

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.

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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1 CHAIR MCNAMARA: All right. Good
2 morning. This is an oral argument in Case No.
3 24-1755, petition of Industrial Tower and Wireless,
4 LLC requesting a Certificate of Public Good pursuant
5 to 30 V.S.A. Section 248a, authorizing the
6 installation of wireless telecommunications equipment
7 at 160 Frog Hollow Lane in Westmore, Vermont.

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

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

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

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

25 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 intervener 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.

21 If visual impacts are unavoidable, and
22 no other location is shown to be suitable for the
23 tower, they request consideration of measures to
24 minimize and mitigate, once again, the impact in the
25 form of the tower height, type of the tower, the

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.

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

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

19 Someone's interrupting again. Whoops.
20 Okay.

21 And he notes that this is all well
22 documented in Westmore town plan. The Petitioner did
23 not acknowledge this in this letter. The Westmore
24 planning commission once again acknowledges better
25 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?

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

23 And then finally, on the third thing --
24 second part of Quechee, the third one, the project
25 would definitely be out of character with the

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 prefiled
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 adjoiner.

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.

3 This isn't something that's going to
4 benefit the public good. It's going to benefit a few
5 people. And all this -- is it worth losing our
6 designation as a national natural landmark? Just --
7 I mean that's pretty much all I have. I mean
8 aesthetic expert doesn't live here. Just please look
9 at what we value here, and please think about
10 everything before you make this decision to put
11 something that's going to sit for a hundred years
12 when technology is moving at rapid pace. In 15 years
13 everything might be satellite. Thank you.

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.

24 And the point, I think, to take away
25 from that letter and the map that is attached to it

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

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

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

17 The neighbors, interveners, did not
18 request an independent aesthetics consultant to
19 review this site. The Department of Public Service
20 did not request an independent aesthetics consultant
21 to review this site. At a scheduling hearing, I
22 believe it was back in November of last year, the
23 hearing officer, Mr. Faber, unilaterally sua sponte,
24 directed the Department to retain an independent
25 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 interveners 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.

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

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

19 By the way, on the subject of
20 collocation, the plans show that this tower, if
21 approved, will not only be available to Glover EMS,
22 and not only for ITW's two-way radio service, but
23 there will be collocation sites for national cell
24 phone carriers. And that's very important to keep in
25 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 intervener, 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

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

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting and the foregoing 45 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 8th day of August, 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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