Photo 1- pamphlet

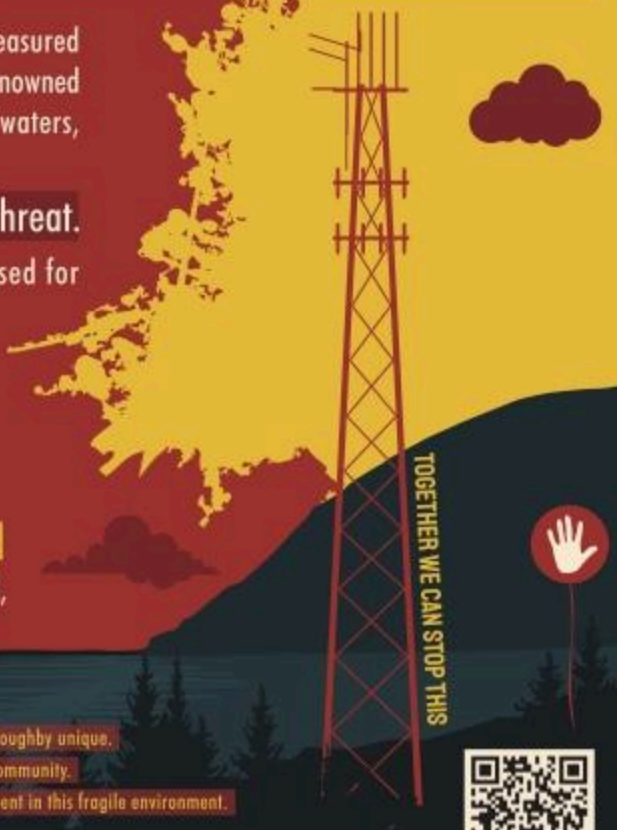
SAVE LAKE WILLOUGHBY

STOP THE INDUSTRIAL RADIO TOWER IN WESTMORE, VT

Lake Willoughby is one of the most treasured natural landmarks in New England - renowned for its breathtaking scenery, pristine waters, and peaceful character.

But this beauty is now under threat.

An industrial radio tower is proposed for construction near the lake.



TOGETHER, WE CAN PREVENT THIS INDUSTRIAL INTRUSION

and keep Lake Willoughby the peaceful, beautiful sanctuary it has always been.

If Built, It will -

- Disrupt the unspoiled natural views that make Lake Willoughby unique.
- Damage the serenity and character of the surrounding community.
- Set a dangerous precedent for more industrial development in this fragile environment.

DON'T WAIT—ACT NOW TO PROTECT LAKE WILLOUGHBY!

CONTACT INFO :

Location, Westmore, VT

https://5gfreevt.wordpress/westmore

helpprotectwilloughby@gmail.com

Scan the QR Code above to -

- Contact Gov. Phil Scott
- Contact your Legislators
- Write a letter to the Editors
- Keep Posted on Breaking Developments

NNL Deb DiQuinzio letter

United States Department of the Interior

NATIONAL PARK SERVICE
Interior Region 1
North Atlantic-Appalachian
15 State Street
Boston, MA 02109

June 18, 2024

Holly Anderson
Clerk of the Vermont Public Utility Commission
112 State St.
Montpelier, VT 05620

Dear Ms. Anderson:

It has come to my attention that a telecommunications tower has been proposed by Industrial Tower and Wireless, LLC on Frog Hollow Lane in Westmore (VT PUC case no. 24-1755-PET) in proximity to the Lake Willoughby Natural Area National Natural Landmark (NNL). Vermont's first NNL, the Lake Willoughby Natural Area was designated as nationally significant by the Secretary of the Interior in 1967. The u-shaped granite trough and 1,500-foot cliffs within which the deep, cold-water lake lies provide an outstanding and scenic example of glacial erosion. A map and one-page brief description of the NNL site is attached for your reference.

The NNL Program, managed by the National Park Service (NPS), supports and encourages the conservation of our nation's best examples of the natural landscape. Through designation, the program identifies and recognizes deserving biological and geological features in both public and private ownership. While NNL designation does not dictate how landowners manage these properties, it does encourage voluntary conservation and wise stewardship of these nationally significant sites. There are presently 12 NNLs designated in Vermont and more than 600 nationwide.

Federal agencies should consider the existence and location of designated NNLs in assessing the effects of their activities on the environment under section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4321). Agencies and organizations that coordinate, fund, or permit projects that could impact NNLs should be aware of the program and of landmarks in their geographic area for the purposes of environmental planning and decision-making. NPS staff are available to help identify potential impacts and ways to avoid, minimize or mitigate those impacts.

Given Lake Willoughby Natural Area's value to our country's natural heritage, we request that any potential impacts to views along the lake shoreline and from atop Mt. Pisgah, Mt. Hor, and other key viewpoints within the NNL be considered and evaluated. If visual impacts are unavoidable and no other location is shown to be suitable for the tower, we request consideration of measures to minimize and mitigate impacts in the form of tower height, type of tower, color and lighting. It is also recommended to ensure consultation and sharing of balloon test and photo simulation results with the Vermont Agency of Natural Resources, owner and manager of the NNL.

Please feel free to contact me if you require any further information about the NNL Program or designation of Lake Willoughby Natural Area. Thank you for your time and consideration.

Sincerely,

Deb DiQuinzio
NNL Program Coordinator, Northeast Region
(401) 330-7340; deb_diquinzio@nps.gov
www.nps.gov/nnlandmarks
http://www.nps.gov/nnlandmarks

Attached:
Lake Willoughby Natural Area NNL Brief
Lake Willoughby Natural Area NNL Boundary Map

Cc:
Louis Bushey, Stewardship Forester, Vermont Agency of Natural Resources, Dept. of Forests, Parks, and Recreation
Robert Kennedy, Chair of the Westmore Planning Commission

Name: **Lake Willoughby Natural Area**

Location: Orleans County, Vermont

Description:

Lake Willoughby is one of the most spectacularly scenic lakes in the northeastern United States. The lake is 8.5 km (five miles) long in a north to south orientation, with mountains abruptly rising from both east and west shores. Toward the more southerly end, sheer cliffs rise steeply more than 450 meters (1500 feet) above the lake's surface. An exceptional example of a trough cut by glacial scouring is exhibited at the south end of the lake, and the surrounding mountains contain multiple examples of the works of glaciers. It exhibits the sheared zone with a vertical joint system that provided the channel that allowed the glacier to scour out the present lake bed.

Above the east shore is Mount Pisgah, elevation 825 meters (2751 feet), and above the west shore is Mount Hor, at a slightly lower elevation. In addition to its striking scenery, this lake has the distinction of being Vermont's deepest lake, having a maximum depth of 93 meters (311 feet). Mount Pisgah possesses a rich assemblage of arctic flora and other rare plants that grow on the towering, precipitous Willoughby Cliffs. The area also supports a more notable fern population in all of Vermont.

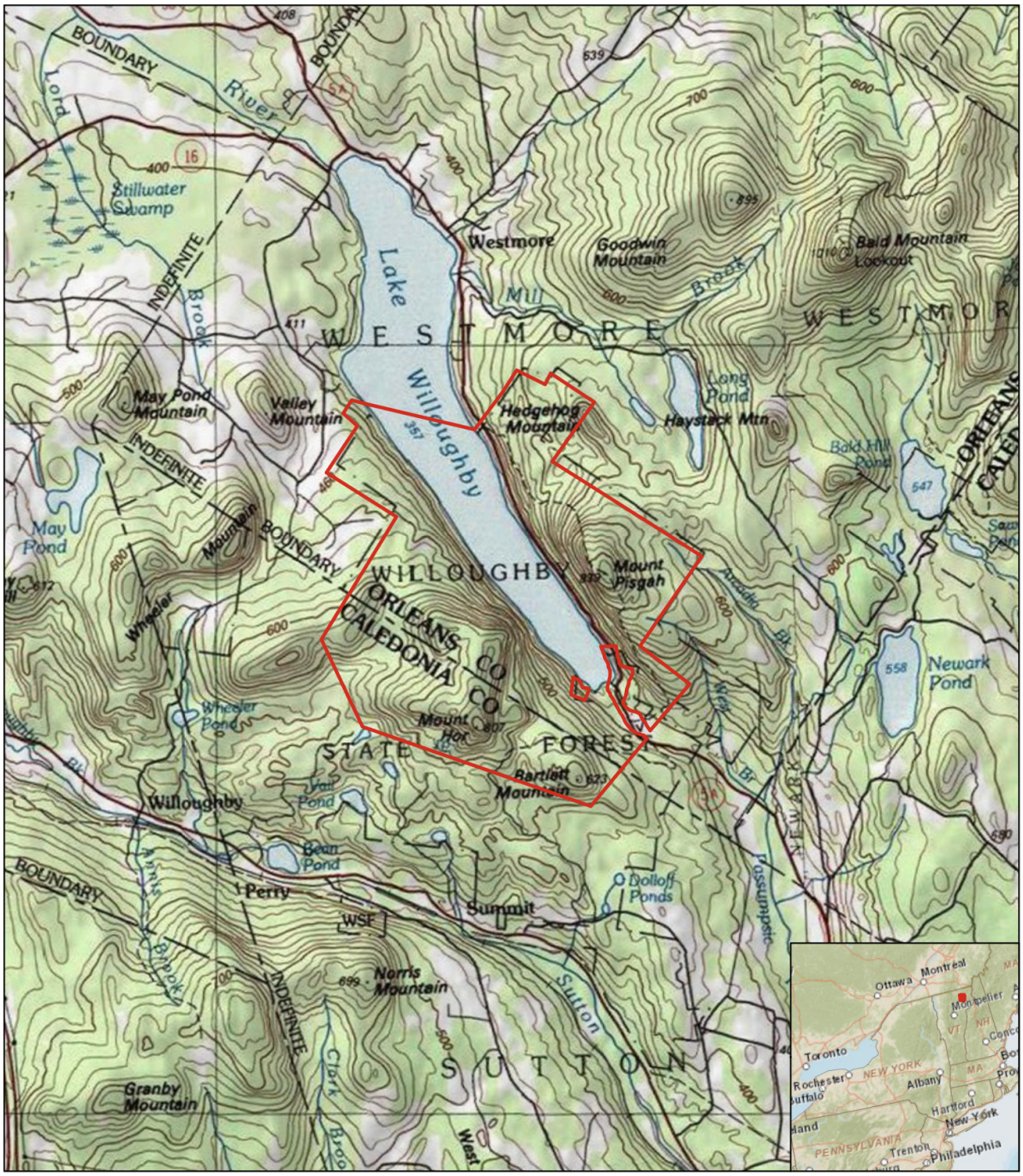
Significance:

Lake Willoughby, a deep, cold-water lake within Lake Willoughby Natural Area lies in a u-shaped trough cut into granite by glacial scouring. Mountains and 1,500-foot cliffs rise abruptly from the lake's east and west shores. It is the deepest lake in Vermont and one of the most significant and scenic examples of glacial erosion in the northeast.

Ownership: State

Designation: November 1967

Evaluation: Paul Favour, National Park Service, April 1967



LAKE WILLOUGHBY NATURAL AREA
NATIONAL NATURAL LANDMARK
Orleans County, Vermont

NNL Boundary

Calculated Acreage: 4,333.2

0 1 2 Miles

N

Data Source:
NPS NNL Data, ESRI Roads

Map Produced June 2012
by National Park Service
Intermountain Region
Geographic Resources Program

Kathleen James

House Energy & Digital Infrastructure Committee considering H.527

Dear Ms. Kathleen James:

My background is in telecommunications engineering (see attached resume) and I'm a member of the NEKCV CUD executive committee.

I was a witness at the application of Industrial Tower and Tireless (ITW), LLC for a certificate of public good, pursuant to 30 v.s.a. sec on 248a, authorizing the construction on of a wireless telecommunica ons facility in Westmore, Vermont Eviden ary Hearing held before the Vermont Public U lity Commission, via videoconference, on May 14, 2025.

At the Eviden ary Hearing I was questioned by ITW's attorney, Mr. Daniel Seff, and was only asked ques ons regarding if I had "experience analyzing or assessing the aesthetics of telecommunications towers", which I answered I have not.

In my opinion the tower being proposed by ITW is a structure that goes beyond what is required for the 2-way radio commercial service being proposed by ITW. A much smaller and less intrusive structure would be adequate and sufficient for the proposed service. Since no Cell service provider has contracted to be located in the proposed ITW tower, the claim that the tower would in the future accommodate Cell phone service is specula ve, which does not comply with the Town of Westmore's ordinance for telecommunica ons towers and facili es, adopted June 29, 2004, page 6, Sec on ARTICLE VIII, paragraph . The Westmore telecommunications tower also states that "existing antenna/tower sites" should be considered, Sec on ARTICLE VIII, paragraph sub-A, d).

As for the potential of providing wireless internet service Westmore is already covered by both Vtel wireless and NEWco (New England Wireless Co.). In addi on, both Comcast Xfinity and NEKCV CUD currently provide fiber to the home (FTTH) to por ons of Westmore and NEKCV CUD will be covering the remainder of Westmore by 2027 in several areas that the ITW tower's signal would not be able to reach, be it 2-way radio or Cell.

Raymond Lanier

1216 Old Co age Lane
Barton (Westmore) VT 03301

T: 802-525-3569
M: 603-387-9300

Westmore Ordinance for Telecommunications

TOWN OF WESTMORE ORDINANCE
FOR
TELECOMMUNICATIONS TOWERS AND FACILITIES
Adopted June 29, 2004 Effective August 28, 2004

TABLE OF CONTENTS

TOWN OF WESTMORE ORDINANCE

For

TELECOMMUNICATIONS TOWERS AND FACILITIES

The Town of Westmore Selectboard hereby ordain:

The Town of Westmore ordinance referred to as the "Town of Westmore Ordinance for Telecommunications Towers and Facilities" is hereby adopted to state:

ARTICLE I AUTHORITY AND PURPOSE

A. This ordinance is enacted pursuant to the authority set forth in 24 V.S.A., Section 2291, subsection 19 to regulate telecommunications towers/facilities within the Town of Westmore in order to:

1. Preserve the character and appearance of the Town of Westmore while allowing adequate telecommunications services to be developed.

2. Protect the scenic, historic, environmental, and natural or man-made resources of Westmore.

3. Locate towers and/or antennas in a manner which protects property values, as well as the general safety, health, welfare and quality of life of the citizens of Westmore and all those who visit this community.

4. Minimize the total number and height of towers throughout Westmore.

5. Provide standards and requirements for the regulation, placement, design, appearance, construction, monitoring, modification and removal of telecommunications facilities and towers.

6. Require the sharing of existing towers, and the clustering of new facilities/towers where possible.

7. Locate towers so that they do not have negative impacts such as, but not limited to, attractive nuisance, noise, and failing objects.

8. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify telecommunications facilities.

B. This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A., Section 197 1.

ARTICLE II
ESTABLISHMENT OF TELECOMMUNICATIONS REVIEW BOARD

A. ESTABLISHMENT OF BOARD

The Selectboard shall appoint the Zoning Board of Adjustment or its successor as the Telecommunications Review Board (TRB). The TRB shall review all applications for towers and telecommunications facilities within the Town of Westmore, pursuant to this ordinance.

B. PROVISION FOR HIRING INDEPENDENT CONSULTANTS

Due to the complex technical character of the information to be provided by an applicant pursuant to these regulations and the monitoring, testing and inspection of facilities and operation provisions, the TRB shall hire such consultants as it deems reasonably necessary to assist it with such determinations as are to be made by it concerning such matters. All expenses incurred by the TRB for such services as part of an application process shall be deemed to be part of the application fee and paid by the applicant. All expenses incurred by the TRB for such consultation services incurred in performing its monitoring, testing and inspection shall be paid by the applicant or current permittee. Any failure to pay such expenses shall constitute a violation of the permit and automatically cause the revocation of the permit and all rights thereunder.

1. These consultants shall be qualified professionals with an appropriate combination of training, record of service, and/or certification in one of the following fields: a) telecommunications/radio frequency engineering; b) structural engineering; c) assessment of electromagnetic fields; and, if determined by the TRB, d) other fields.

2. Upon submission of a complete application for a Telecommunication Tower and Facility (TTF) permit, the TRB will provide its independent consultant(s) with the full application for their analysis and review.

3. Applicants for any TTF permit shall obtain written permission from the owners of the proposed property(ies) or facility(ies) sites(s) for the town's independent consultant(s) to conduct any necessary site visit(s).

4. Upon submission of a complete application, the independent consultant(s) will provide an estimate for the cost of reviewing the application to the TRB. The TRB will forward this estimate in writing to the applicant. The applicant 1

will pay this fee during the review process, separate from the general application fee, and include this fee as part of the application process. No application will be processed without full payment. In lieu of estimates, the TRB may require the applicant to fund an account which the town may draw upon to insure reimbursement of those fees.

5. The consultants shall work under the direction of the Westmore TRB. Copies of the consultant's findings and reports shall be made available to the applicant not less than seven (7) days prior to any meeting of the TRB to consider the consultant's report, and the applicant shall be given opportunity to respond to said report in writing and at the next hearing when the consultant's report(s) will be considered.

C. All applicants for a telecommunications permit shall file the completed application with information and supporting documentation as required by this ordinance with the Zoning Administrator of the Town of Westmore.

D. Upon the filing of an application for a TTF permit, the TRB shall hold a public hearing preceded by public notice meeting the requirements of 24 V.S.A. Section 4447. Upon completion of the public hearing, the TRB shall issue a written decision approving, approving with conditions or denying the application. A written decision denying an application shall comply with the requirements of Article VII, B.

ARTICLE III CONSISTENCY WITH FEDERAL LAW

A. In addition to other findings required by this Ordinance, the Board shall find that its decision regarding an application is intended to be in agreement with federal law, particularly the Telecommunications Act of 1996 as it may be amended. This Ordinance is not intended to:

1. Prohibit or have the effect of prohibiting the provision of personal wireless services;

2. Unreasonably discriminate among providers of functionally equivalent services; or

3. Regulate personal wireless services on the basis of the environmental effect of radio frequency emissions, to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

B. Should a finding that a particular portion of this Ordinance is not in accordance with any state or federal law, the unaffected portions shall remain in force and for this purpose; the provisions of this ordinance are severable.

ARTICLE IV EXEMPTIONS

A. The following telecommunications facilities and uses (if no higher than 35 feet, as measured from the average elevation of the finished grade to the highest point of the facility) are exempt from the requirements of this Ordinance: police, fire, ambulance, and other emergency dispatch; amateur (ham) radio, citizens-band radio, singleuse local business radio dispatch, television antennas for home use, or temporary mobile facilities for television or radio broadcasts ("Exempt Facilities").

B. Telecommunications towers/facilities for municipal dispatch or other non-profit public safety services are exempt from other permit requirements, regardless of height. Municipal dispatch and non-profit public safety services must still meet all requirements of this ordinance.

C. No FCC-licensed telecommunications facility or use shall be considered exempt from this Article for any reason, whether or not said facility or use is proposed to share a tower or other structure with Exempt Facilities.

ARTICLE V FEES

A schedule of fees for TTF permitting and renewal, any monitoring of exposure and inspection of structures, and any other fees shall be established by the Westmore Selectboard. This schedule may be amended from time to time by action of the Selectboard.

ARTICLE VI DEFINITIONS

The following terms shall have the meanings indicated.

ADEQUATE CAPACITY: Capacity is considered to be adequate if during the busiest hour of the day on at least fifty percent (50%) of the days in any month preceding the date of application, ninety-five (95%) or more of the attempted calls are able to connect on their first attempt, as measured using direct measurement of the coverage area in question.

ADEQUATE COVERAGE: Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error rate for digital) and without calls being dropped. In the case of telecommunications in a rural environment like Westmore, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage, as long as the signal regains its strength farther away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

ANTENNA: A device for transmitting and/or receiving electromagnetic signals.

ANTENNA HEIGHT: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ANTENNA SUPPORT STRUCTURE: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic signals.

APPLICANT: A person who applies for a telecommunications facility siting. An applicant can be the landowner of record, or the telecommunications service provider or agent of record, with the landowner's (or other legally designated representative) written permission.

BASE STATION: The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

CAMOUFLAGED: A Wireless Communications Facility that is designed to blend into the surrounding environment. It may be placed within an existing or proposed structure disguised or hidden by a compatible part of an existing or proposed structure, or made to resemble an architectural feature of the building or structure on which it is placed. Examples of camouflaged facilities may include architecturally screened roof-mounted. antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles, or artificial trees, clock towers, bell steeples light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

CELLULAR TELECOMMUNICATIONS: A commercial Low Power Mobile Radio service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

CHANNEL: The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

CO-LOCATION: Locating wireless telecommunications equipment from more than one provider at a single site or structure.

FCC: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

FREQUENCY: The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

HERTZ: (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

INTERFERENCE: An undesirable effect caused by electromagnetic signals. FCC "Type 1" interference refers to interference regulated by the FCC and affecting other FCC licensees or other entities over which the FCC has jurisdiction. FCC "Type 2" interference refers to electromagnetic disturbances to business, institutional, medical, and home electronic equipment.

LOCATION: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true north.

MODIFICATION OF AN EXISTING TELECOMMUNICATIONS FACILITY: Any change, or proposed change,

in power input or output, number of antennas, change in antenna types(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.

MODIFICATION OF AN EXISTING TOWER OR STRUCTURE: Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

MONITORING: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure at a site as a whole, or from telecommunications facilities, towers, antennas or repeaters..

MONITORING PROTOCOL: The testing protocol, such as the Cobbs Protocol, or the FCC Regulations (Title 47, Part 1, Section 1.1307 referenced as IEEE C95.3 1991), or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, (Reports 86 and

119) which is to be used to monitor the emissions and determine exposure risk from existing and new telecommunications facilities.

MONOPOLE: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below-grade foundations.

PERMIT: An official action which sets forth the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its telecommunications facility within the boundaries of the municipality.

PERMITTEE: An applicant who is granted a permit for a tower and/or telecommunications facility by the Town of Westmore.

RADIAL PLOTS: Radial plots are the result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial. A threshold plot uses a mark to indicate whether that point would be strong enough to provide adequate coverage i.e., the points meeting the threshold of adequate coverage. The draw back is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

REPEATER: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

ROOF AND/OR BUILDING MOUNT TELECOMMUNICATIONS FACILITY: A telecommunications facility in

which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

SCENIC VIEW: A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a faraway object, such as a mountain, or a nearby object.

STRUCTURALLY ABLE: The determination that a tower or structure is capable of safely carrying the load imposed by the proposed new antenna(s) under all reasonably predictable conditions as determined by professional structural engineering analysis including the windload or any other structural requirements.

TELECOMMUNICATIONS EQUIPMENT SHELTER: A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions including any foundation that may be required.

TELECOMMUNICATIONS FACILITY: All equipment (including repeaters) with which a telecommunications provider broadcasts and receives radio frequency signals which carry their services. This facility may be sited on one or more towers or structures(s) owned and permitted by the provider or its agent of record or another owner or entity.

TELECOMMUNICATIONS FACILITY SITE: A property, or any part thereof, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facility(ies) and any required landscaping are located.

TELECOMMUNICATIONS PROVIDER: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

TELECOMMUNICATIONS TOWER: A guyed, monopole, or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

TEMPORARY WIRELESS TELECOMMUNICATIONS FACILITIES: Any tower, pole, antenna, or other facility designed for use while a permanent wireless telecommunications facility is under construction, rehabilitation or restoration.

TILED COVERAGE PLOTS: Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Tiled plots (in comparison to radial plots) 1) provide a uniform distribution of points over the area of interest. 2) usually allow the same grid to be used as different sites are examined, and 3) do not necessitate the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. Tile plotting requires more topographic data and longer (computer) execution time than radial plotting, but is preferable for comparative analysis.

VIEW CORRIDOR: A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain. which would result in a narrow corridor, or a group of objects, such as a range of mountains, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective.

ARTICLE VII REQUIRED PERMIT

A. Telecommunication Tower Facility Permit:

1. No construction, alteration, modification (including the installation of antennas for new uses), installation or operation of any tower or telecommunications facility shall commence without a TTF permit first being obtained from the TRB in accordance with this ordinance.
2. A TTF permit granted pursuant to this ordinance shall expire two (2) years from the date of approval. The permit may be renewed for a new two (2) year period upon application to the TRB, in a form prescribed by the TRB, submitted to the TRB not later than ninety (90) days before the existing permit expiration date. B. Documentation of Denial:

Any decision by the TRB to deny an application for a permit under this article shall be in conformance with 47 U.S.C. 332(7) (B) (iii) of the Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

ARTICLE VIII TTF REQUIREMENTS

TTF's, in order to be granted a permit, must comply with the following:

I. Location of Facilities

A. The following locations are encouraged:

a) Where towers are not visible from public roads or from Willoughby Lake.

b) Where the visual impact of towers can be minimized by the use of camouflage, stealth design, or other innovative measures to reduce, eliminate or disguise the negative visual impact.

c) Existing personal telecommunications facility (ies).

d) Existing antenna/tower sites.

e) Municipally owned land.

Telecommunication facilities shall not be placed on the following natural features, due to their importance to the aesthetic quality of the town: Mount Pisgah, Mount Hor, Bald Mountain, Goodwin Mountain, Wheeler Mountain, Bartlett Mountain, and Sentinel Rock Park.

The TRB shall have the authority to impose conditions consistent with the purpose of this ordinance in approving a proposed facility. Furthermore, the TRB may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's communication objectives.

Telecommunication facilities will be located so as to minimize the following potential impacts:

a) Visual/aesthetic: telecommunication facilities shall, when possible be sited off ridgelines, and where their visual impact is least detrimental to scenic views. In determining whether or not a

telecommunication facility will have undue adverse visual impact on the scenic view or natural beauty the TRB shall consider:

i) The period of time during which the proposed telecommunication facility would be viewed by the public on a public highway, path, or body of water;

ii) The frequency of the view of the proposed telecommunication facility as experienced by the public;

iii) The degree to which the view of the telecommunication facility is screened by topographical features;

iv) Background features in the line of sight to the proposed telecommunication facility which obscure the facility or make it more conspicuous;

v) The distance of the proposed telecommunication facility from the viewing vantage point and the proportion of the facility that is visible above skyline; the number of vehicles and/or viewers traveling on a public highway, path or waterway at or near the critical vantage point and

vi) The sensitivity or unique value of the particular view affected by the proposed development.

b) Property Values: The facility will not have an undue adverse impact on surrounding property values.

c) Safety hazards: In the case of structural failure, ice accumulation and discharge and attractive nuisance.

d) Electromagnetic radiation: In the case of telecommunication facilities if found to exceed the FCC guidelines.

II. An applicant for a telecommunications tower or facility permit shall be a licensed telecommunications provider, or must have a letter of intent or an executed contract to provide land or facilities to such an entity. A permit shall not be granted for a tower or facility built on speculation of a future letter of intent or contract with a licensed telecommunications provider. A TTF permit shall be granted only for a telecommunications facility with a user that has a current FCC license.

III. In addition to requirements found in this Ordinance, applicants for telecommunication tower facility permits shall include the following information:

A. The legal name, address, and telephone number of the applicant, tower owner (if other than applicant), and landowner(s) of record. If the applicant, tower owner or landowner is not a natural person, the name and address of the company, the type of business entity, the state in which the company is incorporated and has its principal office. Written permission of the tower owner and landowner(s) to apply for the TTF permit shall be submitted along with written permission from the tower owner and landowner(s) allowing the Town's independent consultant(s) to conduct any necessary site visit(s).

B. The name, address and telephone number of the person to be contacted with regard to the application. Notice, orders, and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant's registered agent.

C. The name, address, and telephone number of someone who is available on a 24-hour basis that is authorized to act in the event of an emergency regarding the structure or safety of the telecommunications facility.

D. A copy of the applicant's letter of intent or executed contract with the telecommunication service provider if the applicant is not the provider.

E. The names and addresses of the landowners of record of all abutting property.

F. A report from qualified licensed professional engineer(s) that:

1. Describes the telecommunications facility height, design, elevation, width, support system and reasons and design implications for use or non-use of guy wires.

2. Documents the height above grade for all proposed mounting positions for antennas to be colocated on a tower or telecommunications facility and the minimum separation distances between antennas.

3. Describes the tower's proposed capacity, including the number, height, and type(s) of antennas, including manufacturer(s) and model number(s) that the applicant expects the tower to accommodate.

4. Provides evidence of need, as described in Article IX of this Ordinance.

5. Describes the output frequency, number of channels and power output per channel for each proposed antenna.

6. For each antenna, describes the antenna gain (projected and maximum), polarization and radiation pattern (composite pattern for an antenna array), the power input to antenna(s), including power input in normal use and at maximum output for each antenna and all antennas as an aggregate if tower is fully utilized.

7. Describes the output frequency of the transmitter(s).

8. For a telecommunications facility with multiple emitters, describes the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment.

9. Demonstrates the tower's compliance with accepted structural engineering standards.

10. Provides proof that at the proposed site the applicant will be in at least minimum compliance with all federal, state, and local regulations, standards and requirements. and includes a statement that that the applicant commits to continue to maintain such compliance with both radio frequency interference (RFI) and radio frequency radiation (RFR) standards including all Environmental

Assessments and Historic Preservation requirements and the basis for such representations.

11. Describes any foundations to be built upon which telecommunications towers and or facilities are located. Identifies any blasting and earth movement that may be required, and provides plans and elevations of the area to be blasted or affected and describes the steps to be taken to reduce or eliminate potential effects of the blasting including vibrations and impacts to foundations, wells and other structures in the area. Provides a plan to identify abutters prior to blasting. The TRB may, in its discretion, require the Applicant to notify additional property owners prior to blasting that may be sufficiently close to the proposed location and may reasonably require additional information related to such site preparation.

12. Includes other information required by the TRB that is necessary to evaluate the request and its impact upon the residents of Westmore.

G. A letter of intent committing the tower owner and future tenant(s) to permit shared use of the tower by other telecommunications providers, without discrimination, if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards, and requirements and provisions of this Ordinance.

H. For a telecommunications facility to be installed on an existing structure, a copy of the applicant's letter of intent or executed contract with the owner of the existing structure

I. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the expected impacts of the proposed telecommunications facility. To the extent the applicant claims that an EA is not required, it should provide an explanation as to why an EA is not required in the form of an opinion, ruling, or other certification from the FCC.

J. A copy of the application for an Act 250 permit, if it has been filed with the District Environmental Commission. If the applicant claims it is exempt from Act 250, s/he shall clearly provide the basis for the exemption to the TRB.

K. Detailed plans for emergency power generation, including:

1. Demonstration of percent of electrical demand being proposed in event of loss of commercial power.

2. Type of fuel, storage method, and expected means and frequency of fuel delivery to the site for power generation.

3. Amount of generator time, based on historical power reliability for the area of the telecommunications facility, proposed frequency and duration of tests, and description of muffler system and methods for noise abatement.

4. Feasibility of wind and/or solar power in conjunction with storage batteries.

L. Two cross-sections of proposed tower and or facility, drawn at right angles to each other, showing any guy wires or supports. This shall show the proposed height of the tower above the average grade at the base. This shall also show all proposed antennas, including their location on the tower and or facility as well as all electrical wires, cables, and-support equipment.

M. Illustration of the modular structure of the proposed tower indicating the heights of sections which could be removed or added in the future to adapt to changing telecommunications conditions or demands.

N. A professional structural engineer's written description of the proposed tower structure and its capacity to support additional antennas or other telecommunications facilities at different heights

and the ability of the tower to be shortened if future telecommunications facilities no longer require the original height.

O. All pertinent submittals and showings pertaining to: FCC permitting/licensing; Environmental Assessments and Environmental Impact Statements; FAA Notice of Construction or Alteration; aeronautical studies; all pertinent data, assumptions, and

calculations relating to service coverage; and/or measurement data related to non-ionizing radiation emissions and exposure, regardless of whether categorical exemption from routine environmental evaluation under the FCC rules is claimed.

P. An emergency plan to be implemented in the event that the tower structure is deemed unsafe after inspection as described in Article XII, E and F. The plan shall include measures to warn abutting landowners of an unsafe situation, to evacuate a zone where injury or property damage may occur, and to notify local authorities.

Q. Details of proposed method of financial surety as required in Article X (Landscaping/Screening) and Article XVII (Abandoned, Unused, Obsolete, Damaged, or Dangerous Towers or portions of Towers) of this Article.

R. Site Maps and Plans

1. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site. It shall indicate the tower location including the exact latitude and longitude (degrees, minutes, seconds to the nearest tenth).

2. Vicinity Map at a scale of no smaller than I inch = 416 feet (or metric equivalent 1: 5,000) with contour intervals no greater than 10 feet (or 3 meters) showing the entire vicinity within a 2,500 foot radius of the tower site, including the telecommunications facility and/or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites, and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all access easements or rights of way needed for access from a public way to the tower, and the names of all abutters or property owners along the access easement or who have deeded rights to the easement.

3. Existing Conditions Plan: A recent survey of the area within 500 feet of the telecommunications facility site at a scale no smaller than I inch = 40 feet (1: 480 or metric equivalent 1: 500) with topography drawn with a minimum of 5 feet (1.5 meters) contour intervals, showing existing water wells and springs. It shall show the boundary of any wetlands or flood plains or watercourses, and of any bodies of water

included in the Official Flood Hazard Area within 500 feet from the tower or any related facilities or access ways or appurtenances. The survey plan shall have been completed, on the ground, by a Vermont registered land surveyor no more than two years prior to the application date.

4. Proposed site plans of the entire telecommunications facility site, indicating all improvements, including landscaping, utility lines, guy wires, screening, and roads, at the same scale as or larger than the Existing Conditions Plan showing the following:

   a) Proposed tower location and any appurtenances, including supports and guy wires, if any, and any accessory building (telecommunications facility or other). It shall indicate property boundaries and setback distances to the base(s) of the tower and the nearest comers of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements. Where protective fencing is proposed, it shall indicate setback distances from the edge of the fencing.

   b) Proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the comers of all appurtenant structures.

   c) Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or telecommunications lines. and whether underground or above ground.

   d) Any direct or indirect wetlands alteration proposed.

   e) Detailed plans for drainage of surface and sub-surface water, to control erosion and sedimentation both during construction and as a permanent measure.

   f) Plans indicating locations and specifics of proposed screening, landscaping, grading, ground cover, fencing, and additional information that may be required: any exterior lights(s) or sign(s).

   g) Plans of proposed access driveway or roadway and parking area at the tower site. this shall also include a cross-section of the access drive indicating the width, depth of gravel, paving or surface materials.

   h) Plans showing any changes to be made to an existing telecommunications facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking or other infrastructure as a result of a proposed modification of said facility.

i) Horizontal and radial distances of proposed antenna(s) to nearest point on property line, and to the nearest primary or secondary residence, school, hospital, senior center, child care facility, religious structure, or any other public building.

5. Proposed Tower/Facility and Appurtenances

a) Details of proposed tower/facility and building foundations, including cross sections and details at a scale no smaller than I inch = 10 feet. This shall show all ground attachments, specifications for anchor bolts and other anchoring hardware.

b) Proposed exterior finish and color of the tower.

c) The relative height of the tower to the tops of surrounding trees, as they presently exist and the height to which they are expected to grow in 10 years.

6. Plans of Proposed Telecommunications Equipment Shelter

a) Floor plans and cross sections at a scale of no smaller than 3 inch = I foot (1:48) of any proposed appurtenant structure.

b) Elevation views, indicating exterior appearance and materials.

7. Proposed Equipment Plan

a) Plans, elevations, sections and details at a scale no smaller than I inch = 10 feet.

b) Number of antennas and repeaters, as well as the exact locations of antenna(s) and of all repeaters (if any) located on a map, as well as by degrees, minutes, and seconds to the nearest tenth of latitude and longitude.

c) Mounting locations on tower or structure, including height above ground.

d) Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.

e) Identification of all equipment or devices either attached to the structure or on the ground.

8. Visibility Maps and Visual Analysis: The applicant shall provide photographs with a simulation of the proposed facility. Photographs shall show views towards the proposed site, from a two-mile radius around the site, at fortyfive-degree intervals. A minimum of eight views should be presented.

The applicant shall also develop and submit to the TRB a written analysis of visual impact of the proposed tower by a registered landscape architect. This analysis shall, at the discretion of the TRB, include a balloon test, as described in Article VIII, Section III [Site Maps and Plans requirement (9)], accompanied by photographs of the balloon test taken from at least 10 different perspectives within the town of Westmore and any other visual analysis it may have developed or processed.

9. Within thirty-five days of receipt of notification from the TRB that a balloon test is required, the applicant shall arrange to fly, or raise upon a temporary mast, a three-foot diameter, colored balloon at the maximum height of the proposed tower and within fifty horizontal feet of the center of the proposed tower. The date, time, and location of this balloon test shall be advertised by the applicant at 7 and 14 days in advance of the test date in "the Chronicle". The

applicant shall inform the TRB, the Planning Commission, and abutting property owners in writing of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least six consecutive hours, between 7 am and 5 pm (and/or at least two hours before sunset as posted for the test dates by the National Weather Service) on the dates chosen. In the event of application for colocation at an existing telecommunications facility, the applicant shall be exempt from this balloon test. The applicant shall record the weather during the balloon test.

10. Construction sequence and time schedule for completion of each phase of the entire project.

ARTICLE IX EVIDENCE OF NEED

A. Existing Coverage: Applicant shall provide written documentation to the TRB demonstrating that existing telecommunications facility sites within a 30-mile radius of the proposed site cannot reasonably be made to provide adequate coverage and/or adequate capacity to areas within the town which lack such coverage and/or capacity. The documentation shall include, for each telecommunications facility site listed which is owned or operated by the applicant, the exact location (in longitude and latitude, to degrees, minutes and seconds to the nearest tenth), ground elevation, height of tower or structure, type of antennas, antenna gain, height of antennas on tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing telecommunications facility sites, including changes in antenna type, orientation, gain, height or power output shall be specified. Tiled coverage plots showing each of these telecommunications facility sites, as they exist, and with adjustments as above, shall be provided as part of the application.

B. Use of Repeaters: The applicant shall demonstrate that it is not reasonably able to create adequate coverage in the Town of Westmore from wireless base stations located in other towns or to fill holes within the area of otherwise adequate coverage by use of repeaters. Applicants shall detail the number, location, power output, and coverage of any proposed Repeaters in their systems and provide engineering data to justify their use.

C. Five-Year Plan: All applications shall be accompanied by a written five-year plan for the utilization of the proposed facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within the town.

ARTICLE X GENERAL PROJECT REQUIREMENTS AND STANDARDS

A. Access roads and Utilities: Where new telecommunications towers and facilities require construction of, or improvement to, access roads, roads shall follow the contour of the land and be constructed or improved at the edge of fields and/or forests. Utility or service lines shall be underground where feasible and designed and located so as to minimize disruption to wildlife habitat, agricultural lands, and scenic views.

B. Landscaping/Screening: Natural or planted vegetative screening or other screening should be considered at the perimeter of the site as needed to ensure that ground equipment and structures associated with the tower or telecommunications facility are hidden from adjacent public roadways. Existing on-site vegetation outside the immediate site for the telecommunications facility shall be preserved. Disturbance to existing topography shall be minimized, unless the disturbance is demonstrated to result in less visual impact on the telecommunications facility from surrounding properties and other vantage points. The applicant shall obtain a financial surety to cover the cost of remediation of any damage to the landscape resulting from clearing of the site or construction of facility, and also for the installation of landscaping.

C. Fencing and Signs: The area around the tower and telecommunications equipment shelter(s) shall be completely fenced and gated for security to a height of six feet. Use of razor wire is not permitted. A sign no greater than two (2) square feet indicating the name of the telecommunications facility owner(s) and a 24-hour emergency telephone number, either local or toll-free, shall be posted adjacent to the

entry gate. In addition, radio frequency radiation (RFR) warning signs, and the federal tower registration plate, where applicable, shall be posted on the fence or a required to meet federal requirements. "No Trespassing" signs may be posted at the discretion of the telecommunications facility/tower owner(s).

D. Building Design: Telecommunications equipment shelters and accessory buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.

E. Height of Towers: New towers shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on the tower and allow for co-location consistent with the provisions of Article XI; however, the height of the tower shall not exceed more than twenty feet above the average surrounding tree line. The Town may require an applicant to build a telecommunications tower to provide for the availability

of co-location. Towers higher than 199 feet must address Federal Aviation Administration (FAA) and FCC guidelines on lighting and aviation safety issues.

F. Visual Impact: Towers, antennas, and any necessary support structures shall be designed to blend into the surrounding environment. New towers shall have a galvanized finish unless otherwise required. The TRB may require the tower(s) to be painted or otherwise camouflaged to minimize the adverse visual impact except in cases in which the Federal Aviation Administration (FAA) or other state or federal authorities have dictated color.

Proposed facilities shall not unreasonably interfere with the view from any public park, conservation area, scenic view, historic building or district, or major view corridor or other special features as described in the Westmore Town Plan. Narrow structures with guyed supports may be preferred for aesthetic purposes.

G. Zoning Compliance: All telecommunications facilities shall be located on lots which meet the minimum size requirement and other regulations outlined in the Westmore Zoning Bylaw, in addition to the setback requirements as provided in section H below.

H. Setback Requirements: No telecommunications facility or tower, including guy-wire anchors and protective fencing, if any, shall be located:

1. Closer than 300 feet horizontally to any property boundary of the site on which the tower is located, or 1.5 times the height of the tower, whichever is greater.

2. Closer than 1,500 feet horizontally to any structure existing at the time of application which is used as a primary or secondary residence, school property (both public and private), a hospital, senior center, childcare facility, building used for religious worship, or to any other building used regularly by the public. Primary or secondary residences are those dwelling units that include toilet facilities and facilities for food preparation and sleeping.

3. Within the habitat of any state-listed rare or endangered wildlife or plant species.

4. Within 300 feet horizontally of any Vermont or federally regulated wetland.

5. Within 400 feet measured horizontally from any river or perennial stream bank.

6. Within the town, state or federal setback requirements of an archeological site or historic structure.

ARTICLE XI CO-LOCATION REQUIREMENTS

Towers must be designed to allow for future rearrangements of antennas on the tower and to accept antennas mounted at varying heights where overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas where overall permitted height allows.

An application for a new telecommunications tower shall not be approved unless the TRB finds that the facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

a) The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

b) The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.

c) The proposed antennas and equipment - either alone or together with existing facilities, equipment or antennas -would create radio frequency interference (RFI) in violation of federal standards or requirements.

d) The proposed antennas and equipment either alone or together with existing facilities, equipment antennas would create radio frequency radiation (RFR) in violation of federal standards and requirements.

e) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Vermont.

f) Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment on an existing or approved tower or building.

g) There is no existing or approved tower in the area in which coverage is sought.

h) Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment on an existing or approved tower or building.

ARTICLE XII MONITORING PROTOCOL

A. Monitoring Protocol: The Planning Commission may, as the technology changes, require the use of testing protocols other than the Cobbs Protocol.

B. Pre-transmission Testing: After the granting of a TTF permit and before applicant's telecommunications facilities begin transmission, the applicant shall submit a report, prepared by a qualified telecommunications or radio frequency engineer, on the cumulative background levels of non-ionizing radio frequency radiation around the proposed telecommunications facility site and/or any repeater locations to be utilized for applicant's telecommunications facilities. The engineer shall use the monitoring protocol, or one substantially similar. This report shall be submitted to the Zoning Administrator, who may verify the results using an independent consultant.

C. Post-transmission Testing: Within thirty days of the first transmission (and annually thereafter) from any new or modified telecommunications facility, or upon activation of any additional permitted channels, the owner of the tower or facility shall provide testing of the site as follows:

There shall be routine annual monitoring of emissions/exposure by a qualified engineer using actual field measurement of radiation, utilizing the Monitoring Protocol. This monitoring shall measure levels of non-ionizing radio frequency radiation (RFR) exposure at the telecommunications facility site and any repeaters. Each permittee shall provide a list of the most recent RFR readings at or near the site, their distances from the tower/transmitter, dates of the readings, and the name of the person and company who took the readings and verify the operational levels of each telecommunications transmitter at the time of testing. In addition, each permittee shall provide additional RFR readings taken at sensitive areas within 3 miles of the proposed tower. A report should indicate

whether other permittees

at the facility were notified prior to testing that RFR monitoring would occur. The notification should be attached to the report.

A report of the monitoring results shall be prepared by the engineer and submitted to the Zoning Administrative Officer, who may verify the results using an independent consultant. In the case of co-located telecommunications equipment, permittee may bill all telecommunications providers and the telecommunications facilities owner(s) equally or according to a predetermined proportionality.

In the event of any major modification of existing telecommunications facility, or the activation of any additional channels, the telecommunications facility owner(s) shall immediately perform new monitoring as described in this Section. Minor changes, such as slight changes in frequency, shall not require additional monitoring.

Permittees shall have the opportunity to demonstrate reasons for inability to comply with these provisions.

D. Excessive Exposure: Should the monitoring of a telecommunications facility site reveal that the site exceeds the current FCC standard and guidelines in existence at the time of the violation, the owner(s) of all telecommunications facilities utilizing that site shall be so notified. In accordance with FCC requirements, the telecommunications facility owner(s) shall immediately reduce power or cease operation as necessary to protect persons having access to the site, tower, or antennas. Additionally, the telecommunications facility owner(s) shall submit to the Deputy Health Officer a plan for the correction of the situation that resulted in excessive exposure. Failure to act as described above shall be a violation of this Ordinance and subject to fines and other sanctions consistent with this Ordinance and 24 V.S.A Chapter 59.

E. Structural Inspection: Tower owner(s) shall arrange for a qualified consultant (a licensed professional structural engineer) to conduct inspections of the tower's structural integrity and safety. Guyed towers shall be inspected every three years unless there is cause to conduct an inspection more frequently. Monopoles and non-guyed lattice towers shall be inspected every five years unless there is cause to conduct an inspection more frequently. a report of the inspection results shall be prepared by the consultant, and a copy shall be sent to the Zoning Administrative Officer within 10 business days. In the event of any major modification of the existing tower, which includes changes to tower dimensions, increase in number or types of antennas or other devices or structural modifications, the tower owner(s) shall immediately perform a new structural inspection,

F. Unsafe Towers: Should the inspection required in Article XI, E reveal any structural defect(s) which, in the opinion of the qualified consultant (a licensed professional structural engineer), render(s) that tower unsafe, the tower owner(s) shall undertake the following actions:

1. Immediately upon notification of any structural defect(s) which render(s) a tower unsafe, post warnings of same at access points to the tower, notify the landowner and owners of record of the abutting properties within the unsafe area (minimally a 360-degree area radius of the height of the tower); when appropriate, in consultation with emergency authorities, restrict access to the unsafe area and/or encourage evacuation of residents.

2. Within 10 business days of notification of any structural defect(s) which render(s) a tower unsafe, submit to the Zoning Administrator a plan to correct the structural defect(s) as soon as reasonably possible. The tower owner(s) shall implement its remediation plan immediately but in no event later than 10 business days.

ARTICLE XIII AMENDMENTS TO EXISTING TELECOMMUNICATIONS FACILITY PERMIT

In the event of an alteration or addition to a previously approved telecommunications facility, the tower owner(s) shall submit to the TRB an application for a permit amendment when any of the following are proposed:

A. Change in the number of buildings or telecommunications facilities permitted on the site;

B. Material change in technology used by the telecommunications facility; or

C. Addition or change of any equipment resulting in greater visibility or structural windloading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

ARTICLE XIV TOWER LIGHTING AND SIGNAGE; NOISE GENERATED BY

TELECOMMUNICATIONS FACILITY

A. Towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA, FCC or other federal or state authority. In the event that any lighting is required solely as a result of tower height, the tower owner(s) shall submit for review by the TRB (under Site Plan Review or Site Plan Amendment, as applicable). The TRB may 1) require that the tower height be reduced to eliminate the need for lighting, 2) require another suitable location be utilized, or 3) make selection among lighting alternatives.

B. No commercial signs shall be placed on towers.

C. Manually operated emergency lights are permitted for use only when telecommunications facility operating personnel are on site.

D. The owner(s) of the facilities shall take reasonable measures to minimize noise from the operation of any machinery or equipment, as detected at the site perimeter. The noise level of the machinery shall be no louder than 40 decibels.

ARTICLE XV ANTENNAS MOUNTED ON STRUCTURES, ROOFS AND WALLS, AND ON

EXISTING TOWERS

Antennas mounted on structures, roofs, and walls, and on existing towers shall be subject to this Ordinance, except as exempted under Article IV. Antennas hidden within buildings or structures such as in a steeple or facade are not necessarily preferred to antennas mounted in visible locations.

ARTICLE XVI TEMPORARY WIRELESS TELECOMMUNICATIONS FACILITIES

Temporary wireless telecommunications facilities as defined in this Ordinance are subject to the following:

A. Use of a temporary wireless telecommunications facility requires a conditional use permit from the Zoning Board of Adjustment.

B. Temporary wireless telecommunications facilities are allowed for no longer than fourteen days.

C. The maximum height of a temporary telecommunications facility is 50 feet from grade.

D. Temporary wireless telecommunications facilities shall comply with all applicable sections of this Ordinance.

ARTICLE XVII ABANDONED, UNUSED, OBSOLETE, DAMAGED, OR DANGEROUS TOWERS

OR PORTIONS OF TOWERS

Abandonment and Discontinuation of Use: Any telecommunications facility which ceases to operate for six (6) consecutive months shall be deemed to be abandoned and must be removed within ninety (90) days. "Cease to operate" is defined as not performing the normal functions associated with a telecommunications facility and its equipment on a continuous and on-going basis for a period of six (6) consecutive months. Determination of the date of abandonment shall be made by the Zoning Administrator who shall have the right to request documentation and/or affidavits from the telecommunications tower owner/operator/service ice provider(s) regarding the subject of

tower usage. Failure or refusal for any reason -by the owner/operator/service provider(s) to respond within days from the day the request was mailed shall constitute a prima facie evidence that the telecommunications tower has been abandoned. Upon a determination of abandonment and notice thereof to the owner/operator/service provider(s), the owner(s) and all others listed as responsible parties (below) shall remove the tower and all facilities, and remediate the site within 90 days. At the time of removal the facility site shall be remediated such that all telecommunications facility improvements which have ceased to be utilized are removed. If all facilities on a tower have ceased to operate, the tower shall also be removed, and the site shall be revegetated. Existing trees shall only be removed if necessary to complete the required removal. The applicant shall, as a condition of the TTF permit, provide a financial surety bond payable to the Town of Westmore and acceptable to the TRB to cover the cost of removal of the telecommunications facility, and the remediation of the landscape, should the facility cease to operate. Any TTF permit granted for the facility, will automatically expire if the facility ceases to operate.

Duty to Remove: The following are considered jointly and severally to be the responsible parties for tower/facility removal and site remediation:

A. The owner of the abandoned tower (and if different, the operator of the abandoned tower).

B. The owner of the land upon which the abandoned tower is located.

C. The lessee, if any, of the land upon which the tower is located.

D. The sublessee or sublessees, if any, of the land upon which the tower is located.

E. Any communications service provider who, or which, by ceasing to utilize the tower or otherwise failing to operate any of its transmitters or antennas on the tower for which it leased space or purchased the fight to space on the tower for its transmitters or antennas, and by such ceasing or failure to utilize the tower, in fact caused the tower to become abandoned.

F. Any person to whom, or entity to which, there has been transferred or assigned any license issued by the FCC and under which the tower owner/operator operated the tower/facility.

G. Any person or entity which has purchased all or a substantial portion of the assets of the tower owner/ operator/service provider(s).

H. Any entity which has merged with or which has arisen or resulted from a merger with, the tower owner/ operator/service provider(s).

I. Any person or entity which acquired the owner or the operator of the abandoned tower.

J. Any parent or subsidiary of any of the foregoing which happens to be a corporation.

K. Any managing partner of any of the foregoing which happens to be a limited partnership.

L. Any partner of any of the foregoing which happens to be a general partnership.

Failure to Remove: In the event that the responsible Parties have failed to remove the tower and/or restore the facility site within 90 days, the Town of Westmore may remove the tower and restore the site using the surety bonds deposited at the time of application, and may thereafter initiate judicial proceedings against the Responsible Parties for any portion of the cost not covered by the surety bond.

ARTICLE XVIII INSURANCE AND INDEMNIFICATION

Insurance: The Town of Westmore shall not enter into any lease agreement, or otherwise authorize a tower site or facility by any telecommunications service provider until and unless the town obtains assurance that such operator (and those acting on its behalf) have adequate insurance as determined by the TRB. At a minimum, the following, insurance requirements shall be satisfied:

A. A telecommunications facility operator shall not commence construction or operation of the facility without obtaining all insurance required under this section and approval of such insurance by the TRB, nor shall a telecommunications facility operator allow any contractor or subcontractor to commence work on its contract until all similar such insurance required of the same has been obtained and approved by the TRB. The required insurance must be obtained and maintained for the entire period the telecommunications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the Town will order such entities to cease operation of the facility until such insurance is obtained and approved by the TRB.

B. Certificate(s) of insurance verifying such insurance shall be filed with the TRB at the time of application. For entities that are entering the market, the certificate(s) shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse of coverage. Such certificate(s) should provide the name, address and phone number of the insurance carrier, and identify an agent in case of inquiries.

C. The certificate(s) of insurance shall contain a provision that coverages afforded under such policies shall not be canceled until at least thirty (30) days prior written notice has been given to the town. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Vermont.

D. Where applicable, in the event that the insurance certificate(s) provided indicates that, the insurance will terminate or lapse during the term of the lease agreement with the Town, then in that event the telecommunications facility(s) operator shall furnish a renewed certificate of insurance as proof that equal and like coverage remains in effect for the balance of the lease term, at least thirty (30) days prior to the expiration of the date of such insurance.

E. A telecommunications facility operator and its contractors or subcontractors engaged in work on the operator's behalf, shall maintain minimum insurance in the amounts determined by the TRB cover liability, bodily injury, and property damage. The insurance shall cover, but not be limited to, the following exposures: premises, operations, and certain contracts. Such coverage shall be written on an occurrence basis and shall also be required under any lease agreement between the Town and the telecommunications facility operator.

Indemnification: The Town shall not enter into any lease agreement or otherwise authorize tower siting by a telecommunications service provider until and unless the Town obtains an adequate indemnification from such provider. This indemnification must at least:

A. Release the Town of Westmore from, and against, any and all liability and responsibility in or arising out of the construction, operation, or repair of the telecommunications facility. Each telecommunications facility operator must further agree not to sue or seek any monies or damages from the Town in connection with the above mentioned matter.

B. Indemnify and hold harmless the Town of Westmore, its elected and appointed officers, agents, servants, and employees, from and against any and all claims, demands, or causes of action whatsoever kind of nature, and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgments or decrees, sustained by the Town or any third party arising out of, or by any reason of, or resulting from, or out of each telecommunications facility(s) operator's agent's. employee's, or servant's negligent acts, errors, or omissions.

C. Provide that the covenants and representations relating to the indemnification provision shall survive the term of any agreement and continue in force and effect as to the responsibility of the party to indemnify.

ARTICLE XIX ENFORCEMENT

This ordinance shall be enforced as a civil ordinance in accordance with 24 V.S.A., Chapter 59.

Introduction and Conclusion

INTRODUCTION TO PRESENTATION

Like myself, most Vermonters choose to live in Vermont for a particular quality of life which includes enjoyment of the natural beauty, stunning views and serene peaceful settings. We also appreciate and honor the mutual respect Vermonters display and expect from each other. Unfortunately, having experienced how the 248a process plays out in real life I fear it has disillusioned me and my fellow Vermonters. We did not experience the due process that 248a supposedly affords all parties. 248a DOES NOT encourage communication between all parties especially between the applicant and the statutory and mandatory parties. Ultimately decisions are made that affect our community by outsiders, some never even set foot in our town. this process gives them more authority to decide what is needed in our town than our elected and appointed leaders. No Public Hearing arranged by the PUC or DPS denies the public to be heard by the our Vermont Agencies which supposedly serve Vermonters(Not outside interests). No Site Visit by the PUC, DPS, ANR, Historic Perservation or many of the applicants players was made yet their opinions are weighed over the citizens of the community, All the time and effort our municipal employees and officials put into creating our Town Plan, By-Laws and Ordinances is for naught since no deference was given.

248a challenges and flaws:

The process is not an efficient, fair or effective process. Even I who has had to live 24/7 for the past 3 years learning and respecting the process listened and became overwhelmed. I can only imagine

Vermont needs telecommunication but at what cost?

The Costs of a CPG

In conclusion, I strongly advocate for Telecommunication Siting to return Vermont's Land Use DIvision. Treat the applications for what it is: Land development. ACT 250 respects and includes all parties on a more level playing field than 248a. Most importantly ACT 250 recognizes the importance that local residents and property owners should be entitled to a have a meaningful input in the development and growth of the community they chose to live in.

In the least, the only appropriate alternative is to keep the sunset clause at the present three years so some legislative oversight is maintained. Extending it longer than 3 years or omitting it and making the statute permanent would be a travesty to Vermont and Vermonters. We depend on the legislature to protect and serve Vermonters before others.

The REAL Timeline P1

24-1755-PET TIMELINE Part I

Dec 2023-15th. Application submitted to PUC
-Mandatory Parties (ANR, DPS, Historic Preservation)
-Westmore Town
Planning/Zoning Board and Town Clerk

-Abutting property owners
Not all neighbors received the packet, as information used was dated
Packets were sent to deceased property owners
Some addresses were incorrect
A LARGE disorganized packet received was received by some between January 16, 2024-January 30, 2024

THE GENERAL PUBLIC IS NOT NOTIFIED

60 DAY period begins(earliest petition can be submitted February 15th 2024

Informational meeting scheduled by Planning board chair and ITW(Brian Sullivan) for late February.

Part 2 Timeline FEB 2024 MTG

End of February 2024 an Informational Meeting is held.

Planning Board chair, Bob Kennedy and ITW(Kevin Delaney),MSK(Brian Sullivan), arrange time and date(outside the 60 days timeframe).

"The horse and Pony Show takes place. Many residents/property owners were physically present at the meeting. Second home property owners attended via zoom as did MSK and ITW. Highlights of mtg:

1-Many questions were asked and were NOT answered.

2-Kennedy, Delaney and Sullivan ALL tell the PUBLIC that a PUBLIC HEARING WILL BE SCHEDULED BY THE PUC

3-Property owner of LaCross Farm with VTEL Tower shares that she has talked with CEO of VTEL and he is willing to work with ITW for co-location on existing tower even if it means applying to make the existing tower taller

4-248a states that the scenic views of I-89m and I-91 should not be jeopardized -It was asked why the scenic views of of NNL Lake Willoughby can be jeopardized by an Industrial Tower. No response

5-The term "Cell Tower" was used throughout the meeting.

6-A resident participating through zoom confirmed the landowner told her it would give her cell service. MSK and ITW said the tower would improve residents cell service.

7-A resident did question the ITW two way radio service - additional cost for users Used mostly commercially(which Westmore is purely residential), present EMS and Fire Department operate fine without tower and this tower would not serve the south beach where service is light and public hiking trails and state park is(another tower would be required

8-Balloon test was requested by residents, reluctantly MSK and ITW agreed to work with WPC to arrange for an appropriate date weather dependent and supposedly meeting requirements of the Westmore Telecommunication Ordinance

Part 3 Timeline Public Balloon test

BALLOON TEST APRIL 2024

Only 3 days notice
Was flown morning hours only-Less than 3 hours
Did not meet Westmore Telecommunications Ordinance Criteria
Hodgetts (ITW) later testified at Evidentary hearing he set the balloon launch up with the land owner present. Hodgetts then left the site to drive around to selected sites previously chosen for their unannounced February 15th balloon test Exhibit LH-6
An FCC Drone Operator was hired by citizens/residents for the April launch and his videos and stills show the movement of the two balloons often not flying at full height
WPC did not make prior arrangements to have oversight with ITW or landowner
Access to site is via private deeded driveway of a Barton Property owner yet land owner would not approve access to launch site.
BALLOON LOST ALTITUDE, FLEW LESS APPROXIMATELY 3 AM HOUR, THERE WAS CONFUSION WHERE TO THE PROPOSED TOWER SITE WAS

Part 4 Timeline Pre -Petition-immediate post petit

Pre-Petition March 2024-June 6 2024

Community Members communicate need for more information to WPC
Monthly WPC meetings - only allowed minor discussion of tower proposal
Continued pressure on WPC to share information and plans on protecting our Community
WPC overwhelmed with community pressure
- Even changed how public could participate at WPC mtgs
- Often email to WPC went unanswered
- Co-chair LD shared she was chair 2015 when VTEL tower process took place
  - Felt WPC was unheard, PUC "apologized" that town was not heard(given deference)
  - Cumbersome process 248a as compared to ACT 250
  - First tower in Westmore 2005 under ACT 250

Citizens reach out to VCE early March 2024
- Annette Smith offers to do an informational zoom meeting
- WPC is encouraged to attend-only BK and LD, co chairs of WPC attend
- Very informative with a wealth of information and links
  - Most found it enlightening and useful
  - Some tried to grasp 248a and what it was and all of VCE's links to PUC

Citizens reach out to NVDA

April Balloon Test takes place

May-Lots of reading, research by many in community, the public constantly tried to communicate with WPC and SB
"Wait and See" happened a lot

June 2024- ITW Petition is filed

July 2024- PUC 30 day period ends July 9th
- Many intervenors denied status
- PUC limited any intervenor request to aesthetics and town plan
- MSK requests 30 day delay due to health of B Sullivan
  - MSK is a firm
  - Delay granted

August 2024-PUC process slowly drags on and learning process for citizens intensified
- Intervenor issues
- K&R Holmes
- D Anderson-deeded ROW, adjacent neighbor to site,MSK sent pkg to wrong address(Manchester VT). DA received it a few days before AJuly 9th. Deadline for 30 day petition period. Retained attorney all denied
- ITW opposes intervenors granted status

Part 5-August 2024-April 2025

August 2024-November 2024

Issues with intervenors status.

PUC, MSK, stalls process

Issues with PUC Clerk

PUC demands one voice for intervenor group

(Lucky me)

November 2024-Scheduling Conference

Remotely held

Seff is MSK attorney representing ITW

Shot Clock Issue is raised-Faber reminds Seff he can choice to work directly with the municipality and/or ACT 250-ITW has choices if they are unhappy with present timeline

DPS is present-Michael Swain and is assigned by Faber to set up schedule

December 2025

Holidays

Schedule set with opposition from Seff noted

January 2025-March 2025

Discovery, Testimonies of witnesses and intervenors

24/7 research, PUC, tower cases, consultations with knowledgeable sources

Resistance and opposition from MSK every move or step forward

March 2025

Intervenors continue to meet all deadlines and scheduling no request for extensions

Faber had ordered DPS to use an aesthetic expert-He required an extension and it was granted.

WPC requests intervenor status. Denied

WPC letter placed in public comment section on PUC

Letter makes clear town plan and ordinance is ignored by ITW

Requests PUC deny CPG

WSB letter submitted to PUC supporting WPC and asks PUC to deny CPG

Balloon float by 3 engineers on DA deeded ROW

April 2025

Lots of Motions from MSK to deny testimonies, WPC, WSB input, etc

Very oppositional

D Anderson, neighbor and Engineer, before Balloon test

(Harassed, threatened while on his ROW only access to his property)

Public comments on PUC increase due to media (7 Day, Ed Barber Newport Daily Express, WCAX, letters to the editor(particularly Krieble-Seff attacks via motions not welcoming of public comments
/input)

Part 6-May 2025-June 2025

May 2025

Finally the Evidentiary Hearing

2 days before ITW alters their site plan

Because of Deeded ROW survey of DA not public comments

There initial application encroached on DA ROW No Vermont agency discovered/uncovered this? ANR. DPS.

Discover lawsuit filed against PUC commissioners individually and personally by MSK in December 2024 no prior knowledge or notice

June

Reply Briefs

Proposed decision by Faber

Post reply briefs

Part 7-July 2025-November 2025

July 2025

The March SB and PC letters renewed public support and interest'

Particularly to summer residents and visitors

Request Oral Argument

August 2025

Oral Argument

MSK brought in new material-

NO QUESTIONS from PUC Commissioners

September 2025

Wait and wait and wait

Shot CLock Suit by MSK is settled

Commissioners decision supports flawed proposed decision of Faber

October 2025-November 2025

Motion to Reconsider from Intervenors to PUC

(Filed in the am within 3 hours denied)

Opposition Motion from ITW

Appeal to Supreme Court-PUC on notice

Intervenors sought legal representation-limited choices

7

Part 8-December 2025-present and future

Happy Holidays!? Happy New Year?

POINT IS:
1-248a does not apply due process equally to all parties
2-The state agencies Vermonters hold faith and trust to protect our uniquely natural beautiful state we love are overwhelmed and “rubber stamp tower siting applications submitted under 248A.
3-248a discourages individual citizens to get involved
4-Municipalities cannot afford the time, effort and funds needed to participate in the 248a process
5-Intervenors cannot afford legal counsel thus try Pro Se in the PUC system and are often held to a higher standard than the tower applicants
6-ITW made many errors in their application that went unnoticed or unchecked. Even when pointed out their mistakes did not matter
packets, Chester site, LH-6, Discovery-CEO Balloon test date February 2024
7-Intervenors exhibits are hardly referred to in Proposed decision yet Applicants exhibits and statements are and often emphasized
8-Mistakes in Proposed decision are not correct by PUC Commissioners even after option for Reconsideration points them out-totally ignores
9-DPS-Over sees Vermont’s 10 Year Telecommunitcation Plan($$$, time, effort put I and it is ignored in the 248a process)
10-DPS is supposedly the Public Advocate for Vermonters-yet they played such a limited role in 24-1755-PET. No colocation studies, no reference to !0 yr plan, no attendance at meetings, no offer of assistance to municipality or citizens-just minimal rubber stamping of applicants requests

If PUC continues to fail to equally apply their rules to all parties and if our State Agencies continue to not participate in the PUC process thus leaving municipalities and citizens to fend for themselves, the present system if gravely flawed and is not serving the PUBLIC GOOD.

Part 9-Actual Start Date and Info

2 years prior to any notice to WPC

Land owner Deed was changed May 2023.
Site acquistion started well before application with no notice or communication with municipality

Landowner began process to make DA deeded Private right of way into a pvt road before 2018

No town land considered

Site acquistion committee of ITW no communication with town/communitybegan years before Dec 2024

Cynthia Krieble

Hightlights Cynthia notes

Corporate (ITW) power, money and influence versus the Town and its residents. The intervenors' process was one of procedural obfuscation rather than justice.

No specific reasons ever given for the Public Good coming from this tower, just generalities that it fits into the corporate plan or the state plan.

Reliance on Quechee Analysis is flawed - Pretends to be objective analysis, but was interpreted subjectively.

DPS hired Mr. Buscher admitted it failed the first part and then manipulated answers to satisfy passing the second part, saying it
(1) complied with Town Plan and Telecom
(2) adverse visual affects were mitigated
(3) average person wouldn't be offended (no one definition for "an average person" while nearly 100 commented or testified on ePUC to the contrary

Only one of these needed to be failed to fail the aesthetic test, but the project failed on all three of these points.
The entire aesthetic argument favoring the tower proposal was based on the opinion of one man.

Intervenor's aesthetic expert, who had as much, if not more aesthetic training, was not given opportunity to weigh in before the PUC hearing officer at the Evidentiary Hearing.

It is doubtful that the PUC Commissioners even read any of the witnesses' and intervenors' testimonies given the brief response and the few hours they had to read our reply to the ITW response to our Motion to Amend, the PUC was already determined not to listen to the voice of the Westmore residents. They did not require a public hearing even though the Westmore Planning Commission asked for one.

PUC, DPS and ANR rubber-stamped the corporate lawyers. MSK lawyers hired by ITW used bullying tactics, even sued the PUC Commissioners on procedural grounds (shot-clock), then dropped the suit one week after the PUC filed the Final Order giving ITW a CPG

Despite 248a saying municipal governments will be given "Substantial deference", Westmore was disregarded every step along the way. Basically had no voice, no hearing, town plan and ordinances were misrepresented.