's correct.

14 Q. Kriebel. Okay. Can you see and hear me okay?

15 A. I can.

16 Q. Okay great. And I can see and hear you as
17 well. So thank you. Where do you reside, Ms. Kriebel?

18 A. During the winter Ellensburg, Washington. And
19 then five and-a-half months, May 1 through the middle of
20 October, at 1176 Old Cottage Lane. In Westmore.

21 Q. Okay. And your Vermont home, how far is that
22 in feet, if you know, approximately from the tower?

23 A. I couldn't say feet. A mile away.

24 Q. A mile away. Okay. Do you consider yourself
25 an expert in telecommunications tower aesthetics?

1 A. No. Not at all. Other areas of aesthetics,
2 since I was a professor of art, and also have been a
3 professional artist since 1973.

4 Q. And what type of art do you make?

5 A. Mainly my paintings are landscape. And a lot
6 inspired from this area.

7 Q. You're a painter?

8 A. Yes.

9 Q. Do you make your living that way?

10 A. I made my living teaching painting and drawing
11 for 30 years at a university in Washington state.

12 Q. And do you sell your paintings? Are they
13 available for sale, or you just do that for your own
14 consumption?

15 A. No. I have been quite good at selling my
16 paintings.

17 Q. Have you ever painted a painting that included
18 a cell tower?

19 A. No. On purpose.

20 Q. Okay. Noted. You don't have any experience
21 in assessing the aesthetics of a cell tower; professional
22 experience; right?

23 A. Not a cell tower itself. I would say I have
24 experience in looking at a lot of landscape paintings and
25 landscapes. And am very aware of the difference between

1 an industrialized landscape and one that doesn't have any
2 industrialized towers or other structures.

3 Q. But there is nothing specific -- is there
4 anything specific about your training or experience that
5 would differentiate you from, you know, any other person
6 in terms of looking at a landscape for that purpose?

7 A. Yes. I think so. Because I have been
8 studying landscape, working with students, dealing with
9 spacial relationships, scale relationships, visual
10 relationships, which have impact.

11 Q. But none of that work involved
12 telecommunications towers; right?

13 A. No.

14 MR. SEFF: No further questions.

15 THE WITNESS: Thank you.

16 HEARING OFFICER FABER: Thank you, Mr.
17 Seff. Do you have any redirect, Ms. Dzugas?

18 MS. DZUGAS: Just give me one minute.
19 I'm thinking.

20 HEARING OFFICER FABER: Okay.

21 MS. DZUGAS: No. I don't think I do.

22 HEARING OFFICER FABER: Okay. Mr.
23 Swain, do you have any questions?

24 MR. SWAIN: I do not. No.

25 HEARING OFFICER FABER: Okay. Am I

1 missing anyone, Ms. Dzugas. Is there someone else?

2 MS. DZUGAS: Me.

3 HEARING OFFICER FABER: Yeah. Okay.

4 So let's see.

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1 DONNA DZUGAS-SMITH

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: Yes, I do.

5 HEARING OFFICER FABER: Okay. Your
6 testimony and exhibits have been entered into the
7 record. Is anyone going to ask you -- let's see.
8 Okay, Mr. Seff. Go ahead.

9 MR. SEFF: Oh. Thank you, Mr. Faber.

10 CROSS EXAMINATION

11 BY MR. SEFF:

12 Q. Good afternoon, Ms. Dzugas. Am I saying it
13 correctly?

14 A. No. It's Dzugas.

15 Q. Dzugas. Ms. Dzugas, where do you reside?

16 A. I reside on Goodwin Mountain Lane in Westmore.

17 Q. And how far is that approximately from the
18 site of the proposed tower?

19 A. As a bird flies or I would see --

20 Q. Yeah, as a bird flies.

21 A. Okay. As a bird flies, probably just about
22 two miles. Maybe just a little over it.

23 Q. Okay. And do you have any professional
24 experience assessing aesthetics of telecommunications
25 towers?

1 A. Oh, definitely not by choice.

2 Q. Okay. And have you ever testified before in a
3 proceeding regarding telecommunications towers?

4 A. No.

5 Q. Just real quick, you put in an exhibit or a
6 pair of exhibits with pictures of supposed drone
7 photographs. Do you recall that?

8 A. Oh, yes. Yup.

9 Q. Whose drone was that?

10 A. It was Vermont Drones, Incorporated. They are
11 from Swanton. The first name is -- of the guy was
12 Lawrence. He's an FCC licensed drone operator.

13 Q. So let me just make sure I clarify this.
14 That's not your drone that took those pictures; right?

15 A. Oh, no. That's much too expensive. I
16 couldn't afford that.

17 Q. Okay. And so you didn't take the pictures
18 that are included in exhibits DD-1, DD-2; right?

19 A. I'm not the drone, so no, I didn't take them.

20 MR. SEFF: No further questions.

21 HEARING OFFICER FABER: Thank you, Mr.
22 Seff. You can't redirect yourself. So Mr. Swain, do
23 you have any questions?

24 MR. SWAIN: I have no questions. Thank
25 you.

1 HEARING OFFICER FABER: Okay. I think
2 we will move on to Mr. Buscher which is the
3 Department's witness. And you have questions for Mr.
4 Buscher? Ms. Dzugas, I have been saying your name
5 wrong this whole time. You didn't correct me.

6 THE WITNESS: Dzugas. You actually
7 said it pretty close. It's just a lot of people skip
8 the D. Don't worry about it.

9 HEARING OFFICER FABER: That's a tough
10 one.

11 THE WITNESS: It's Lithuanian.

12 HEARING OFFICER FABER: So Mr. Buscher
13 is here with us. Do you want to move his testimony
14 and exhibits, Mr. Swain?

15 MR. SWAIN: I'm going to do that. I'm
16 also going to ask Mr. Buscher some questions first,
17 if that's all right.

18 HEARING OFFICER FABER: That's perfect.
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25

1 MICHAEL BUSCHER

2 Having been duly sworn, testified
3 as follows:

4 THE WITNESS: I do. I don't think it's
5 going through my head piece. Give me one second. Is
6 it any better?

7 HEARING OFFICER FABER: About the same.

8 MR. SWAIN: It's okay. If you speak up
9 a little bit, it's okay.

10 THE WITNESS: Okay. Yeah. I
11 apologize. It's clearly not going through my head
12 phones which is much better.

13 HEARING OFFICER FABER: That's fine. I
14 can hear. Kim, can you hear?

15 THE COURT REPORTER: I can. As long as
16 you speak up, I'm fine. Thanks.

17 THE WITNESS: Okay.

18 HEARING OFFICER FABER: Mr. Swain. Go
19 ahead.

20 MR. SWAIN: Thank you.

21 DIRECT EXAMINATION

22 BY MR. SWAIN:

23 Q. And on the topic of names, I have been saying
24 Buscher. Is it Buscher, Buscher?

25 A. It's Buscher.

1 Q. Buscher. Okay. Thank you. Can you state
2 your full name, your employer, and your position, please?

3 A. Sure. My name is Michael J. Buscher. I'm
4 employed at T.J. Boyle Associates. We are located at 301
5 College Street in Burlington, Vermont. And I am the
6 principal landscape architect and owner of the firm.

7 Q. And have you testified before the Public
8 Utility Commission before?

9 A. I have. I've testified numerous times in
10 front of the Public Utility Commission. I've testified in
11 front of numerous Vermont development review boards,
12 planning commissions. I've testified in the Environmental
13 Court as well as review boards throughout most of New
14 England, New Hampshire, Maine, New York.

15 Q. And what is the purpose of the testimony you
16 submitted in this case?

17 A. We were contacted by the Department, the
18 Vermont Department of Public Service, and we were
19 specifically asked to conduct a separate, independent
20 impact analysis of the potential aesthetic impacts of the
21 proposed tower in Westmore.

22 Q. And can you describe the work that you did
23 associated with that project?

24 A. Yes. We have a fairly standardized procedure
25 for projects in Vermont. We first do background review

1 and desktop analysis. This includes reviewing project
2 plans, details, design elements. We look at the existing
3 area in which a project is being proposed. We prepare a
4 database of GIS data including forest cover, topography,
5 other elements in the landscape. We prepare viewshed --
6 GIS viewshed analyses which is a line-of-sight analysis.

7 We do that both based on bare earth and an
8 obstruction-based methodology to best understand where
9 there is potential visibility. With that in hand, we then
10 ground truth that analysis, and we take photo
11 documentation on the site. We correlate those photo
12 locations through GPS data which is later input on to the
13 GIS mapping.

14 Then we will create visualizations to try to
15 best understand how a project is going to appear in the
16 landscape. With that information on hand, we evaluate it
17 for what we would consider a contrast which basically
18 correlates with the first part of the Quechee analysis;
19 how visible it is, what are the materials, distances that
20 it's visible at, and based on that contrast analysis we
21 make a determination whether a project would be considered
22 adverse or not. And for this project we did find that it
23 would result in an adverse impact.

24 We then move on to the second part of the
25 Quechee analysis that evaluates it under three specific

1 criteria; that being whether there is reasonable
2 mitigation, whether it violates a clear written community
3 standard intended to preserve the scenic values within a
4 certain community. And the third being whether it would
5 be considered shocking or offensive to an average person.
6 For that component, we did not find the project to result
7 in an undue adverse impact.

8 Q. Thank you. Just as a reminder, it is a little
9 difficult to hear you so just speak up the best you can.
10 It's -- I think it's clear enough. Whatever you can do is
11 helpful.

12 Are there any corrections that you would like
13 to make to your testimony?

14 A. Yes. The format that we present our findings
15 on is a template format, and many times we also cover
16 orderly development. And I would note that the cover and
17 header on our report notes orderly development. But that
18 review was not conducted for this project.

19 Q. Okay. Are there any other corrections that
20 you would like to make?

21 A. There is some minor typos in the report. But
22 nothing that would have a material impact.

23 Q. Okay. Thank you. And do you affirm that the
24 prefilled -- otherwise that the prefilled testimony you
25 submitted is accurate to the best of your knowledge?

1 A. I do.

2 Q. Do you affirm that the exhibits you submitted
3 with your prefiled testimony are accurate to the best of
4 your knowledge as well?

5 A. I do.

6 Q. And you do stand by these exhibits that you
7 submitted?

8 A. I do.

9 MR. SWAIN: Then I would move for the
10 admission of these exhibits and the report that Mr.
11 Buscher submitted. And then I'll make him available
12 for cross.

13 HEARING OFFICER FABER: Any objections?

14 MR. SEFF: No.

15 HEARING OFFICER FABER: Okay. The
16 testimony and exhibits are admitted into evidence.

17 (The Prefiled Testimony of Michael
18 Buscher was admitted into the record.)

19 (Exhibits marked Appx. A Maps, 1 through
20 3, Appx. B, Appx. C Sim. 1 through 3, Appx. D were
21 admitted into the record.)

22 Prefiled Testimony

23 <http://epuc.vermont.gov/?q=downloadfile/756641/198631>

24 Appx. A Map 1

25 <http://epuc.vermont.gov/?q=downloadfile/756618/198631>

1 Appx. A Map 2

2 <http://epuc.vermont.gov/?q=downloadfile/756619/198631>

3 Appx. A Map 3

4 <http://epuc.vermont.gov/?q=downloadfile/656620/198631>

5 Appx. B

6 <http://epuc.vermont.gov/?q=downloadfile/756659/198631>

7 Appx. C Sim. 1

8 <http://epuc.vermont.gov/?q=downloadfile/756669/198631>

9 Appx. C Sim. 2

10 <http://epuc.vermont.gov/?q=downloadfile/756670/198631>

11 Appx. C Sim. 3

12 <http://epuc.vermont.gov/?q=downloadfile/756671/198631>

13 Appx. D

14 <http://epuc.vermont.gov/?q=downloadfile/656663/198631>

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1 MS. DZUGAS: Can I ask a question on
2 that? Because earlier I asked saying there was no
3 testimony. So what he just said is the testimony --

4 THE WITNESS: I lost you for a minute.
5 Can you hear me?

6 HEARING OFFICER FABER: Can you hear
7 me? Go ahead, Mr. Dzugas -- Ms.

8 MS. DZUGAS: I just need clarification
9 for my -- I'm not a lawyer. I had brought up that
10 there was no testimony done by him. You said his
11 report is his testimony. And so what was just
12 approved? There still is no testimony. There is a
13 report.

14 HEARING OFFICER FABER: His report is
15 his testimony with attached exhibits.

16 MS. DZUGAS: And that's it. Not --
17 what he just -- anything he just said, that's not the
18 testimony.

19 HEARING OFFICER FABER: He just
20 described his report. So that's all that's going on
21 there.

22 MS. DZUGAS: Okay. Thank you.

23 HEARING OFFICER FABER: So you have
24 questions for Mr. Buscher, Ms. Dzugas?

25 MS. DZUGAS: Yeah. And actually -- oh,

1 yeah. I have questions.

2 And Mr. Buscher, you're going to have
3 to bear with me because I was under the impression
4 because of PC Rule 2.213 since no testimony was filed
5 that I didn't think I was going to be questioning you
6 today. Yes, I read your report, but I didn't devise
7 a whole bunch of questions like I did for other ones.
8 So please bear with me, that's what I'm saying.

9 CROSS EXAMINATION

10 BY MS. DZUGAS:

11 Q. The first thing that I would like to start
12 with is Appendix B. Is that Appendix A or Appendix B? Is
13 that labeled properly?

14 A. I don't see what you're referring to.
15 Appendix B -- it looks like there is Appendix B is the
16 photographic inventory. And it appears that its title is
17 Appendix A. The mapping is correctly -- should be
18 correctly referred to as Appendix A.

19 Q. So Appendix B is mislabeled as Appendix A; is
20 that correct?

21 A. That's correct.

22 Q. Okay. Just making sure because we are trying
23 to decipher --

24 A. I understand. Yeah.

25 Q. And none of your exhibits have the Case No.

1 for this tower on them; correct?

2 A. That's not something I would typically put on
3 our exhibits. It's usually done through the processing.

4 Q. The processing of what?

5 A. Usually when exhibits are admitted, my
6 experience has been that there is stickers that are placed
7 on to them. When we provide our exhibits they typically
8 don't have the Case No. provided on them.

9 Q. Okay. It's just that we found a few errors,
10 and you did mention that you used templates. So I'm
11 making sure -- there's been errors where something has
12 been from another case. That's all.

13 So that's not your thing. That's up to MSK
14 and ITW to catch that. I hear somebody else.

15 MR. SEFF: Object and move to strike
16 that. It had nothing to do with MSK or ITW.

17 HEARING OFFICER FABER: Right. What
18 are you saying, Ms. Dzugas? What has something to do
19 with --

20 MS. DZUGAS: I thought we had
21 background noise, and I can't hear everything.

22 HEARING OFFICER FABER: Let me check
23 the cameras and see. Everybody appears muted except
24 there is one -- someone on the phone, but I just
25 muted them. So -- is that better?

1 MS. DZUGAS: It's not on my end. I'm
2 hearing someone else other than you. Maybe now it's
3 finally stopped.

4 THE WITNESS: I think part of the
5 problem is my microphone is not correctly working.
6 So it's using my computer microphone. So it might be
7 picking up other noise in my office. I can try to --
8 I have been trying to adjust it, but I'm not being
9 successful on that.

10 HEARING OFFICER FABER: Okay. In the
11 meantime, Ms. Dzugas, you asked whether the labeling
12 had something to do with who?

13 MS. DZUGAS: I can't talk with someone
14 talking over me. I'm not understanding what's -- I
15 have auditory processing. I need to hear one thing
16 at a time.

17 HEARING OFFICER FABER: Okay. Hold on.
18 I believe it's coming from Mr. Buscher's office. So
19 he's trying to fix that. Okay.

20 MS. DZUGAS: I think maybe --

21 HEARING OFFICER FABER: That's better.
22 So in the meantime, you mentioned that the label had
23 something to do with ITW?

24 MS. DZUGAS: No. I asked about it
25 seems none of his exhibits have this Case No. for

1 this tower. And --

2 HEARING OFFICER FABER: Right.

3 MS. DZUGAS: And that's a concern,
4 because sometimes if they are doing other cases, we
5 have to make sure it applies to this case. And
6 mistakes happen.

7 HEARING OFFICER FABER: Okay. So Mr.
8 Buscher, just to be clear, your answer -- you don't
9 label these exhibits. You give them to the
10 Department of Public Service, and they handle any
11 labeling or filing, anything of that sort?

12 THE WITNESS: Yes.

13 HEARING OFFICER FABER: Right. It has
14 nothing to do with ITW or the Petitioner. It's
15 really between you and the Department --

16 THE WITNESS: That's correct.

17 HEARING OFFICER FABER: -- and your
18 contracting to them. That's how it works, Ms.
19 Dzugas.

20 MS. DZUGAS: Okay. I had the wrong
21 parties. Thank you. All right. I'm going to have
22 to try to go in order.

23 BY MS. DZUGAS:

24 Q. Okay. I'm going to have to go to your report.
25 And if we could start with project description, where did

1 you get that from? And just tell me that first.

2 A. We obtained the project description through
3 the Petitioner's exhibits.

4 Q. And you chose which ones were relevant to your
5 report?

6 A. That's correct.

7 Q. Okay. On the methodology you used the Quechee
8 test?

9 A. Yes.

10 Q. Could you explain the first step of the
11 Quechee test and whether or not this tower -- the
12 aesthetic area qualifies?

13 A. Yes. The first part of the Quechee test
14 evaluates more or less the contrast of a project with its
15 surroundings. So this first includes what the visibility
16 of the project is; the materials, colors, textures, its
17 impact on open space. And through evaluation of those
18 items you can make a determination of whether or not a
19 project would be considered adverse.

20 Q. Okay. So in your -- in you determining that
21 for the first step, did you observe any of the balloon
22 tests that were held at that project -- that site?

23 A. I did not observe any of the balloon tests.

24 Q. Okay. So the photos that you include are from
25 different vantage points than previous reports have been

1 submitted by the parties?

2 A. I would assume so. Yes.

3 Q. Okay. You didn't use any other previous
4 reports from anybody to decide which vantage points to
5 use?

6 A. We conducted an independent analysis.

7 Q. Okay. So when you chose these vantage points,
8 what was your criteria for choosing those particular
9 vantage points?

10 A. As I previously described, we do background
11 review before we conduct our field investigation. And
12 that background review identifies things that we deem as
13 having scenic sensitivity, such as scenic byways or
14 landmarks. And that, in combination with our visibility,
15 we use that to direct and inform our field investigation.

16 Q. And when you say you do the background review
17 for scenic byways, did you include in this case the scenic
18 byway 5A?

19 A. Yes.

20 Q. And you included the whole length of it from
21 the north to the south?

22 A. We concentrate on the study area that's about
23 two miles. As a result of the dimension of components
24 associated with cell antennas and visual acuity, there
25 tends to be a significant drop off of potential impact

1 over that mileage. But I did drive the entire route of 5A
2 to the southern end of the lake just because of its scenic
3 significance.

4 Q. And so in your opinion, when you drove it,
5 whichever direction, would you be able to see the cell
6 tower?

7 A. From a line-of-sight vantage consideration, it
8 would be. But when you start to consider visual acuity,
9 it is unlikely that there would be a significant presence
10 of that tower from locations further south along 5A.

11 Q. Is there a particular measure for that visual
12 acuity that you use?

13 A. Yes.

14 Q. I'm sorry. What did you say?

15 A. Yes. There is.

16 Q. Can you be -- I don't know, I don't know. So
17 if you could explain how you measure visual acuity.

18 A. So we talk about visual acuity based on two
19 parameters. In our work we typically describe it as
20 detection and recognition. Detection means that at the
21 very least somebody concentrating on the specific element
22 could detect it, but they would not be able to tell what
23 it is. That would be an object that is -- that would have
24 to sub 1030 arc seconds.

25 The second item that I discussed is

1 recognition. And that's most easily understood through
2 what most people understand is the Snellen eye chart. And
3 the Snellen eye chart is based on the fact that an element
4 needs to sub 10-5 arc minutes in either direction, in both
5 directions, to be able to recognize it.

6 Q. Does that differ from person to person?

7 A. It's all based on 20/20 vision. So some
8 people -- and that's the basis for most visual impact
9 analyses.

10 Q. Okay. I lost my train of thought on that one.
11 So had you ever been to this area before, Lake Willoughby,
12 the Westmore area before you were asked to do this report?

13 A. Briefly.

14 Q. So how much time have you ever spent here?
15 Have you spent overnight? Did you spend a day trip or --

16 A. The most amount of time I spent was for this
17 project. So I was there for the better part of a day
18 time.

19 Q. Okay. So you're not -- you're not very
20 familiar with this area, only because you got hired for
21 this job?

22 A. That's correct.

23 Q. Okay. Would you say that you're relying more
24 on your GIS findings and the stuff you do in the office
25 more so than what you did in person?

1 A. Absolutely not.

2 Q. Okay. If you could tell me how -- you say --
3 you're saying that your presence in the area is equal or
4 more than what you did in your office?

5 A. What we do in our office is to prepare for the
6 field investigation. Our evaluation of impacts is based
7 on our observations from on the site, in the study area.

8 Q. So back to your background, background review
9 that you did before you came to the area, did you --

10 A. Yes.

11 Q. Did you review the town plan for Westmore?

12 A. Yes. And I also reviewed in more detail as it
13 pertains specifically to open space and clear community
14 standards after the visit.

15 Q. Are you still referring to the town plan, what
16 you found in the town plan referring to --

17 A. Yes.

18 Q. Okay. Could you summarize what our town plan
19 -- what's relevant factors in our town plan that you're
20 saying is relevant to this?

21 MR. SWAIN: Objection. Mr. Buscher's
22 report doesn't include an evaluation of the factors
23 of the town plan.

24 BY MS. DZUGAS:

25 Q. Mr. Buscher, you're saying your background

1 review included reviewing our town plan?

2 A. Our review of the town plan was specific to
3 criteria that I'm looking at under the Quechee analysis.

4 Q. Okay. One minute. I have an intervener
5 telling me something. We will have to go back to that
6 because they want me to pull something up, and I don't
7 have it at my fingertips right now.

8 Like I said, I wasn't ready for this
9 particular thing, but it's very important. And so when
10 you're talking background review and viewsheds, okay, did
11 you look at the town plan? All their maps that are
12 included in the town plan? The ridgeline, the viewshed
13 that they had 10 different things that actually cross over
14 there, did you look at any of those maps?

15 A. I reviewed the viewshed map, I believe it's
16 referred to.

17 Q. The one with the 10 vectors?

18 A. That's correct.

19 Q. Okay. But you didn't review the important
20 ridgeline that goes around the 360 bowl effect that the
21 glacial stuff gives the area?

22 A. Specifically through the town plan map.

23 Q. Okay. Now you also mentioned about -- I don't
24 know what your wording was about -- but actually the
25 siting of the tower in that.

1 There is something mentioned in your report
2 that you're saying down the road, the cell service
3 possibly placed on the towers could be of different
4 colors; white, light gray, different colors. So you're
5 saying that they could be more visible than what's being
6 proposed for the radio use.

7 A. Could you refer me to the section of the --

8 Q. In your own report?

9 A. Sure.

10 Q. Maybe you could use "Find," and find where you
11 said that.

12 A. Are you looking at the report right now?

13 Q. I wrote a note from it. I didn't write down
14 what page I found it on. If anyone here can help me on
15 that one, I'd appreciate it.

16 A. I'm looking at page 12. Under subsection --
17 well it's under -- on section 4 on page 12. It says:
18 Future cellular panel antenna may be white or lighter
19 gray.

20 And it said: It's -- but not considered part
21 of this analysis.

22 So we did include the cell panels on our
23 simulations. What that is meant to say is the current
24 permitting does not permit the cell antenna to be
25 constructed at this time. But because they were shown as

1 future elements in the Applicant's exhibit, we did include
2 them in our simulations.

3 Q. And okay. You did acknowledge it, and you
4 acknowledge it could be more visible because of the
5 colors, the size, and that on the tower?

6 A. I didn't say anything about it being more
7 visible. In fact, I think we used a white color. So to a
8 certain degree that would be a conservative estimate of
9 the colors for those antenna.

10 Q. Okay. One second. Sorry. We were trying to
11 pull up the exhibits on another computer. Since -- I
12 wasn't -- all right. Okay.

13 In your section -- how many pages is your
14 report? Because I think we are looking at different
15 pages. That's part of the problem. I don't have 29
16 pages.

17 A. So the report itself, I believe, is 15 pages.
18 And they are labeled at the top of the page. And then I
19 have several appendices that go along with that.

20 Q. Okay. In your exhibit of the town plan,
21 sections of the town plan, and you actually highlighted
22 sections?

23 A. That's correct.

24 Q. What is the purpose of those highlights?

25 A. I am highlighting areas that I felt were most

1 relative to what would be -- what need to be reviewed as
2 part of a clear, written community standard and/or open
3 space.

4 Q. Okay. That's great. Did you look at the NVDA
5 regional plan?

6 A. I did.

7 Q. And did you find any particular sections there
8 that supported the Quechee analysis? Test?

9 A. There are sections that are -- some limited
10 sections that are relevant to the Quechee analysis.

11 Q. So --

12 A. They are also included in the same exhibit.

13 Q. So you're in agreement with the NVDA, the
14 parts that you highlighted, you're in agreement -- your
15 report supports what they are saying.

16 A. They are portions of the regional plan that I
17 reviewed as part of my assessment. And it is a
18 requirement of the PUC rules to include excerpts that are
19 relevant excerpts.

20 Q. Okay. So step one of the Quechee test, we do
21 qualify. So you would have to move on to step 2. Right?

22 A. So it was my finding that the project would
23 result in an adverse impact. So that would require us to
24 move on to step 2.

25 Q. Okay. So when you move on to step 2, you're

1 saying -- in conclusion, at the end of your report you
2 say: It is our opinion, your company, that ITW Westmore
3 tower satisfies the Quechee test, and therefore its impact
4 on aesthetics would not be duly adverse.

5 A. Would not be unduly adverse.

6 Q. Unduly adverse.

7 A. That is correct.

8 Q. And why -- you concluded that even though the
9 highlighted parts of our town plan and our regional plan
10 support otherwise?

11 A. I think that is a misstatement.

12 Q. So can you explain your highlighted parts of
13 the town plan and the NVDA, and what it does support.

14 A. So we are required as part of the Quechee
15 analysis to review both regional -- well the regional plan
16 and the town plan are the primary documents that fall
17 within the criteria of clear, written community standard.
18 So we have to review parts of those plans that are
19 applicable to a clear, written community standards. And
20 then we have to make a determination whether a project
21 does or does not violate those standards.

22 For this project we did not find any clear,
23 written community standards that the project would
24 violate.

25 Q. Okay. So that's your finding. So again, in

1 your summary you say: However, Lake Willoughby is a
2 designated national natural landmark, and therefore
3 additional attention and review is necessary to avoid
4 potential visual impacts.

5 You did write that; correct?

6 A. Can you -- I did, but if you can refer me to
7 the section of where that's stated.

8 Q. It's near the end of your report. It's number
9 6. Your summary.

10 A. That summary is under the first part of the
11 Quechee analysis.

12 Q. Okay. But you agree that it's for the first
13 part. All right. "And as a result of the confirmed
14 visibility and considering the high sensitivity of Lake
15 Willoughby, the project would likely be considered to
16 result in adverse impacts to the aesthetics and natural or
17 scenic beauty to the area?"

18 A. That's correct.

19 Q. That's what qualified it to the first one. So
20 on the second one there is three possible answers that
21 should be asked on the Quechee test. Could you address
22 those three questions and why you feel that therefore
23 doesn't meet unduly?

24 A. So the first one is community standard. There
25 is a significant amount of precedence about how that

1 criteria is applied. And it specifically relates to
2 whether or not the project site is designated as a scenic
3 resource, and whether the town plan provides significant
4 direction on how to avoid or mitigate those impacts.

5 I did not find the project to violate a clear,
6 written community standard.

7 Q. Did you see the town plan that anything above
8 a hundred feet is not appropriate for our area, for the
9 residential, forested area we have? And it's in the town
10 plan?

11 A. Yes, I did.

12 Q. And you don't think that fits to say that this
13 particular thing means we do try to mitigate it?

14 A. Again, there is strong precedence in which the
15 clear, written community standard needs not to be
16 generalized statements, and I would consider that a
17 generalized statement that is for the entire town and not
18 the specific location.

19 Q. I would have to pull up the town plan, so you
20 would have to give me a little extra time. Could someone
21 help me pulling up the town plan where it says 100 feet?
22 Houses can't be over 32 feet, and any other structure in
23 the community cannot be over a hundred feet.

24 What would you consider that needs to be added
25 to that to make it meet your standard?

1 A. Understanding is -- the language needs to be
2 -- have specific relevance to location. And it cannot be
3 a blanket statement that covers the entire town.

4 Q. For the town plan?

5 A. That's correct.

6 Q. And where do you set that -- who sets that
7 standard?

8 MR. SWAIN: Objection.

9 MS. DZUGAS: Is that your standard?

10 HEARING OFFICER FABER: Hold on, Ms.
11 Dzugas. Go ahead, Mr. Swain.

12 MR. SWAIN: She is asking Mr. Buscher
13 to speculate about what would be an appropriate
14 standard to defeat the tower. But that's not
15 relevant, I don't believe.

16 HEARING OFFICER FABER: I tend to
17 agree. What are you trying to ask Mr. Buscher, Ms.
18 Dzugas?

19 MS. DZUGAS: Here it is. Any
20 development 100 feet or higher that can be viewed
21 from any point in the national natural landmark
22 designation area should be considered a development
23 of substantial regional impact.

24 BY MS. DZUGAS:

25 Q. Is that not a strong enough statement to say

1 that it does fit under the Quechee 2?

2 A. Is that a question for me?

3 Q. Yes, it is.

4 A. Could you restate it, please.

5 Q. Sure. I'm reading it directly from the town
6 plan. Protects -- Oh, God. Any development 100 feet or
7 higher that can be viewed from any point in the national
8 natural landmark designation area should be considered a
9 development of substantial regional impact.

10 Is that more specific like you said it should
11 be?

12 MR. SWAIN: Objection. I think this
13 question was already answered in a different format.
14 Regarding the height -- regarding the height
15 standard.

16 MS. DZUGAS: I disagree. He said it
17 wasn't specific enough.

18 MR. SWAIN: That was his answer.

19 HEARING OFFICER FABER: Let me see if I
20 can clear this up.

21 Mr. Buscher, do you consider what Ms.
22 Dzugas just read a clear, written community standard
23 as it pertains to the Quechee test?

24 THE WITNESS: Not for this project.
25 No.

1 HEARING OFFICER FABER: Okay. Thank
2 you. That's his answer, Ms. Dzugas.

3 MS. DZUGAS: Thank you, Mr. Farber.

4 BY MS. DZUGAS:

5 Q. So now let's move on to number 2 on the
6 Quechee test. Mr. Buscher, if you could explain it and
7 how you felt it didn't get met by our community.

8 A. So are you referring to mitigation?

9 Q. Yes.

10 A. So as I noted in the report, there's limited
11 ability in certain aspects for mitigation, and for a
12 project that has the characteristics of a tower project.
13 One of the most effective methods of mitigation is the
14 siting of the project. I felt that this project was
15 fairly well sited to reduce the overall visual --
16 potential visual impact of the project.

17 So I felt that from that standpoint, locating
18 it within a location that is surrounded by dense, mature
19 woods, was successful mitigation, and that it is not
20 significant other available mitigation that would further
21 reduce the visual impacts of the project.

22 Q. Okay. You said "I feel." You feel -- this is
23 your feelings about it.

24 A. This is my determination. It's my assessment
25 that reasonable mitigation has been implemented with the

1 project.

2 Q. What mitigation has been implemented? The
3 tree line stops around 70, 72 feet. The tower, with the
4 antennas, go up to 153 feet. What mitigation is done for
5 the remaining -- between the 70-foot line up to the 153?

6 A. As I already stated, I feel that the overall
7 siting of the project is a significant mitigating element.

8 Q. As compared to other sites?

9 A. Based on my understanding of this project and
10 its potential visibility, I'll repeat, I feel that the
11 location and siting of the project is a mitigating
12 element.

13 Q. Okay. All right. And now can move on to
14 number 3.

15 A. Sure.

16 Q. Talk about Quechee, the second step of -- 3 in
17 the second step of Quechee.

18 A. So the second -- or the third part of Quechee,
19 shocking and offensive, which largely relates back to the
20 first component of Quechee. It really is understanding
21 the overall contrast of the project. And I would find it
22 hard to make a determination that this project would have
23 enough contrast, particularly from publicly accessible
24 locations, which throughout the report I notice the
25 majority of public visibility begins around 1 mile from

1 the project site, that based on my findings, it would not
2 be considered shocking or offensive.

3 Q. Okay. So are you aware that Westmore is
4 solely zoned agricultural and residential?

5 A. That did not look -- that's not a component of
6 the town plan that I looked at.

7 Q. Okay. Are you aware that this is a gold town,
8 and it has a lot of Airbnb's, short-term rentals?

9 A. I recognize Westmore as a vacation
10 destination.

11 Q. So people that are coming on vacation to where
12 a national natural landmark is, and a beautiful large
13 glacial deep lake is, do you think that they are not going
14 to be shocking -- it's not going to be shockingly
15 offensive to see an industrial tower stick up above the
16 tree line?

17 A. I do not feel as if this would be shocking and
18 offensive to the average person.

19 Q. Okay. And do you feel it would affect the
20 economy of our area if --

21 MR. SWAIN: Objection. That's not
22 within the scope of Mr. Buscher's report.

23 MS. DZUGAS: Okay. All right. So you
24 just have to give me a few more seconds because, like
25 I said, I didn't think we were going to be having him

1 cross examined.

2 BY MS. DZUGAS:

3 Q. Oh, on that third prong there. Who -- can you
4 define who the average person is?

5 A. I'm sorry. I was -- I had an incoming call
6 that came in through my head phone, so it blocked you out
7 for a second. I apologize. I'll turn that off.

8 Q. I'm just asking a follow-up question to the
9 last thing you said about the average person finding
10 something shockingly offensive. Can you define an average
11 person?

12 A. The average person is typically described as a
13 disinterested person. So not a neighbor or an abutting
14 property owner.

15 Q. A tourist that doesn't -- that comes here?

16 A. Could be a tourist.

17 Q. Is or is not an average person?

18 A. Could be considered an average person.

19 Q. Okay. All righty. The other thing, too, is
20 considering the way the topography of our area is, is
21 there a particular reason why you limited yourself to the
22 two miles? Because you have the lake that goes low and
23 then you have the high sides with the --

24 MR. SWAIN: Objection. This was
25 addressed earlier when Mr. Buscher was describing why

1 he used the limits of the two-mile radius.

2 HEARING OFFICER FABER: Yeah. No, I
3 agree. He already answered that question, Ms.
4 Dzugas.

5 BY MS. DZUGAS:

6 Q. Okay. All right. So aesthetically, would you
7 say that outside the two-mile area there are people and
8 residences and areas that will be affected, whether by a
9 tourist or a person that lives here?

10 MR. SWAIN: Objection. Again, I think
11 that was already answered.

12 HEARING OFFICER FABER: He's already
13 testified to the demarcations and the visibility that
14 goes along with that.

15 MS. DZUGAS: I request three to five
16 minutes so that I can just review if there is any
17 other remaining questions that the interveners would
18 like me to ask, sticking to what you're limiting us
19 to. It's our last witness.

20 HEARING OFFICER FABER: I'll give you
21 two minutes. I'll give you until -- what is it?
22 2:37 now. I'll give you to 2:40. I'll give you an
23 extra minute. How about that?

24 (Recess was taken.)

25 HEARING OFFICER FABER: Okay, Ms.

1 Dzugas, you're back. Mr. Buscher is still under
2 oath, if you have any further questions.

3 MS. DZUGAS: I don't see him. Is he
4 there?

5 HEARING OFFICER FABER: He sure is.

6 MS. DZUGAS: Oh, you moved around on
7 the boxes. Sorry about that.

8 BY MS. DZUGAS:

9 Q. I do have a question. Oh, God. They told me
10 to word it in a special way, and I already forgot how to
11 word it.

12 For anybody, public service in particular,
13 have you written other aesthetic reports for other towers
14 in Vermont?

15 A. Yes, I have.

16 Q. Proposed towers. Have any of -- have you ever
17 -- have any of them ever been denied because of your
18 aesthetic report?

19 A. In particular, I did a review for the
20 Department of Public Service for a project in Bennington,
21 and I believe that before that project was denied, it was
22 my recommendation that the Applicant pull the petition.

23 Q. Okay. So I don't need an exact number, just a
24 percentage of particular recommendation -- studies you've
25 done for towers in Vermont. How many of them would you

1 say that you actually found that you -- that it met all
2 Quechee -- it met the Quechee requirements, so therefore
3 you recommend, no, that you wouldn't support it?

4 MR. SWAIN: Objection. I just want to
5 keep this focused on the Westmore tower. That's the
6 basis for Mr. Buscher's report.

7 HEARING OFFICER FABER: Yeah. I'm not
8 sure where you're going with this, Ms. Dzugas.

9 MS. DZUGAS: I'm not going anywhere
10 with it. I just want to know -- we always talk about
11 how the experts have more expert opinion than people
12 that are just normal people and see things with their
13 eyes. So what I'm saying is how many times does --
14 does he find that the Quechee analysis -- an
15 estimated percentage does he find the Quechee
16 analysis is met.

17 HEARING OFFICER FABER: Yeah, I'm not
18 sure that's relevant to this project. So -- I don't
19 think he has to answer that one.

20 MS. DZUGAS: Well then he just said
21 that he recommended that Bennington -- there is a
22 tower in Bennington that he suggested that they
23 withdraw their application, and he did. Correct?

24 THE WITNESS: I did not suggest that
25 they withdraw the application. I suggested that it

1 did not meet the second part of the Quechee test in
2 my review.

3 MS. DZUGAS: Okay. So that one didn't.
4 That's it. All right. Then we are done.

5 HEARING OFFICER FABER: Okay. Thank
6 you. Redirect, Mr. Swain?

7 MR. SWAIN: I have nothing. No.

8 HEARING OFFICER FABER: Mr. Seff, do
9 you have any questions for Mr. Buscher?

10 MR. SEFF: Thank you. No questions.

11 HEARING OFFICER FABER: Okay.

12 MS. DZUGAS: I thank you, Mr. Buscher,
13 for coming today.

14 THE WITNESS: Thank you.

15 HEARING OFFICER FABER: Yeah. You're
16 excused, Mr. Buscher.

17 So that's all the testimony and cross
18 examination. How about have I forgotten to admit any
19 evidence that any party was seeking to have admitted
20 into the record?

21 (A discussion was held off the record.)

22 HEARING OFFICER FABER: Right. I'll
23 just say that all the exhibits and testimony that
24 were offered are admitted into testimony for the
25 record.

(The Prefiled Testimonies of Andrew Zebrowski, Kathy Holmes, Robert Fitzpatrick, David Anderson, Cynthia Kriebble, Donna Dzugas-Smith were admitted into the record.)

(Exhibits marked AZ-1 and 2, RF-1, DA-1 and DA-2, CK-1 through 13, DD-1 through 5 were admitted into the record.)

Prefiled Testimony of Andrew Zebrowski

<http://epuc.vermont.gov/?q=downloadfile/753474/198631>

AZ-1

<http://epuc.vermont.gov/?q=downloadfile/753473/198631>

AZ-2

<http://epuc.vermont.gov/?q=downloadfile/760822/198631>

Prefiled Testimony of Ronald and Kathy Holmes

<http://epuc.vermont.gov/?q=downloadfile/753523/198631>

Prefiled Testimony of Robert Fitzpatrick

<http://epuc.vermont.gov/?q=downloadfile/753519/198631>

RF-1

<http://epuc.vermont.gov/?q=downloadfile/753518/198631>

Prefiled Testimony of David Anderson

<http://epuc.vermont.gov/?q=downloadfile/753498/198631>

DA-1

<http://epuc.vermont.gov/?q=downloadfile/753497/198631>

DA-2

<http://epuc.vermont.gov/?q=downloadfile/753496/198631>

1 Prefiled Testimony of Cynthia Kriebble

2 <http://epuc.vermont.gov/?q=downloadfile/756499/198631>

3 CK-1

4 <http://epuc.vermont.gov/?q=downloadfile/756500/198631>

5 CK-2

6 <http://epuc.vermont.gov/?q=downloadfile/756501/198631>

7 CK-3

8 <http://epuc.vermont.gov/?q=downloadfile/756511/198631>

9 CK-4

10 <http://epuc.vermont.gov/?q=downloadfile/756512/198631>

11 CK-5

12 <http://epuc.vermont.gov/?q=downloadfile/756513/198631>

13 CK-6

14 <http://epuc.vermont.gov/?q=downloadfile/756527/198631>

15 CK-7

16 <http://epuc.vermont.gov/?q=downloadfile/756528/198631>

17 CK-8

18 <http://epuc.vermont.gov/?q=downloadfile/756529/198631>

19 CK-9

20 <http://epuc.vermont.gov/?q=downloadfile/756540/198631>

21 CK-10

22 <http://epuc.vermont.gov/?q=downloadfile/756541/198631>

23 CK-11

24 <http://epuc.vermont.gov/?q=downloadfile/756542/198631>

25 CK-12

26 <http://epuc.vermont.gov/?q=downloadfile/756543/198631>

1 CK-13

2 <http://epuc.vermont.gov/?q=downloadfile/756544/198631>

3 Prefiled Testimony of Donna Dzugas-Smith

4 <http://epuc.vermont.gov/?q=downloadfile/753548/198631>

5 DD-1

6 <http://epuc.vermont.gov/?q=downloadfile/753549/198631>

7 DD-2

8 <http://epuc.vermont.gov/?q=downloadfile/753550/198631>

9 DD-3

10 <http://epuc.vermont.gov/?q=downloadfile/761357/198631>

11 DD-4

12 <http://epuc.vermont.gov/?q=downloadfile/753552/198631>

13 DD-5

14 <http://epuc.vermont.gov/?q=downloadfile/753556/198631>

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1 HEARING OFFICER FABER: So let's talk
2 about briefing schedules. How long do folks need to
3 come up with their initial briefs? I mean usually
4 two weeks. I don't know. Two weeks seems fine to
5 me. But -- what do you folks think?

6 MR. SEFF: I think that normally I
7 would be totally on board and obviously want to move
8 this along as quickly as possible. Two weeks would
9 be fine. Unfortunately, one of the next two weeks
10 I'm on a long-scheduled out-of-town vacation. So I
11 would propose -- so normally I would propose say the
12 30th of May for briefing, initial briefing. But
13 because I'm away, I personally am away that week, and
14 I'll take the fall on this, the entire week of the
15 26th to the 30th, I would propose Friday, June 6.

16 HEARING OFFICER FABER: Okay. June 6.
17 Is everybody else okay with that?

18 MS. DZUGAS: No, I'm not. First of
19 all, we didn't talk about when we are going to
20 receive the transcripts, because it should be -- I
21 need at least two weeks from the time the transcript
22 would be received.

23 HEARING OFFICER FABER: Well let's ask
24 Kim. What do you think?

25 THE COURT REPORTER: Within a week. So

1 a week from today.

2 MS. DZUGAS: So the transcripts we
3 should receive them by the 21st. Will they be in
4 digital copy?

5 THE COURT REPORTER: They will be filed
6 in ePUC.

7 MS. DZUGAS: I will access it in
8 digital format.

9 THE COURT REPORTER: Yes.

10 MS. DZUGAS: Brings us to the 21st we
11 will be able to access it. Well guess what, guys?
12 I'm on vacation because it's my birthday week in
13 June. I will be away out of town with my children,
14 and I'm not returning until June 12th. So we have an
15 overlap of vacation time there.

16 HEARING OFFICER FABER: Well that is
17 not good.

18 MR. SEFF: I would definitely oppose
19 putting this off, you know, past the 6th. You know,
20 with the upmost respect, Ms. Dzugas has filed some
21 very, very intricate citation-heavy briefs that
22 appear to have been at least partially ghost written
23 by attorneys. The notion that she needs to
24 personally pen this is -- strains credulity frankly.

25 MS. DZUGAS: I'm offended by Mr. Seff

1 being allowed to say that. And you did not stop him,
2 Mr. Faber.

3 HEARING OFFICER FABER: How am I going
4 to stop him? He said it. He said what he said.
5 Let's see.

6 So when are you unavailable, Ms.
7 Dzugas? And you are part of a group. I know you're
8 the spokesperson for the group. But there are what?
9 6, 7 of you. I think someone could write something
10 by the 6th. In spite of your being -- I know you
11 personally are going to be out for your birthday
12 week, but you are part of a group. I really can't
13 push this case much further on in time. We have been
14 at this for quite a long time.

15 Mr. Seff is correct, it looks like some
16 of the stuff you have been submitting is
17 professionally written. And I don't know who is
18 writing it, and I don't really care. But you are
19 part of a larger group, and I do believe that other
20 people in your group could step up and help with the
21 writing.

22 MS. DZUGAS: Okay. Can I -- let me
23 know when I can speak on this.

24 HEARING OFFICER FABER: Any time.

25 MS. DZUGAS: Okay. So the PUC asked

1 for one intervener to represent all the interveners.
2 Okay. They nominated me. I feel very responsible,
3 and I do want to finish the project.

4 And the other thing is that the other
5 party, the Petitioner got a 30-day delay because of
6 whatever their needs were last August, September. We
7 never asked for any extensions. I'm asking for one
8 week. I'm asking for a week. You got 30 days. The
9 other guy got three weeks. I'm asking for one week
10 only because it fell on my birthday week that I
11 already have plans for.

12 HEARING OFFICER FABER: If you want to
13 do it sooner, I mean you could submit something
14 sooner. This is the -- this would be the deadline.
15 June 6. So if you want to do it prior to leaving on
16 your birthday week, that is up to you.

17 MS. DZUGAS: If I get the transcript on
18 the 21st, 1, 2, June 4 -- can we go for June 9? Can
19 we have it due the 9th of June? Can we compromise
20 then?

21 HEARING OFFICER FABER: What is it, a
22 Tuesday or something?

23 MS. DZUGAS: It's Monday.

24 HEARING OFFICER FABER: It's a Monday.
25 I don't really -- I don't have any hard -- how do you

1 feel about that, Mr. Seff?

2 MR. SEFF: I mean I would like to know
3 -- I would like to know whether Ms. Dzugas -- Ms.
4 Dzugas is saying she is going to be putting pen to
5 paper herself, and she is the one that's only going
6 to be working on it. And because of her vacation,
7 and I have one as well, and I acknowledge that, she
8 needs until the 9th then I'm okay with that. I'm not
9 going to be unreasonable about it.

10 But it does feel very strongly to ITW
11 and its attorneys, that there are people other than
12 Ms. Dzugas contributing to the drafting of their
13 filings. And that's why it seems like they should be
14 able to get done by the 6th. If it's only going to
15 be her, and she is not getting any outside help and
16 she needs until the 9th, I would be okay with it.

17 HEARING OFFICER FABER: Is that the
18 case, Ms. Dzugas? Are you going to write this
19 yourself?

20 MS. DZUGAS: This is irrelevant because
21 do we have to say --

22 HEARING OFFICER FABER: No. I'm asking
23 you a question. Are you going to write this
24 yourself? Because you're claiming that you
25 personally are going to be on vacation and can't do

1 it within the time frame. So it is important to
2 know. It is relevant.

3 MS. DZUGAS: I'm not writing it all by
4 myself. But I'm the main person that's answerable to
5 all the interveners.

6 HEARING OFFICER FABER: Okay. All
7 right. Look, it's going to be due on the 6th. All
8 right. I just -- I'm having a hard time with your --

9 MS. DZUGAS: Why can't we have the
10 weekend?

11 HEARING OFFICER FABER: You're going to
12 get three weeks to do this. It should be plenty of
13 time. Okay.

14 MS. DZUGAS: It's not three weeks. We
15 are getting the transcript -- we are getting the
16 transcript on the 21st; correct?

17 HEARING OFFICER FABER: I've got to
18 tell you, typically briefs are due within two weeks.
19 Mr. Seff is correct, these would normally be due on
20 the 30th. We are giving you an extra week. Mr. Seff
21 has asked for that. He is the Petitioner. He is the
22 one -- he is the one who wants to see this concluded
23 more quickly than anyone else. But he is giving
24 another week here so you'll have until the 6th to do
25 initial briefs.

1 Now do folks want to do reply briefs?
2 I hesitate to ask this. But I will put it out there.
3 Do folks want to do reply briefs?

4 MS. DZUGAS: Yes.

5 MR. SEFF: I would say -- oh sorry, Ms.
6 Dzugas says yes. I would say no. I would say that
7 the extent of the filings in this case from the
8 prefiled testimony, to the exhibits, to the motions,
9 to the rulings, to the almost all day transcript
10 today, one brief to rule them all should be enough.

11 HEARING OFFICER FABER: I like the Lord
12 of the Rings reference, but Ms. Dzugas, I will give
13 you until the 13th to do a reply brief. How about
14 that?

15 MS. DZUGAS: Okay. They are not going
16 to be doing one?

17 MR. SEFF: No. If there is going to be
18 reply briefs, we will do one.

19 HEARING OFFICER FABER: They will do it
20 and I'm sure the Department will do that as well.

21 MS. DZUGAS: I'm trying to be as
22 respectful as possible, but Mr. Seff, I don't feel
23 you do the mutual respect in return.

24 HEARING OFFICER FABER: I don't want to
25 get into that, folks. So here's the schedules.

1 Briefing, initial briefs are due on June 6. Friday.
2 The next Friday, June 13, reply briefs will be due.
3 And then once I get those, I will write up a Proposal
4 for Decision, which folks will have another
5 opportunity to comment on.

6 So you'll have a lot of opportunity to
7 comment here, Ms. Dzugas. You're not being --
8 nothing is being shortened on you here. And then
9 once you comment on that Proposal for Decision, the
10 commission itself will take a look at all of those
11 comments and make a decision as to whether this --
12 whether the CPG should be granted or not.

13 So this will go way past June 13. We
14 probably won't have a final decision until, I don't
15 know, July -- I'm hoping before July 1. But who
16 knows. Well it's going to be past July 1 because we
17 will have a round of comments on it.

18 So anyway, I think that's about the
19 best we can do here today. Do folks have any other
20 questions?

21 (No response)

22 HEARING OFFICER FABER: Great. All
23 right. Thank you. We are adjourned.

24 (Whereupon, the proceeding was
25 adjourned at 2:54 p.m.)

C E R T I F I C A T E

I, Kim U. Sears, do hereby certify that I recorded by stenographic means the Evidentiary Hearing re: Case No. 24-1755-PET, via videoconference, on May 14, 2025, beginning at 9:30 a.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting and the foregoing 225 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings to the best of my ability.

I further certify that I am not related to any of the parties thereto or their counsel, and I am in no way interested in the outcome of said cause.

Dated at Williston, Vermont, this 19th day of May, 2025.

A rectangular box containing a handwritten signature in cursive script that reads "Kim U. Sears". The signature is written in dark ink on a light-colored, slightly textured background.

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