

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22 -2442-PET

Petition of Industrial Tower and Wireless, LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 248a, authorizing the installation of wireless telecommunications equipment in Ira, Vermont	
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NEIGHBOR INTERVENORS' COMMENTS ON PROPOSAL FOR DECISION

"I don't want Vermont turned into a giant pincushion with 200- foot towers sticking out of every mountain and valley," declared the state's Democratic United States Senator, Patrick J. Leahy. "We're not asking that Vermont be left out of the telecommunications age. But we Vermonters want to be able to determine where the towers are located."

— Senator Patrick Leahy New York Times, March 11, 1998¹

Dear Commissioners Roisman, Cheney and Allen,

We are the Neighbor Intervenors who lives in Ira near the proposed 170'+ Industrial Tower and Wireless Lattice Tower that the Proposal for Decision recommends for approval.

Dr. Stanley Shapiro, cardiologist, and his wife Cathy Baker whose mother was a founder of the Lake Champlain Committee to stop a nuclear power plant from being built on Lake Champlain, own two historic homes and hundreds of acres where Cathy operates a horse farm all of which would be in the view of the proposed tower. David Gates is an author who has been a writer for Newsweek and teacher at Bennington College whose historic home very close to the proposed tower site will have a direct view of the tower, degrading the view from his property and home. Francis & Ellen Lloyd are active in the town of Ira fire department and historical society and their property would have the tower in prominent view from many vantage points.

¹ <https://www.nytimes.com/1998/03/11/us/it-s-a-control-thing-vermont-vs-cell-phone-towers.html>

Alta Johnston has devoted years in public service to the town of Ira who has always put the interests of the town of Ira first. Raymond Gandy's home is one of the closest to the proposed tower and he walks Toppin Road daily. Our views of the natural beauty of the area would forever be degraded by the proposed industrial tower in this location.

We are educated and intelligent people who chose not to hire a lawyer but instead participate *pro se* because we expected the Public Utility Commission would thoroughly review the proposal and take our reasonable input seriously.

We are disturbed and saddened by the Proposal for Decision's recommendation to approve the tower when it contains errors and omissions that show a lack of careful review on the part of the Public Utility Commission.

Based on the inaccuracies in the Proposal for Decision we have great concerns that the Hearing Officer's review was not rendered with attention to the multiple videos and photographs we submitted. We cannot imagine that aesthetic considerations were not found to be unusually compelling based on the Quechee Analysis. We would like to ask the Hearing Officer if he had thoroughly reviewed what was submitted. Based on the Proposal for Decision we would like verification in the context of how this recommendation was made to the Commissioners given how persuasive the evidence on the aesthetic effects such that a reasonable person would lead to recommending that the PUC deny the construction of the lattice tower. We ask the PUC Commissioners to look at the photos and videos for themselves.

We also request the PUC visit the site, which the Hearing Officer did not. A permanent change in land use of such magnitude should not be approved without seeing the site in person.

Omission

The Procedural History does not include the numerous extensions requested by Industrial Tower & Wireless. The applicant sought and received extensions on August 2, August 26, and September 8, 2022. We think this is important because the company was trying to justify this tower by securing commitments from companies interested in siting other types of antennas on the basis of providing a public good, which the company's private radio service does not.

After those delays, the applicant claimed that the Rutland Regional Ambulance service stated its commitment to allow "the Department" to place its equipment on the Tower rent-free, even though the letter submitted by the applicant from the Rutland Regional Ambulance Service (not Department) only stated an interest in reviewing information regarding the possibility of improved radio communications. No commitment from any entity other than the applicant is in the record.

This is an application for a lattice antenna to support antennas for a private radio service only.

Significant Error

Industrial Tower and Wireless is proposing to build a 170 foot tall lattice tower with additional 13 feet of whip antennas for a total height of 183 feet. However, on p.7 of the Proposal for Decision in the Aesthetics section, it says "22. The monopole tower will be 170' high and located in a forested area."

When we first heard about this proposal, we were okay with it as long as it was a monopole or monopine no more than 100 feet tall and would provide cell service. We are not opposed to improving cell service in Ira, though most people have it already.

When information filed with the PUC revealed that the tower would not be a monopole or monopine, and it would not be for cell service, we could not support it. Many of the people who filed public comments supporting the tower are related to the leasing landowner, and/or support the tower because they, too, were misled to believe the tower would provide cell service.

Now, we are disturbed to find that the Proposal for Decision's aesthetics evaluation is based on the mistaken belief that the project would be a monopole. It is upon this mistaken belief that the Proposal for Decision finds that the project would not result in an undue adverse effect on the aesthetics of the area. The Proposal for Decision's aesthetics section does not address the actual proposal which is a lattice tower. For this reason, we ask you to please disregard the recommendation to approve the tower.

This is an application for a lattice tower, not a monopole tower.

Aesthetics

The Proposal for Decision admits that a (monopole) tower may appear out of context with its forested setting. It then goes on to justify the fact that the proposed tower would be out of character with the area by stating there would be limited visibility. We disagree. The visibility for the people of Ira would not be limited. We, intervenors, and many other residents of Ira would be looking at it all the time.

This is a scenic, rural, agrarian area of historical significance. Approval of an industrial lattice tower in this location at this time is similar to allowing an oil derrick to be built with the idea it would provide oil to people, even though there is no oil refinery or gas station or commercial businesses to be served. The only potential customers for the applicant's radio

service are people who drive the two miles through Ira on Route 133, as there are no commercial or industrial businesses in Ira.

The tower is a forever landscape feature, which we expect would be in our viewshed for upwards of 100 years, long after technology advances make it obsolete. As proposed, this lattice tower in this location is shockingly out of character with the area and would offend the sensibilities of the average person.

The aesthetic effect is unduly adverse because it is out of character with the area.

The Proposal for Decision evaluates the aesthetic impact of a monopole, and states that the Petitioner has taken generally available mitigating steps. Had the Petitioner changed the plan from a lattice tower to a monopole as identified in the Proposal for Decision, that would be an appropriate mitigating step. But the Petitioner has not taken the generally available mitigating step of changing the design from a lattice tower to a monopole.

The proposed lattice tower's undue aesthetic effect has not been mitigated because the applicant has not taken generally available mitigating steps.

The Proposal for Decision mentions the presence of other telecommunications facilities in the general area to find the monopole [sic] tower will not reach a level of visual impact such that it could be considered shocking or offensive. There are two telecommunications facilities in the general area. One is located in Middletown Springs. It is a monopine. The other is located in Clarendon next to an industrial quarry. The Middletown Springs monopine shows that it was necessary to mitigate the undue adverse aesthetic effect of a monopole in this scenic, rural area. The Clarendon monopole location in an industrial setting is not equivalent to the site of the proposed lattice tower in the rural, historic, residential and agricultural setting along a road identified in the Ira town plan as a Scenic Resource.

The other telecommunications facilities in the area are either in different or industrial settings where appropriate mitigation has been found to be necessary given the scenic rural mountain landscape. Neither tower is a lattice tower, as proposed for this project.

Orderly Development and Town Plan

The Proposal for Decision fails to recognize that Ira's Town Plan specifically recognizes two miles of Route 133 through Ira valley as a Scenic Resource. The proposed site is located in exactly the two mile stretch of Route 133 from which the applicant acknowledges the tower will be visible.

The proposed lattice tower in the Ira valley through which Route 133 runs in Ira is incompatible with the bucolic surroundings and historic features. The project would interfere with the orderly development of the region and violates the Ira Town Plan's clear written community standard.

Collocation

The Proposal for Decision says that the Neighbors fail to acknowledge that, in addition to the Petition's two-way radio service, it is designed to allow for future collocation of additional carriers that provide cellular and other telecommunications services.

We respond to that alleged failure by pointing out that the Proposal for Decision fails to recognize that, despite efforts to secure contracts for other antennas on the site that might serve the public, the company has been unable to achieve any commitments for use of this tower in this rural location.

Future commitments are purely speculative. Ira has the third lowest population of the 28 towns in Rutland County² with only 368 residents identified in the 2020 Census data, a 14.8% decline since the previous Census. Many Ira residents already have adequate cell service.

The “build it and they will come” approach to permitting this inappropriate industrial lattice tower in such a beautiful rural area is greatly concerning when it comes to protecting the aesthetic beauty of Vermont. If this tower is permitted in this location based on the promise of some speculative unknown future possibility that a company might want to add antennas, is any place in Vermont safe from industrialization without any guarantee that there will be a public benefit in the form of expanded cellular wireless coverage by AT&T, Verizon or T-Mobile?

The fact is that this application is for a lattice tower for radio antennas. Period. There are no businesses in Ira that would be served by this tower. The customers proposed to be served by the proprietary radio service would drive through town on the two miles of scenic Route 133 whose beauty would forever be sullied by the industrial lattice tower. The scenic beauty of Ira is a great public good than a private radio service.

We are not now and never have been opposed to the siting of an appropriate cell tower in Ira, if it provides cell service and if it is a monopole or monopine lower in height. The proposed lattice tower to provide radio service does not serve the public good, and we ask you to find that this tower in this location will not promote the general good of the State.

² <https://vcgi.vermont.gov/data-release/2020-census-data>

Request for Site Visit

We request that the Commissioners please conduct a site visit. The Hearing Officer did not visit the site. There was no public notice of the company's balloon test. We were denied the opportunity to conduct our own balloon test to evaluate the aesthetic impact. Please come to this area and see the site and the surrounding area to better understand what cannot be fully comprehended on paper.

Respectfully submitted this 31st day of March, 2023 by,

/s/Stanley M. Shapiro
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On behalf of Neighbor Intervenors Stanley Shapiro, David Gates, Francis & Ellen Lloyd, Alta Johnston, and Raymond Gandy, *pro se*.