

November 8, 2022

Brian J. Sullivan  
MSK Attorneys  
275 College Street  
PO Box 4485  
Burlington, Vermont 05406-4485

Re: Verizon Proposal for Cell Tower at 908 Airport Road, Warren, Vermont (the “Proposal”)

Dear Brian

This letter is in response to your notification dated October 31, 2022 (“Notice”) inviting comment on the Proposal. While we would not be opposed in concept to a cell tower assuming there is an actual need for one and if it were properly sized and located and adequate mitigation measures were taken, we are opposed to the Proposal as currently described. We also think that your Notice fails to comply with a number of the requirements under 30 V.S.A Section 248a and related rules (the “Act”). This letter outlines our concerns and the deficiencies in the Notice.

### **Tower Height and Location**

The proposed tower is 140 feet high and the proposed enclosure would be 200 feet from our property and 1000 feet from a residence on our property. The Proposal contemplates one tier of antennas on tower currently with the possible future addition of two more. In fact, the proposed tower would be 64 feet above the average treeline and would accommodate up to six tiers of antennas above the treeline. A review of the cell tower map maintained by the Vermont Department of Public Service indicates that **there are currently no cell towers in this region (Warren, Waitsfield, Fayston, Moretown, Granville, Rochester and Duxbury) that are in excess of 100 feet in height.** A tower of no more than 100 feet in height would still permit the three tiers of antennas ultimately contemplated by your proposal to be placed above the treeline.

In a study commissioned by the State of Vermont, the consultants notes that Verizon was known to place up to four or five antenna tiers on their towers. The placement of multiple antennas on the proposed tower will have an even more substantial negative impact on the scenic beauty and aesthetics of the local area as well as significantly magnifying the amount of radiation emitted in a residential area. In response to a Verizon proposal for a 93 foot cell tower in Waterbury a few years ago, the town and a consultant engaged by the PUC noted that it would be 18 feet above the treeline and was probably five feet taller than it needed to be. The consultant also noted that such a height would allow for just one more tier of antennas and that this height would provide for “a modest, prudent margin for growth.” In response to these concerns, Verizon reduced the height to 88 feet and proposed using a monopine structure. Ultimately, this project was abandoned because of concerns about the impact it would have on the local environment, but the town’s approach and concerns and Verizon’s response is instructive.

In addition, any “[n]otice must contain sufficient detail about the proposed project to allow the parties receiving notice to understand the impact of the project on the interests of those parties.” Your Notice wholly fails to address the sight views that will be impacted by the proposed tower or the sight sheds where it will be visible. Similarly, your elevations do not include a Northwest elevation, which is the view we will be presented with as the immediate abutters. Your Notice also doesn’t reference a balloon test which would be an easy way to establish the impact the proposed tower would have on sight views and the scenic beauty of the local area. In addition, there are readily available online programs that analyze sightlines and view sheds which should have been utilized to provide more detail on the impact of the proposed tower.

Moreover, the Act requires that any proposal for a cell tower that is more than 20 feet above the average treeline “identify all existing telecommunications facilities within the area to be served by the proposed structure and, for each such existing facility, must include a projection of the coverage and an estimate of the additional capacity that would be provided if the applicant’s proposed telecommunications equipment were located on or at such existing facility.” Your cursory statement that Verizon engineers evaluated existing facilities and concluded that none would fulfill their objectives wholly fails to address the detailed and analytic requirements imposed on any application for a tower that is more than 20 feet above the average treeline.

We are also very concerned about the location of the proposed tower. The enclosure will be 200 feet from our property line and 1000 feet from a residence on our property. New Hampshire recently commissioned a study on cell towers and the conclusion was that towers should not be placed within 500 meters (1685 feet) of a residence. There are numerous other studies suggested similar minimum distances for the placement of cell tower from residences. The proposed location is therefore too close not just to our residence but also those of other abutters. The property on which the proposed tower is to be located is very large and the tower could be moved to the South on that property which would both make it less proximate to the most immediate abutters and also lessen the visual impact since the forest ends and the land falls away at the proposed site.

Another significant concern involves the potential for erosion on our property that will be caused by the construction and maintenance of the proposed tower so close to our property line. The Proposal calls for the tower to be placed on a hilltop next to our property line. The hill on our side is very steep and we already deal with a lot of drainage and erosion issues. To the Northwest of the proposed location, the land falls away very steeply and we will likely experience significant drainage and erosion issues. This will be exacerbated by the fact that, as your Notice acknowledges, the proposed site is surrounded by ledge and construction will require a lot of blasting and earth moving. In addition, the plans attached to your Notice indicate that the grade up to and surrounding the proposed enclosure will be raised up by five feet which will also increase the potential for erosion and increased drainage onto our property. In this regard, your Notice states that erosion control measures are indicated on the attached plans but, in fact, the plans provide no detail on this important issue. Any site plan for a cell tower must have “detailed plans for any drainage of surface and/or subsurface water and plans to contain erosion and sedimentation both during construction and as a permanent measure.” In addition to that, any applicant is also required to certify compliance with the requirements of the Low Risk Handbook for Erosion Prevention and Sediment Control issued by the Vermont Department of

Environmental Conservation, regardless of any provisions in the handbook that limit its applicability. While your Notice states that it will comply, that is not a certification and based upon the absence of any detailed plans, it is impossible to determine if the Proposal will in fact comply.

On a related subject, we are also concerned that the site might include an underground diesel storage tank. As mentioned above, the proposed site is right next to our property and our well is a little over 1000 feet downhill from the proposed site. If the tank were to rupture or leak, our well water could be contaminated.

### **Characterization of Proposal as of Limited Size and Scope**

While your Notice does not explicitly state whether you consider this Proposal to be one of limited size and scope, it does not appear that it will meet the requirements of that category. In particular, no more than 10,000 square feet of earth can be disturbed by a project of limited size and scope. Between the proposed enclosure, the new access road to that enclosure and increase in grading of five feet on the access road and around the enclosure, it is hard to see how less than 10,000 feet of earth will be disturbed. Accordingly, this Proposal should be subject to review by the PUC as a full sized project.

### **Mitigation and Compliance with Town and Regional Plans**

While your Notice cites the Warren Town Plan and Central Vermont Regional Plan, it omits the most relevant provisions. For example, the Warren Town Plan expressly states that “Warren’s Land Use and Development Regulations include standards for the construction of wireless telecommunications facilities.” Section 4.18(A)(8) of the Town of Warren Zoning Ordinances reads as follows: **“New towers shall be sited and designed to minimize their visibility. No tower shall be located on an exposed ridge line or hilltop. New or modified towers and antenna shall be designed to blend into the surrounding environment to the greatest extent possible, through use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.”** The tower in your Proposal would be right on the summit of a prominent hilltop and at an aggregate elevation of 1525 feet, it would be highly visible throughout the Valley. This is clearly at odds with the Town’s requirements. Likewise, proposing a tower that is 64 feet above the average treeline shows no effort to blend in with the surrounding environment. Finally, simply painting the monopole brown will do nothing to camouflage the tower. Many towers in Vermont, especially ones in scenic areas, are monopines that are designed to look like the surrounding trees. In the Vermont study referenced above, the consultants noted that Verizon has made extensive use of monopine towers in the state. The antennas could also be flush mounted to the tower to reduce their visual impact. Situating the tower further to the South would also move it from a prominent hilltop and surround it with more trees that would more effectively screen it from view. In light of the Town requirements, to which the PUC must give substantial deference, as well as the impact of the proposed tower on the aesthetics and scenic beauty of the area, it is

unclear why the Proposal didn't propose a shorter tower, located further to the South and which had adequate mitigation through the use of a monopine and/or flush mounted antennas.

In addition, your characterization of the immediate area around the proposed tower as being "well-developed" is inaccurate and misleading. Airport Road is in a Rural Residential District and with the exception of the Defreest Farm and the private glider airport, every other property in the area is a residence. Your Notice also failed to include the relevant parts of the Warren Town Plan as it relates to the Rural Residential District. According to the Plan, that **"District is intended to protect environmental resources while permitting low-density development [but] the general pattern of development should remain largely rural."** The Town Plan also requires that in the District, **consideration must also be given to the "visual impacts associated with . . . the placement of structures on prominent sites and steep hillsides."** Finally, the National Association of Realtors has estimated that cell towers sited within 1500 feet of residences can decrease property values by up to 10% and your Proposal takes no account of this nor does it seek to take measures to ameliorate this adverse impact. Therefore, the placement of the proposed tower could have a long-term negative effect on the tax base of the town.

Your citation of the generic language in the Regional Plan likewise omits the most relevant provision which states that **"the Public Service Board must give *substantial deference to [local] land conversation measures and . . . municipal plans . . . unless there is good reason to find otherwise.*"** In addition, your Notice fails to detail how the Regional Plan has been implemented in practice. Dozens of cell towers have been built in the 21 municipalities covered by the Regional Plan. But a review of the Vermont Department of Public Services cell tower map indicates that within that area, **only five towers in excess of 110 feet have been built** and two of those were in quarries and the others were in industrial districts and/or very remote from any residential neighborhoods. Finally, it is worth noting that the Regional Plan cited Warren as one of the better served towns with more than 90% of its addresses having cell coverage.

### **Impact on Wildlife Habitat**

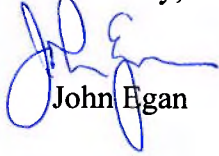
Almost all of the land bounded by Airport Road, Route 100 and Dump Road is undeveloped. Fifteen years ago, we bought an additional 172 acres that are next to the proposed tower to preserve the open space and protect it from development. We regularly see turkeys, owls, hawks, deer, bear, moose, fisher cats and other animals in this area and the proposed tower would necessarily have a significant impact on all of this wildlife. The Warren Town Plan also notes that the area on Airport Road proximate to the proposed tower site is one of 40 sensitive wildlife migration corridors in town which should be protected against undue development.

### **Summary**

To summarize, while we are not opposed to a reasonable proposal for a cell tower that is appropriately sized, located and camouflaged, we find that the current Proposal is unacceptable and fails to address numerous requirements and considerations. To address these concerns, any tower should be located off of any hilltop, and more than 400 feet from our property line and

1685 feet from any residence. In addition, any tower should be 80 or 90 feet tall (and in no event more than 100 feet tall) and should be constructed as a monopine with adequate green branching, flush mounted antennas and surrounding trees and vegetation. Finally, any revised proposal should comply with all of the requirements of the Act, including mitigating any erosion or wildlife concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'John Egan', is written over the printed name.

John Egan

