

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

CASE NO. 24-1755-PET

PETITION OF INDUSTRIAL TOWER AND WIRELESS,  
LLC REQUESTING A CERTIFICATE OF PUBLIC GOOD,  
PURSUANT TO 30 V.S.A. SECTION 248a, AUTHORIZING  
THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS  
EQUIPMENT AT 160 FROG HOLLOW LANE IN WESTMORE,  
VERMONT --

August 7, 2025  
11 a.m.

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Via videoconference

Oral Argument held before the Vermont Public  
Utility Commission, via videoconference, on August 7,  
2025, beginning at 11 a.m.

P R E S E N T

COMMISSION MEMBERS:      Edward McNamara, Chair  
                                 Margaret Cheney  
                                 J. Riley Allen

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CHAIR MCNAMARA: All right. Good morning. This is an oral argument in Case No. 24-1755, petition of Industrial Tower and Wireless, LLC requesting a Certificate of Public Good pursuant to 30 V.S.A. Section 248a, authorizing the installation of wireless telecommunications equipment at 160 Frog Hollow Lane in Westmore, Vermont.

My name is Ed McNamara. I'm Chair of the Vermont Public Utility Commission. And with me today are Commissioners Margaret Cheney and Riley Allen.

If a party or participant intends on recording the oral argument via video or audio, please indicate this when you provide your name for the court reporter.

And I'm going to start by taking appearances. Just as reminder, this is an oral argument. The parties to the case, those who are actually granted intervention, are the ones who are participating in this oral argument. And I'm going to start with the interveners. And my apologies, I can be terrible with names. Is it Ms. Dzuqas?

MS. DZUGAS-SMITH: That's fine. It's  
Dzugas-Smith. Yes.

CHAIR McNAMARA: Dzugas-Smith. Thank

1 you. And will you be representing all of the  
2 interveners today? I know that you have throughout  
3 the proceeding.

4 MS. DZUGAS-SMITH: Mostly, except we  
5 did also decide I'm going to do the first 15 minutes,  
6 and one intervenor is going to be 5 minutes. And  
7 then we are going to save 10 minutes for rebuttal.

8 CHAIR MCNAMARA: Great. Thank you.  
9 Could you please list the names of the interveners  
10 that you're representing today?

11 MS. DZUGAS-SMITH: Sure.

12 CHAIR MCNAMARA: Thank you.

13 MS. DZUGAS-SMITH: Kathy Holmes. Kathy  
14 and Ron Holmes, I believe. Andrew Zebrowski.  
15 Elizabeth Tucker. Liz Vooris. Bob Fitzpatrick. And  
16 Megan Patton. And myself.

17 CHAIR MCNAMARA: Thank you very much.  
18 I'm going to finish taking appearances. For the  
19 Petitioner. You're off mute, but we can't hear you.  
20 Sounds good. Looks like Mr. Seff will be calling in.

21 For Department of Public Service.

22 MR. SWAIN: Yes. Michael Swain here  
23 for the Department of Public Service.

24 CHAIR MCNAMARA: Thank you. And do we  
25 have anybody for the Agency of Natural Resources?

1 (No response)

2 CHAIR MCNAMARA: Okay. There is a fair  
3 number of people who I don't believe are parties are  
4 showing up as well. I'm actually not going to go  
5 through all of those -- all the names. I will just  
6 -- if anybody is recording this, can they please  
7 speak up now?

8 MS. SMITH: This is Annette Smith with  
9 Vermonters for a Clean Environment, and I'm audio  
10 recording.

11 CHAIR MCNAMARA: Thank you. Great.  
12 While Mr. Seff is still working -- I'm just going to  
13 go through procedures.

14 So we are conducting this oral argument  
15 remotely using web-based platform GoToMeeting.  
16 Please let us know if the platform is not performing  
17 as expected. If, for example, your audio is not  
18 working or you're having difficulties.

19 Representatives in the case should keep  
20 their cameras on during the entire oral argument.  
21 Commission staff will not mute anyone's microphone.  
22 Please keep yourself on mute, unless you're speaking,  
23 to minimize background noise. If your internet  
24 connection cuts out, please try to rejoin GoToMeeting  
25 or call into the oral argument using the telephone

1 number provided in the notice.

2 MR. SEFF: Mr. Chair, can you hear me  
3 now?

4 CHAIR MCNAMARA: Yes, I can. There is  
5 a little bit of feedback. I'll just pause for a  
6 second. And I think both Kim and I can mute  
7 ourselves. I think that will get rid of the  
8 feedback.

9 Mr. Seff, if you can enter an  
10 appearance please.

11 MR. SEFF: Yes. Good morning, and  
12 apologize for the technological difficulties here. I  
13 just got a brand new monitor yesterday, and it's got  
14 a built-in mic and camera, and unfortunately the mic  
15 is not working. So my apologies.

16 This is Daniel Seff with MSK Attorneys  
17 in Burlington, and I represent the Petitioner,  
18 Industrial Tower and Wireless, LLC.

19 CHAIR MCNAMARA: Yup. Thank you. I  
20 will note I think that you might actually have two  
21 microphones going at the moment now. So but if --  
22 let me just finish up the procedures. One second.  
23 Actually. I'm sorry. I did finish the procedures.  
24 So please go ahead, Ms. Dzugas-Smith.

25 MS. DZUGAS-SMITH: You can say Donna.

1                   That's fine.

2                   MR. SEFF: Mr. Chair, before we get  
3                   started I just would like to make a very brief  
4                   objection for the record. By the way, I muted my  
5                   other microphone and I still hear myself here. It's  
6                   aggravating.

7                   There was a procedural order handed  
8                   down by the hearing officer in this case relatively  
9                   early on that directed that Ms. Dzugas-Smith would be  
10                   the representative for all purposes throughout the  
11                   proceedings. And it was our understanding, and I  
12                   actually conferred with Mr. Swain about this  
13                   beforehand, that she would be the only spokesperson  
14                   at this hearing. I just want to note that for the  
15                   record. Obviously, whatever the commission decides  
16                   is okay, but that was our understanding.

17                   CHAIR McNAMARA: So your objection is  
18                   noted. I am going to let the interveners split their  
19                   time, as indicated. Noting the objection, Mr. Seff.

20                   MR. SEFF: Thank you.

21                   CHAIR McNAMARA: And my apologies,  
22                   Donna, that I'm not getting your name correct. I  
23                   really apologize.

24                   MS. DZUGAS-SMITH: I am comfortable  
25                   with the first name, but I just want to let you know

1 when I have an auditory processing issue. So if  
2 there is more than one sound coming in, I'm not going  
3 to be able to hear it properly and decipher it. So  
4 I'm hoping that Mr. Seff's issue has been resolved,  
5 because that will be very difficult when it's his  
6 turn for me to listen.

7 MR. SEFF: I think I resolved it. Is  
8 it okay now?

9 CHAIR MCNAMARA: Yes. I am only  
10 hearing one of you now. So great. Thank you. All  
11 right.

12 So for the oral argument we typically  
13 provide 30 minutes for those opposing the Proposal  
14 for Decision, 30 minutes for those supporting. So  
15 interveners, there was clearly, Donna, you had  
16 indicated that you would be taking the first 15  
17 minutes, 5 minutes for -- and who is the next person?  
18 Also representing?

19 MS. DZUGAS-SMITH: Andrew Zebrowski.

20 CHAIR MCNAMARA: Thank you. Great.  
21 And that you were requesting 10 minutes for rebuttal,  
22 is that correct? I see you nodding yes. Okay.

23 MS. DZUGAS-SMITH: Yes.

24 CHAIR MCNAMARA: Mr. Swain, did you --  
25 have you talked with Mr. Seff about the splitting any

1 time? Is it purely Mr. Seff? How are you -- how are  
2 we proceeding?

3 MR. SWAIN: We have a little bit. I  
4 would only like a few minutes. So I'm more than  
5 happy to give the rest of that time to Mr. Seff.

6 CHAIR MCNAMARA: So roughly 25 minutes  
7 max, Mr. Seff? And 5 minutes for the Department.  
8 Does that work?

9 MR. SEFF: Yes. Thank you very much.

10 CHAIR MCNAMARA: Great. All right. So  
11 why don't we get started with the interveners.

12 MS. DZUGAS-SMITH: I have one request.  
13 If somebody -- I don't know if it's you or the court  
14 reporter, if you could give me like when you say 10  
15 minutes, if someone can say to me 10 minutes are up  
16 so I know I have 5 minutes and I have to wrap up.

17 CHAIR MCNAMARA: I can do that. Of  
18 course.

19 MS. DZUGAS-SMITH: Okay. First of all,  
20 I want to thank the commission for giving us the  
21 opportunity for oral argument so that we can feel  
22 like we are being heard. It's been a very difficult  
23 process. We are just mere citizens and residents of  
24 Vermont, and this has been a long process for all of  
25 us and very complicated one.

1 So what I would like to start with, the  
2 most important thing about this case, is that the  
3 Petitioner's proposing a tower in the national  
4 natural landmark. And I don't know how familiar you  
5 are with the particular case yet at this point, how  
6 much you've reviewed, so I'm going to try to  
7 summarize the most important parts of this. Deb  
8 DiQuinzio, who is the northeast regional coordinator  
9 for the national natural landmark, submitted a letter  
10 during the comment period of June 2024.

11 CHAIR McNAMARA: So just a reminder for  
12 folks. Please mute. I believe there is a few people  
13 on telephone. I think one person just came online  
14 and was speaking over. So please mute yourself.  
15 Thank you. Sorry about that.

16 MS. DZUGAS-SMITH: So her letter that  
17 was dated June 18, 2024, it's saying: It's come to  
18 the attention of the national natural landmark that  
19 the tower had been proposed, and that it's in the  
20 proximity of Lake Willoughby, which is the national  
21 natural landmark area designated. And that it is the  
22 responsibility of our state to show wise stewardship  
23 of these nationally significant sites, of which  
24 Vermont only has 12, and there is 600 in the country.  
25 It shows you the significance.

1 And we are the most prominent one in  
2 this state. And worthy noting is that during  
3 discovery, the petitioner did admit that the Lake  
4 Willoughby area is a federally designated national  
5 natural landmark. This is why this is crucial to  
6 your decision making. Deb DiQuinzio continued:  
7 Agencies and organizations that coordinate, fund or  
8 permit projects that could impact a national natural  
9 landmark should be aware of the program and the  
10 landmarks in their geographic area for the purposes  
11 of environmental planning and decision making.

12 And she said that her staff was  
13 available to help identify potential impacts and to  
14 avoid and minimize and mitigate these impacts. And  
15 so she continues that given Lake Willoughby's natural  
16 area's value to the country's heritage, that they  
17 request any potential impacts to the views along the  
18 lakeshore line and from atop the Ms. Pisgah, Mt. Hor  
19 and other key viewpoints within the national natural  
20 landmark be considered and evaluated.

1 color, and the lighting. It is also recommended to  
2 ensure consultation and sharing of balloon test and  
3 photo simulations and results with the Agency of  
4 Natural Resources, our Vermont state ANR, who is the  
5 owner and manager of the national natural landmark.  
6 It is sad to say they are not at this proceeding  
7 today even though they are a mandatory party.

8 In conclusion, she encourages all  
9 parties, the Petitioner, all -- the keeper of the  
10 national natural landmark, ANR, the town, citizens,  
11 to reach out to their department so that they can be  
12 of further assistance and give information and  
13 direction.

14 Now when she wrote that letter Bob  
15 Kennedy, who is the chair person of Westmore planning  
16 commission, he wrote a personal email in response to  
17 her letter that somehow made it on to the PUC comment  
18 section, but yet it was a personal email. You can  
19 read it for yourself. You can decide what it's  
20 worth. It is a personal email that he was responding  
21 to that letter. The more important letter that needs  
22 to be considered is Mr. Kennedy's letter of July 9,  
23 because the Petitioner seems to hinge their whole  
24 case on that one letter of why the tower should be  
25 acceptable for this particular area.

The Petitioner only takes two items out of that letter when there is eight items that oppose the tower, and that's not brought up in their case. Bob -- and once again, this was not approved by the planning commission. It was not voted on and approved. But Bob wrote it after having meetings with the public and with his commission, he wrote it as a personal letter; Mr. Kennedy.

And he acknowledges that they understand that there is a need and a necessity for radio and cellular service throughout the state. He acknowledges that. But he realizes it comes at a cost, and that's what we are here to consider. Where is the societal benefit, and where is the cost. He acknowledged that last year. He feels that there was an obligation of the town to preserve the beauty of the lake and the economic growth that it is dependent on preservation of the lake.

Someone's interrupting again. Whoops.  
Okay.

And he notes that this is all well documented in Westmore town plan. The Petitioner did not acknowledge this in this letter. The Westmore planning commission once again acknowledges better cell service and better radio communication for

1                   emergency teams are important, but can't be done when  
2                   -- without considering the cost, again, the beauty  
3                   and the rural nature of the community.

4                   The site that ITW chose, he in his own  
5                   personal opinion says, I guess most acceptable site,  
6                   but yet no other sites were shared with us. That's  
7                   the only site ITW presented to us. They didn't tell  
8                   us what the other options were. They didn't tell the  
9                   town, they didn't tell the public, they didn't tell  
10                  Bob. And he also acknowledges that the visitors'  
11                  enjoyment of the beautiful lake which is critical to  
12                  our economy and the pride of the town will be  
13                  jeopardized with the tower in sight.

14                  And he added to that one is that the  
15                  impact of the tower on our natural beauty is not a  
16                  hundred percent predictable until the tower goes up,  
17                  which the many balloon floats demonstrate. You have  
18                  a balloon float, but it's not a tower. You're seeing  
19                  little balloons up in the sky. You're not seeing  
20                  that tower. Like the tower behind me which is an ITW  
21                  tower in Fairfax, Vermont.

22                  So it is also acknowledged by Bob that  
23                  some Westmore citizens will be adversely affected by  
24                  this tower from annoying to devastating. But yet all  
25                  reports submitted by ITW and the aesthetic expert by

1 DPS ignores that. They don't include the neighbors.  
2 They don't include the effect -- how annoying it's  
3 going to be, how devastating it could be to their  
4 livelihood, to their life, to their daily living.

5 He says it will destroy the views and  
6 the rural and natural setting of the property, which  
7 is often why they chose to live here. Nobody  
8 considered that. Not anyone from the Petitioner, not  
9 anyone from the one expert witness that the DPS  
10 chose.

11 So then -- so Bob did say we would like  
12 PUC to seriously consider and address the concerns of  
13 the adjoining property owners in this matter. We beg  
14 of you, please PUC, when you review the record,  
15 please think of those abutting landowners and the  
16 interveners that took the time, have devoted their  
17 time and life and whatever they could do, to bring  
18 this to your attention.

19 There is many exhibits that have been  
20 submitted that you need to thoroughly look at,  
21 because the Petitioner fails in all their exhibits,  
22 they never went on private land, they never  
23 considered those people. So we need you to consider  
24 us.

25 CHAIR MCNAMARA: May I interrupt really

1 quick? It's been almost 10 minutes.

2 MS. DZUGAS-SMITH: Okay, boy. I'm not  
3 going to get to much. Okay. All right. And then  
4 Bob also mentions that they are concerned about the  
5 construction, that it was -- it's not spelled out.  
6 It's not detailed how it's going to happen. If you  
7 look at the evidentiary hearing, I tried to ask those  
8 questions, and I was told that, oh, you're going out  
9 of bounds of aesthetics and planning. But to me both  
10 of the things were relevant because how is it going  
11 to be constructed? How is it going to affect it?

12 So and, once again, Bob did say that --  
13 he mentions about the deference that should be given  
14 to the municipality, and the fact that we do have a  
15 telecommunication ordinance that still -- parts of it  
16 should still be considered even with 248a, that the  
17 whole thing is not totally written off. But you're  
18 the experts, and you can decide on that one.

19 So now I was told not to go fast, but  
20 boy, 15 minutes goes fast. And then another big  
21 thing that the Petitioners seem to emphasize is that  
22 all our witnesses are not experts. None of them are.  
23 And there is a problem with that. Their experts are  
24 experts, but none of us are experts.

25 I think you need to review the resumes

1 of the experts that we chose. You'll see that they  
2 are impeccable. They have the same qualifications as  
3 -- and more, than the experts that the Petitioner's  
4 using, and they have -- two of them have the  
5 advantage of actually living here. So they have the  
6 basis of how it would be daily affected on all the  
7 lives. And of interest here is that they dismissed  
8 our expert witnesses. They had a chance at the  
9 evidentiary hearing to ask our expert witnesses  
10 questions, and they didn't. Instead, they just said  
11 no, you're not experts, and they moved on as far as  
12 the Petitioner. And DPS had no questions for our  
13 experts.

14 The -- a big problem, and if you  
15 compare the two aesthetic experts, the DPS aesthetic  
16 expert compared to our aesthetic expert, look at how  
17 the Quechee test is used. And that's crucial in this  
18 case. The first part of the Quechee test both  
19 experts agree that yes, it is met in this case. So  
20 you have to accept that. Where they disagree is part  
21 2. The DPS expert claims that all three criteria,  
22 no, not affected. That the Quechee test part 2, no.  
23 So therefore, he decides that none of that's met.

24 Our expert shows not only is one of  
25 those criteria in part 2 met, all 3 are met. And

1 that's extremely important. Believe me, I had this  
2 broken down more, but now I realize I have to move  
3 on.

4 So you've got to realize that the  
5 project will violate the clear written community  
6 standard which is the town plan, which is the  
7 telecommunications ordinance, which is our bylaws.  
8 You have to realize on -- under part 2 that the  
9 project incorporates -- does not incorporate  
10 available mitigation. Because mitigation goes more  
11 than just the natural trees that they are going to  
12 chop down around it and hope they grow back.  
13 Mitigation also means what have they considered.  
14 What other 10 towers in the 10-mile radius have they  
15 considered as options?

If you look at, once again, the evidentiary hearing, Delaney admitted that he did not approach VTel for the tower that is already in our town to work with an existing tower. He admitted he did not, even though the public had requested it at the February 2024 meeting, and we kept asking about it. Mitigation was not approached by the Petitioner.

1                   surroundings and diminish the scenic qualities. That  
2                   is proven by the national natural landmark. It's  
3                   proven by our town -- our town plan. It's all over  
4                   the place.

5                   So all three criteria of Quechee -- of  
6                   the part 2 of Quechee is met. And most importantly,  
7                   the expert from DPS says that the average person  
8                   would not be offended by this. There is a lot of  
9                   average people here and above average people here.  
10                  We are all offended. We are all offended by the  
11                  process. We are all offended by what's being  
12                  proposed.

13                  Then if you go to the town plan,  
14                  Petitioner only addresses two items in our town plan.  
15                  You need to review our town plan. It's very  
16                  specific. NVDA helped devise the town plan, and the  
17                  town plan talks about nothing over a hundred feet in  
18                  the national natural landmark viewshed. This is in  
19                  the national natural landmark viewshed. And it is  
20                  proposed at 140 feet with 13 feet of antenna, that's  
21                  over a hundred feet. Tree line stops at 72. It is  
22                  going to be seen very clearly. And it's going to be  
23                  seen from many more areas than their exhibit -- it  
24                  was LH-6, when they show where they saw it.

25                  And more importantly, about their

1 balloon float of April 2024. It was a faulty balloon  
2 float. Mr. Hodges admitted during the evidentiary  
3 hearing that he set the balloon float up, and then he  
4 took off to go check around the town. And he left  
5 the property owner, who has an invested interest of  
6 having the tower erected at the balloon float.

7 Look at our drone photos. Look at our  
8 drone video. You'll see that that balloon was moving  
9 around and going up and down. We don't know how. We  
10 don't know why, but perhaps that's why some people  
11 didn't see the balloon at certain times. Maybe it  
12 wasn't floating straight up for some reason. But it  
13 wasn't manned by the Petitioner. They left it  
14 unmanned. So they have no idea about their balloon  
15 float. The balloon float that was done approximately  
16 a year later, this past March, by Mr. Anderson, who  
17 is an engineer, and his qualifications do qualify him  
18 as an expert, shows that at dusk when there is less  
19 wind and the balloon is floating straight up, the  
20 balloon can -- did show where the height of that  
21 tower is going to be. And it will be visible.

22 And most importantly, believe me, I  
23 have probably four times as much as I'm saying here,  
24 but I'm trying to show the most important things and  
25 draw your attention to this case. This is a whole

1 year. This is not our specialty. We are just doing  
2 this pro se. We cannot afford, neither can our  
3 municipality, afford the legal representation that  
4 the Petitioner can afford. So we are doing our best,  
5 learning as we go, and trying to point it out.

6 I have to ask you to please look  
7 through the whole record. Read the prefilled  
8 testimony. Read that evidentiary hearing. And  
9 realize how our questions remained unanswered and how  
10 our hands got tied at certain points. How I was told  
11 we are going outside of the aesthetics. I think if  
12 you have 10 mile -- 10 towers in a 10-mile radius, it  
13 makes a difference aesthetically if you have ten or  
14 if you have 20. But I'm going out of things asking  
15 about the propagation maps.

16 The DPS did not submit any propagation  
17 maps. And more importantly, Vermont has a 10-year  
18 Telecommunications Plan that they just approved when  
19 this petition was submitted in June 2024. And you  
20 should look at that because DPS is supposed to be the  
21 caretaker of that. And enforce and -- enforce and  
22 educate everybody, us, the people that want to put  
23 towers up, the broadband. They are supposed to be  
24 helping us work together on this instead of being in  
25 this confrontational situation. If we were all more

1 educated, because they in their thing says if you put  
2 up towers like this, without collocators agreed to  
3 before you erect them, before you approve the  
4 permission, you're going to end up with towers like  
5 that serving no purpose.

6 CHAIR MCNAMARA: Donna --

7 MD. DZUGAS-SMITH: Okay.

8 CHAIR MCNAMARA: Sorry. You can take a  
9 little time out of the rebuttal as well. You're a  
10 little bit over where you are, a few minutes over.

11 MS. DZUGAS-SMITH: I just -- I will add  
12 the rest to the rebuttal. What I want to say in  
13 closing is what we need to do here is we have to  
14 measure societal benefit against societal cost. And  
15 if you can approve a tower like this in a national  
16 natural landmark in Vermont, do you know how many  
17 other places in Vermont these towers are going to go  
18 up that are not national natural landmarks and don't  
19 have the backing that this unique area has? Remember  
20 there is a scenic byway, 5-A, that goes along the  
21 side of the lake. This tower will be visible, and  
22 their expert said it, along that route.

23 So I will now hand it over to Andrew.  
24 He's in the same room. And he's going to come on  
25 over here and do his 5 minutes and just take my extra

1 time off my rebuttal.

2 CHAIR MCNAMARA: Thank you.

3 MR. ZEBROWSKI: Hello. I'm just  
4 speaking as a common person in this town. So I've  
5 lived here 22 years now. I own the local store. I'm  
6 on the zoning board and planning commission. I'm an  
7 adjoinder.

8 I owned the store for the past 6 years.  
9 I've talked with thousands if not 10 of thousands of  
10 people about why they come to this area, and none of  
11 them come for connectivity. They come here to  
12 reconnect with nature and get away from technology.  
13 And that's the main economic driver of this area is  
14 our natural beauty. I've spent also the last 20  
15 years piecing back together a small farm that has  
16 been divided that abuts the Willoughby River and the  
17 North Beach. It started out with three acres and  
18 went to 11. And now it's 150. I did all this with  
19 my own money. I didn't take funds from the state. I  
20 didn't take funds from the federal government. Some  
21 things are worth more than money.

22 And protecting this area, if you don't  
23 know it and you haven't been here, you know, an  
24 aesthetic expert out of Burlington or somewhere  
25 values things a lot different than we do here. We

1 value our natural beauty. We are not into  
2 technology. We choose to live here, pay high taxes,  
3 have bad roads because we don't have enough traffic  
4 volume. And to put a radio tower in this town for  
5 what? The fire department chief has said they have  
6 adequate communication. Adam Huslin, talking with  
7 him, says he only needs one foot above the tree line  
8 to have communication. That he can put it on the  
9 church steeple and it would be fine. So what is the  
10 reason for this tower?

11 The loss of property value for the  
12 adjoiners, it just blows my mind. Like what is the  
13 plan for this? I mean I'm also, like I said, on the  
14 planning board and zoning -- planning commission,  
15 zoning board. And I have been there -- I'm there  
16 currently. I was there in 2018 when we rewrote the  
17 plan. And at that time our major concern was the  
18 towers that were popping up, whether it was wind or  
19 cell towers.

20 We sent surveys out back then, which is  
21 in the town plan, you can read, on what people in  
22 this area value the most. And it seems like the  
23 Petitioner has just picked out things to benefit  
24 them. I ask the Public Service Board to read the  
25 whole plan that we spent a lot of time developing,

1 coming up with, getting a lot of input from our  
2 neighbors and the taxpayers.

14 CHAIR McNAMARA: Thank you, Mr.  
15 Zebrowski. Going to turn it over to Mr. Seff now.

16 MR. SEFF: Thank you, Mr. Chair. And  
17 may it please the commission, again, I'm Daniel Seff,  
18 and I represent the Petitioner, Industrial Tower and  
19 Wireless. I think that I'm very -- I'm glad that Ms.  
20 Dzugas brought up the June 18, 2024, letter from the  
21 U.S. Department of the Interior National Park  
22 Service. I guess it was in the form of a public  
23 comment. It's on ePUC. It's in the docket.

1 is that this tower -- this proposed tower is not in  
2 the national natural landmark. It's virtually a mile  
3 away from it. Now I don't know if you can see --  
4 this is the map that's in the record. But it's that  
5 red area. And again this is part of the June 18,  
6 2024 filing.

7 That is the national natural landmark.  
8 The tower is beyond the north point of the lake.  
9 It's not in the landmark. And it is shielded by the  
10 natural topography from the vast majority of the area  
11 that is in the landmark. So just, you know, so we  
12 are all working with the same set of facts here.  
13 It's undisputed that the tower site is not within  
14 this national landmark area.

15 Ms. Dzugas also brought up the June 18,  
16 2024, submission from the chair of the Westmore  
17 planning commission, Mr. Kennedy, which is on ePUC  
18 and has been docketed. There was some discussion by  
19 her about it was a private email and she doesn't  
20 understand why it was docketed. If you look at the  
21 email that has been, I guess printed to PDF and put  
22 up on the ePUC system, Mr. Kennedy cc'd the clerk of  
23 the PUC. So clearly it was intended to go to the  
24 PUC. And I'm just going to read. I don't need to  
25 read it, I presume, because you have it there. I'm

1 just going to read the first paragraph because I  
2 think it really addresses all or virtually all of the  
3 neighbors' concerns.

4 This is Mr. Kennedy writing to Deb  
5 DiQuinzio from the Department of the Interior,  
6 copying every member of the town planning commission  
7 and the PUC clerk. "Hi Deb, we were very concerned  
8 about the impact of this tower on the viewshed of the  
9 entire lake. A balloon test was conducted on April  
10 26, 2024, and most reports from people, including  
11 myself, came to the conclusion that the tower would  
12 have minimum impact on the views of the lake because  
13 of its location three quarters of a mile from the  
14 northwest corner of the lake. I never saw the  
15 balloons after spending two hours driving, stopping,  
16 and taking pictures using a map the planning  
17 commission had made in 2019, plotting the best  
18 viewsheds of the lake. One other member of the  
19 planning and zoning also evaluated the balloon test  
20 site with the same conclusion. The tower is far  
21 enough away from the height of Ms. Pisgah and Mt. Hor  
22 to make it an insignificant detail in the wide  
23 panorama. I believe you would need binoculars and  
24 know where to look to be able to distinguish it at  
25 all. Two people reported they could not see the

1 balloons from the top of Pisgah after hiking up there  
2 to check it out."

3 We want to talk about people from the  
4 community who, you know, not consultants from  
5 Burlington and so forth. This is the chair of the  
6 Westmore planning commission in a submission to the  
7 PUC in June of 2024. Mr. Kennedy followed up on that  
8 submission on July 9, 2024, which was the deadline  
9 for public comments. And this is in the form of a  
10 letter addressed to the Public Utility Commission.  
11 So again, and it's signed Robert Kennedy, chair  
12 Westmore Planning Commission. I don't understand Ms.  
13 Dzugas's comment that this is somehow some personal  
14 communication and not a document filed on behalf of  
15 the full commission. And I'll just read one sentence  
16 from that letter. You have it in the docket. Again  
17 it's July 9, 2024. "The site ITW has chosen is as  
18 acceptable as any site we could readily match because  
19 it cannot be easily viewed from the important  
20 locations we have chosen as critical views of our  
21 lake. It seems like it will have minimal impact on  
22 our visitors' enjoyment of our beautiful lake which  
23 is critical to the economy and pride of our town."

24 So the very documents that Ms. Dzugas  
25 cited, that is the letter from the Department of

Interior and the two comments from the chair of the Planning Commission, we submit respectfully are strong support for the approval of this tower.

The Department of Public Service, and Mr. Swain can obviously speak for them, is the public's advocate before this board. The Department of Public Service very early on in the proceedings said that this tower should be approved. And Mr. Faber, the hearing officer, was exceedingly solicitous of the neighbors, allowed them to file multiple briefs, briefs upon top of briefs, conducted an evidentiary hearing that lasted approximately 6 hours, allowed them to file post-hearing briefs and reply briefs. So the suggestion that this process was somehow opaque or inconsiderate of the neighbors is quite the opposite.

The neighbors, interveners, did not request an independent aesthetics consultant to review this site. The Department of Public Service did not request an independent aesthetics consultant to review this site. At a scheduling hearing, I believe it was back in November of last year, the hearing officer, Mr. Faber, unilaterally sua sponte, directed the Department to retain an independent aesthetics consultant to take a look at this site at

1 ITW's expense. And we didn't feel that was  
2 necessary. Obviously, the Department didn't feel it  
3 was necessary. It did not request that. But the  
4 Department obviously complied with the direction from  
5 Mr. Faber, and retained Mr. Boucher who again,  
6 independent aesthetics consultant did a detailed  
7 analysis that is cited and referenced heavily in the  
8 Proposal for Decision that's before you. So I won't  
9 belabor that. You can see the entire aesthetics  
10 consultant -- independent aesthetics consultant's  
11 report and the passages from it on which Mr. Faber  
12 cites -- to which he cites in the Proposal for  
13 Decision.

14 Ms. Dzugas at varying times during her  
15 presentation and, by the way, I want to congratulate  
16 her on her presentation. I think she may have missed  
17 her calling as a lawyer. I mean that. But a couple  
18 of times she said "our experts" plural. The  
19 neighbors' interveners had a single expert. Singular  
20 expert. Her name was Cynthia Kreible. And we did  
21 question Ms. Kreible's credentials. She is a  
22 painter. She is a landscape artist. And our  
23 concerns were confirmed when Ms. Kreible, after the  
24 evidentiary hearing, published at least two -- we  
25 found two -- maybe there were more letters to the

1                   editors of various Vermont and area publications  
2                   decrying the tower and encouraging citizens to file  
3                   public comments on the ePUC site.

4                   And as a result, I received -- you  
5                   received, I believe, in excess of 90 such comments.  
6                   So Ms. Kreible is not unbiased. She is heavily  
7                   biased, and she doesn't try to hide that fact.

8                   Now Ms. Dzugas did not rely, although I  
9                   think she may have alluded to, some photo simulations  
10                   that were created by somebody that the neighbors'  
11                   intervenors retained. That person did not testify at  
12                   the evidentiary hearing. And we would submit that  
13                   those photo simulations have no evidentiary value at  
14                   all, not only because he didn't testify, or provide  
15                   any, you know, realistic description of how he came  
16                   to those simulations, but a very brief cursory Google  
17                   review of his background shows that he makes his  
18                   living doing graphic design for things such as micro  
19                   brew beer can labels.

20                   So with the upmost respect, and I  
21                   understand the neighbors' concerns here, and we hear  
22                   them loud and clear. But this campaign to try to say  
23                   that this tower is going to be so aesthetically  
24                   devastating as to destroy the town, it is the -- just  
25                   not borne out by the evidence. The chair of the

1 Planning Commission and other members of the -- of  
2 that commission who observed the balloon test were  
3 happy with the location. The independent aesthetics  
4 consultant said that it will not have an undue  
5 adverse effect on aesthetics. The Department of  
6 Public Service, the advocate for the public, all the  
7 public, not just the handful of neighbors who have  
8 appeared here, has come out strongly in favor of this  
9 tower.

10 And I think one thing that's missing  
11 here, you know, that's very important, is public  
12 safety. You know, this is a public safety issue.  
13 The Glover -- town of Glover EMS service is going to  
14 get its antenna at the top of this tower if it's  
15 approved, rent free. And that has the potential to  
16 save lives. And aesthetics is one thing, but public  
17 safety is another thing. And we have to consider all  
18 of it here.

19 And I'm just going to mention, because  
20 it's something that I believe the commission can take  
21 judicial notice of, there was a -- what sounds like a  
22 rather serious altercation at the South Beach of Lake  
23 Willoughby in early July. And this is the subject of  
24 a Vermont State Police press release, news release.  
25 And I'm just going to read -- I'll give you incident

1 number if you're interested. The incident number is  
2 Case No. is 25A5003567. And I'm just going to read  
3 very briefly from it. "On the above date and time"  
4 and that is July 4, okay? "Troopers with the Vermont  
5 State Police Derby barracks, and deputies from the  
6 Orleans County Sheriff's Department, were dispatched  
7 to a report of an individual threatening others with  
8 a weapon at South Beach on Lake Willoughby in the  
9 Town of Westmore. Further details were not  
10 immediately available due to the callers'  
11 disconnecting from lack of cell phone reception."

12 Now I don't know what happened after  
13 that, and hopefully nobody was hurt. But God forbid  
14 somebody got shot or stabbed or pummelled, and there  
15 was no way to reach emergency services. So, you  
16 know, we want to be respectful of aesthetics  
17 concerns. We believe we have done that based on the  
18 facts that have been presented to you here and that  
19 are in the record. But we also want to provide  
20 communication services that can enhance and improve  
21 public safety, and frankly, potentially save lives.

22 And I think that that's something that  
23 gets lost in this discussion about, you know, whether  
24 we are going to see the tower and how much we are  
25 going to see of it.

So there was a mention of ANR not being here despite being a mandatory party. It's my understanding that ANR did not move to intervene, and they are not a party here. I guess it doesn't really matter since they're not here and they haven't appeared or presented anything in the case.

There was some discussion about the ability to collocate possible act to collocate that has been addressed by ITW. It's been addressed by the Department of Public Service. But the bottom line is that there is a tower, the old VTel tower, in the area. And ITW investigated whether it could collocate on that tower. And it determined after careful analysis that it could not. And it would not provide the desired coverage north of the lake or along routes 5-A or 58. So there was no opportunity to collocate here. And that's why ITW's proposing a new tower.

By the way, on the subject of collocation, the plans show that this tower, if approved, will not only be available to Glover EMS, and not only for ITW's two-way radio service, but there will be collocation sites for national cell phone carriers. And that's very important to keep in mind because one thing that I'm sure residents in the

1 area would not want would be additional towers from  
2 say a Verizon or an AT&T that would just be carrier  
3 specific. And by putting up a tower with collocation  
4 sites on it, like this one, the AT&T's and the  
5 Verizons of the world will have the opportunity to  
6 collocate, and therefore not have to build additional  
7 towers. So one tower is better than 3, 4, or 5.

8 And by the way, it is ITW's experience  
9 after decades in this business in multiple states,  
10 not just Vermont, that when a tower like this is  
11 sited that the national carriers do collocate on it.  
12 They don't want to incur the time and expense of a  
13 proceeding like this, frankly, to have to construct a  
14 new tower.

15 And so this is going to benefit,  
16 assuming it's permitted, and if history is any guide,  
17 and national carriers collocate on it, this is going  
18 to benefit everybody in the area and improve internet  
19 connectivity, cellular communication, public safety,  
20 and reduce the number of towers. So this is actually  
21 going to reduce the number of towers that would need  
22 to be built, not make it worse.

23 Ms. Dzugas referred to one of her co-  
24 interveners, Mr. Anderson, as an engineer and expert.  
25 My recollection is that Mr. Anderson, while he is an

1 engineer, was not qualified as an expert in these  
2 proceedings. He's a party by virtue of being a  
3 neighbor and intervenor, but he was not an  
4 independent expert. He's certainly not independent.  
5 He's one of the people opposing the tower.

6 CHAIR MCNAMARA: Just want to wrap up  
7 your roughly 25 minutes there.

8 MR. SEFF: Thank you very much, Mr.  
9 Chair. That's all I have. Thank you.

10 CHAIR MCNAMARA: Great. Thank you.  
11 Mr. Swain.

12 MR. SWAIN: Thank you. I just want to  
13 -- I just want to underline some of the findings of  
14 the Department's independent aesthetics expert on the  
15 second part of the Keechee test -- Quechee test --  
16 excuse me.

17 First, a clear written community  
18 standard, Mr. Boucher found in his report that  
19 neither the town plan nor the regional plan  
20 designates the site of the proposed tower as a scenic  
21 resource.

22 The second is the sensibilities of an  
23 average person. Mr. Boucher shows that from  
24 significant locations around Lake Willoughby the  
25 tower would have a minimal impact due to its distance

1 from those particular locations.

2 I also want to reiterate that as Mr.  
3 Seff said, the tower is not in the national natural  
4 landmark as identified by the public comment left by  
5 the Department of the Interior at the beginning of  
6 this proceeding.

7 The third is -- third part of that is  
8 the average person. The average person that's  
9 viewing from this tower is not necessarily a local,  
10 but someone who views this from the standpoint of a  
11 typical individual.

12 Then the third part of the test on  
13 mitigating steps which Donna Dzugas-Smith touched on  
14 briefly. Mitigation is not particularly applicable  
15 here, as Mr. Boucher covers, because the siting of  
16 the tower itself is the mitigation. It's sited  
17 within the forested area, and there aren't any  
18 reasonable additional measures that can be taken to  
19 further screen this tower from important locations.

20 Last thing I want to say in response to  
21 the comments about Mr. Boucher's input as someone  
22 from Burlington from outside the community is that it  
23 is precisely his standpoint as someone from outside  
24 of the community that makes his analysis particularly  
25 valuable here. He's not only an expert in aesthetics

1 analysis, but he's viewed many similar projects from  
2 across the state and has a particularly helpful  
3 viewpoint as someone who has seen all of those other  
4 sites and can view this site relatively  
5 dispassionately.

6 That's all I have to add. Thank you.

7 CHAIR MCNAMARA: Thank you. Ms.  
8 Dzugas, say 8 minutes for rebuttal.

9 MS. DZUGAS-SMITH: Wow. 80 minutes you  
10 said? I'm teasing.

11 First of all, there is a couple of  
12 things I have to say right off the top. What brings  
13 attention right away when they said this, do you  
14 realize what's lacking in this whole process? All  
15 these people making decisions about our town. There  
16 was no site visit by the hearing officer. There is  
17 no site visit by DPS. There was no hearing, even  
18 though a hearing was requested from the get-go last  
19 June. We were told that an informational meeting in  
20 February 2024 by ITW that they would -- that the PUC  
21 would hold a hearing, that they were only at the  
22 submission stage. They hadn't done the petition yet.

23 Bob Kennedy also told us PUC will have  
24 a public hearing, so the public will be heard. Look  
25 at the record; Holly Davison answers that letter of

1 Bob Kennedy's where he requests a hearing. She  
2 actually answers it, the July 9, 2024 letter. In Bob  
3 Kennedy's letter it says: We want a public hearing  
4 held by PUC.

5 Never done. We need to get the facts  
6 out there. DPS needs to use your 10-year plan,  
7 Telecommunication Plan that was approved, and you  
8 need to stand by it. It says there is supposed to be  
9 transparency. You're supposed to include the public.  
10 The ITW company cherry picked certain things such as  
11 our town plan. We could not include every single  
12 parcel in our town plan and say the value of it. It  
13 would be millions of pages long.

14 And the other thing that you need to  
15 realize is we didn't say the tower's in the national  
16 natural landmark. Neither did Deb DiQuinzio. They  
17 said it's in the viewshed of the national natural  
18 landmark. What makes it a national natural landmark?  
19 The viewshed.

20 Okay. The town -- the other things.  
21 It's not only my brain. The interveners. Okay.  
22 First of all, we did have three experts. Dave  
23 Anderson was not an intervener. He was denied  
24 intervener status. He did a balloon test. He's an  
25 engineer. He owns a company. He's well established.

1 His balloon test showed that the balloon test that  
2 ITW did with Louis Hodges, which we did prove during  
3 evidentiary hearing that he did not man it, was  
4 faulty.

5 Bob Kennedy, since his July 9, 2024,  
6 letter, has admitted and submitted to the PUC that he  
7 became aware of the faulty balloon test that he based  
8 that letter on. That he wasn't aware that that  
9 balloon test was faulty. It wasn't at the right  
10 height when he was driving around.

11 Glover EMS, it's an annual contract up  
12 for renewal with our town. If they have space on  
13 that tower, it might be of no use by the time the  
14 tower is built. We have contracted with Orleans  
15 ambulance before and way back with Barton. We don't  
16 have to stay with Glover.

17 And the other thing is, ITW at meetings  
18 and during the evidentiary hearing has admitted that  
19 this tower will not serve the North Beach. Another  
20 tower will be required. So Mr. Seff bringing up the  
21 recent event down at the North Beach -- South Beach,  
22 I'm sorry, has no bearing on this case. Plus it's  
23 new evidence which I thought we weren't allowed to  
24 bring in, because I have plenty of new evidence I've  
25 discovered since I read that 365-page Vermont State

1 Telecommunications Plan that we are supposed to  
2 follow so that the whole state benefits. And if we  
3 look at that, we need to realize it says things  
4 should not be spent -- be built on speculation. And  
5 it needs to serve the whole public good, not one  
6 company, and one landowner. It needs to serve all of  
7 Vermont.

8 You have -- this is the PUC's task.  
9 They have to realize and weigh it out. Is it really  
10 going to serve the public? It's a Certificate for  
11 Public Good. It's not for the good of ITW. And it's  
12 a radio tower. That's what is being proposed.  
13 Nothing else has been proposed. A radio tower has  
14 been proposed. We don't -- we have had plenty of  
15 people. We have never had a dropped call. The few  
16 businesses in the area like the porta-pottys have  
17 said, oh, we use our own service. We don't need it.  
18 So you would have to have -- the people would be  
19 burdened having to purchase a subscription to ITW to  
20 use that tower. That's a burden. That's not  
21 societal benefit. And it's not a cell tower, and the  
22 public initially was misled by the landowner and by  
23 ITW because they kept calling it a cell tower. Yet  
24 the petition was not for a cell tower. It's for a  
25 radio tower.

1 And a town -- our town plan is actually  
2 a pretty darn good town plan, and it emphasizes the  
3 value of the Lake Willoughby area. And if you look  
4 at our town plan and compare it to -- I had the Case  
5 No. but I'm all over the place here -- to the  
6 Enosburg case. Okay. Take the Enosburg case. Their  
7 tower was going to go down in a bowl. Their  
8 topography. Ours is going up. We are also in a bowl  
9 and it's going to go up on the side of a bowl. The  
10 people on the other side of the lake are definitely  
11 going to see the tower. And even on their  
12 propagation -- maps LH-6 and even Boucher's maps, he  
13 shows you how it will be seen by people on the lake  
14 and on the east side of the lake, but he also  
15 admitted he did not go on any people's private  
16 properties. They didn't ask. What's lacking here?  
17 You know what? We talk about communication. That's  
18 what's lacking here.

19 Did ITW, the Petitioner, ever reach out  
20 and open communication with the community that they  
21 are invading? Okay. And remember that your hearing  
22 officer told them at the scheduling hearing in  
23 November that they chose the 248 process. They could  
24 have come to our town, worked within our town plan,  
25 worked within our telecommunication, worked within

1 our bylaws. They chose not to do that route. They  
2 chose not to do an Act 250. They chose your system.  
3 You know why? Because they can use that 248a  
4 throughout the whole state. They are monopolizing  
5 it. They have the means. Municipalities do not have  
6 the -- they are unfunded to come up against Goliaths  
7 like this, and that's why they are choosing 248a.

8 It's being misused. And when you talk  
9 about the DPS being a public advocate, Michael, to be  
10 very honest, you've never reached out to us to try to  
11 say -- to communicate -- communication -- once again  
12 communication. Did anyone communicate with the  
13 people that live here? With the people -- do we need  
14 the service? What kind of service is it going to be?  
15 Just think if people were transparent there would be  
16 less fear and we could all have a reasonable  
17 conversation with real facts.

18 And all I can ask is I have to beg the  
19 three commissioners, unfortunately, that you're going  
20 to have to take a lot of time to look through this  
21 case thoroughly. We are not only an Enosburg case.  
22 Multiple it times 10 they are not a national natural  
23 landmark. They don't have quite the value that this  
24 does. This tower goes up here, serves very little  
25 purpose other than for two things; a private company

1 and a landowner. And it is not -- it is not serving  
2 the state; the people.

3 I have plenty more to say, but the  
4 other thing is the drone photos. That's an FCC -- he  
5 is not -- he is misrepresented by Mr. Seff. Look at  
6 his resume. He has his own company. And he is an  
7 FCC drone operator. And ITW had every right to hire  
8 a drone operator and show us that we were wrong; show  
9 us that we were wrong. But it's worthy watching that  
10 video and looking at the drone photos.

11 And I just -- once again, I appreciate  
12 that we have this opportunity to bring this to try to  
13 summarize it. It's been very difficult for me. I  
14 hope I haven't confused you more than helped you to  
15 try to point out the most important thing, but the  
16 national natural landmark, you've got to read that.  
17 She didn't say it's in the -- she is saying it's in  
18 the viewshed, and that's what makes it the national  
19 natural landmark. It's the viewshed of Lake  
20 Willoughby, not just that south end of the lake, it's  
21 the whole lake.

22 And look at the town plan and see the  
23 10 maps, the 10 different maps, with viewsheds with  
24 everything pointed out. And make sure you get the  
25 updated one of the maps because they did have some of

1 the maps confused online at first. But I know I'm  
2 rambling at this point. I put a lot of work on this.  
3 I'm a little disappointed that I didn't stay on the  
4 thing. There is so much more to this case, and  
5 you're only going to discover it unless you actually  
6 read what's been submitted with the open mind that  
7 you have been elected for.

8 CHAIR MCNAMARA: Thank you very much.  
9 Yeah. I know these are not necessarily fun or easy,  
10 so I appreciate all the effort that you put into all  
11 this.

12 I don't believe there is anything else.  
13 Next steps are for us to review the materials and  
14 make a determination about the hearing officer's  
15 Proposal for Decision. So that's our next step.  
16 That's for us. And I do want to thank everyone for  
17 their time on all of this. And this oral argument is  
18 adjourned. Thank you.

19 (Whereupon, the proceeding was  
20 adjourned at 12:08 p.m.)  
21  
22  
23  
24  
25

C E R T I F I C A T E

3 I, Kim U. Sears, do hereby certify that I  
4 recorded by stenographic means the Oral Argument re: Case  
5 No. 24-1755-PET, via videoconference, on August 7, 2025,  
6 beginning at 11 a.m.

7 I further certify that the foregoing  
8 testimony was taken by me stenographically and thereafter  
9 reduced to typewriting and the foregoing 45 pages are a  
10 transcript of the stenograph notes taken by me of the  
11 evidence and the proceedings to the best of my ability.

12 I further certify that I am not related to  
13 any of the parties thereto or their counsel, and I am in  
14 no way interested in the outcome of said cause.

Kimball bears

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