

Dear Chair Ann Cummings and Members of the Senate Finance Committee,

I am writing to urge you to sunset Section 248a and return telecommunication siting to Act 250 and municipal zoning.

I have been a testifying witness in PUC Case No. 24-1755-PET (Petition of Industrial Tower and Wireless, LLC requesting a Certificate of Public Good (CPG), pursuant to 30 V.S.A. § 248a, for a telecommunication tower in Westmore, Vermont). My testimony as an aesthetic witness is attached below, as is my resume. Much of my experience with this very frustrating legal process which is now going forward to appeal in the Vermont Supreme Court is outlined in my earlier email letter sent to Senator Cummings dated November 10, 2025 (printed below in the body of this email).

The experience of Westmore intervenors, witnesses like myself, the Westmore Planning Commission, the Westmore Selectboard and the more than 100 people who submitted Public Comment on ePUC portal has been complete frustration in navigating the 248a process used by PUC to grant a CPG to ITW.

For the record I know that at least half of the comments submitted on ePUC by the public were from year round and seasonal resident/taxpayers of Westmore and neighboring towns in Orleans County; three were members of Westmore Fire Department, three were Selectboard members, at least three were members of the Planning Commission including the Chair. The process under 248a has pitted corporate power, highly paid attorneys, money and influence against the Town of Westmore and its residents.

This more than two year long process under 248a has been and continues to be, as the case goes forward to appeal in the Vermont State Supreme Court, one of legal obfuscation, deliberate misrepresentation and obstruction by ITW attorneys. The case for ITW's telecom tower has been based primarily on procedural issues rather than the issues of substance, ie., town plan, telecommunication ordinance, scenic aesthetic importance of a rare National Natural Landmark, and benefits to the public. No specific reasons have been given for the Public Good coming from this tower with only one nonpaying customer invited to colocate on the tower - only general references to an overall state plan and baseless insinuations that one day there might be a co-locating cell provider. The area already has Broadband coming in which is much more viable for future technological advances.

In spite of the fact that according to PUC under 248a "substantial deference" is to be given to municipalities in granting a CPG, PUC has no clear guidelines for how and when municipality recommendations and comments are to be received and what attention they are to be given by the PUC. The result has been that the ITW attorneys have tried and been able to completely deny the Town's input based upon procedural issues because procedure was confused and not spelled out. The end result has been that Westmore's town plan, telecommunication ordinance, and recommendations of the Selectboard and Planning Commission were all overridden in the Public Utility Commission's decision to grant ITW permission to build their radio tower in Westmore. This would not have

played out this way under Act 250 and municipal zoning codes. 248a sets the stage for procedural issues vs. substantial issues with lawyers playing every card they can, such as suing the PUC commissioners in December 2024 for not making the 150 day shot-clock and then dropping the suit against them one week after they issued the Final Order to grant ITW a CPG (both documents attached).

The whole 248a process is overwhelming, and shouldn't be, for a town and its residents in order to have their voices heard. It is even more overwhelming if they choose to intervene because a telecommunications project violates their municipal plan and regulations. We've had to go through one hurdle after another: Motion to Intervene, hearings, pre-filed testimony, discovery, evidentiary hearing, Briefs and Reply Briefs, Responses to ITW Motions to Eliminate Testimony, Public Comments, Response to Proposal for Decision and Final Order, Oral Argument, Motion to Amend, Reply to Response to Motion to Amend, and I'm leaving some out. It's been a highly contested process that continues as the intervenors' are now appealing in the Supreme Court. All this contentiousness and lack of justice has been enabled by the 248a process allowing corporations to simply avoid municipal regulations in the siting of telecommunication facilities.

It is doubtful that the PUC Commissioners even read any of the witnesses' and intervenors' testimonies given their very brief response to our response to their Final Order. In fact their Final Order basically repeats the hearing Officer's Proposal for Decision and its numerous errors. At the Oral Argument not one PUC commissioner asked a question of the intervenors' *pro se* Representative. They could not have had time to thoroughly read the intervenors' Reply to the ITW Response to our Motion to Amend as their Motion to Dismiss the Motion to Amend came within a few hours of it being filed on ePUC. One can only assume that the PUC commissioners had already made up their minds and were not going to listen to the Westmore residents. They never did allow a public hearing even though the Westmore Planning Commission asked for one.

Throughout this whole process it appears that for some reason the PUC, DPS, and ANR rubber-stamped the corporate lawyers. Our state agencies to protect the public interests never even questioned the public good for Westmore and, for that matter, the state of Vermont given that Westmore has one of the most spectacular viewsheds in New England, Lake Willoughby. The exceptional nature of Lake Willoughby, a National Natural Landmark, has been lauded repeatedly over 150 years or more. Several selected descriptions to flesh out the pristine and awe-inspiring nature of the place as seen through others' eyes such as "the last piece of paradise in the lower 48" are cited in my pre-filed testimony and exhibits attached below.

In addition to my testimony below, I would like to stress an Aesthetics problem with the PUC process - that is that reliance on Quechee Analysis to determine aesthetic impact of a telecommunications tower is flawed. What is supposed to be an objective analysis, was interpreted subjectively - something that is inherently true of most aesthetic judgments. **The problem here is that DPS-hired aesthetic expert's report, the evaluation of just one individual, is treated as an absolutely objective truth.**

While the DPS-hired aesthetic expert admitted that the ITW Project failed the first part of the Quechee Analysis because of Lake Willoughby's sensitive nature as a scenic treasure and NNL, he manipulated answers to satisfy passing the second part, saying it

- (1) complied with Town Plan and Telecom, which it clearly did not
- (2) adverse visual effects were mitigated, which were not
- (3) the average person wouldn't be offended. Neither he, nor ITW has given a satisfactory definition for "an average person" while many commented or testified on ePUC that they would find a 154' tower in the Willoughby viewshed highly offensive.

Even though only one of the above requirements needed to fail in order to fail the Quechee test for an "undue" adverse impact on the aesthetics of the area, 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 and upheld by the PUC and DPS.

I, myself, being the Intervenor's aesthetic expert, who had as much aesthetic training if not more than the DPS expert, was not given the opportunity to weigh in before the PUC hearing officer at the Evidentiary Hearing. The only attention I received was multiple cases of the ITW attorney trying to discredit me and my testimony.

Thank you for giving us the opportunity to be heard now as you are deliberating the future of Section 248a. I truly hope that you will find that making it permanent rather than returning to Act 250, or at the very least letting it sunset in three years, is in violation of the best interests of the people of this state when it comes to carrying on Vermont's legacy of protecting its distinctive rural character and non-industrialized landscape from speculative projects that trample over towns' and cities' careful land management planning and zoning.

My letter of November 10, 2025 follows.

Respectively,

Cynthia Krieble
1176 Old Cottage Lane
Westmore VT 05822

November 10th 2025 letter

From:

ckrieble@yahoo.com

To:

acummings@leg.state.vt.us

Mon, Nov 10, 2025 at 11:41 AM

Dear Senator Cummings:

I am writing to ask you **to please** prevent Industrial Tower and Wireless's radio tower project in Westmore on Lake Willoughby from going forward. Construction of the proposed lattice 140' (153' including antennas) two-way radio tower looming up over the 70' tree line in the town of Westmore is clearly in violation of the municipality's town plan and telecommunication ordinance. It also ignores the Westmore Selectboard's unanimous recommendation to deny the project for this reason. There has been **no public hearing and no five year plan** by ITW as required by the town telecom ordinance and requested by the planning commission. After over two years ITW has yet to identify even one potential paying subscriber to co-locate on their tower making it clearly a speculative project, also a violation of the town telecom ordinance. Emergency providers in the area have stated that there is no need for this service with other towers already in the area. The only exception is Glover Ambulance, which was offered space rent-free.

There has been an overwhelming outcry from residents and visitors alike against the construction of this tower including over 100 comments submitted on the Public Utilities Commission website. A group of Westmore intervenors has steadfastly opposed the project through motions, briefs, hearings, etc.

ITW's application for a Certificate of Public Good under Statute 248a and the following intervention by Westmore residents has been fraught with bullying and misrepresentation by ITW and lacking in any public participation by DPS, and ANR, the appointed steward to protect National Natural Landmarks in Vermont such as Willoughby Lake. Having followed the legal process through the PUC's website during the past year and a half, my takeaway is that the legal wall was stacked against us, we the people, who strongly oppose the location of this offensive, intrusive and unnecessary radio tower in Westmore, which will cause more public harm than public good. Why do the Vermont State agencies PUC, DPS and ANR seem to be locked into a project which will desecrate one of the most beautiful lakes in Vermont, and in the U.S., for that matter?

To me and many, many others, it is unconscionable that this out of state speculative corporation would be allowed to invade our small town, ignore our municipal regulations, plans, and governing body's recommendation, compromise the town's economic scenic resources, all for no demonstrable public benefit. Willoughby Lake is one of New England's most scenic lakes, designated a NNL for its glacially formed fiord like gap between the majestic mountains of Pisgah and Hor, often referred to as the "Lake Lucerne of America". This special spot on our planet has been and continues to be lauded by writers in newspapers, magazines and poems, and by artists and photographers for well over 150 years.

Allowing this huge radio tower to be constructed in the Willoughby viewshed goes directly against the state's track record of protecting its unique scenic character for which it is renowned, a legacy which includes its cutting-edge 1968 billboard ban and Senator Leahy's 1998 warning against Vermont becoming a pincushion of telecommunication towers. (*It's a Control Thing: Vermont vs. Cell Phone Towers*, N.Y. Times, Carey Goldberg, Mar. 9, 1998, at A12).

Tom Slayton, editor of *Vermont Life*, the former state published quarterly periodical, in the Winter 1995 issue, eloquently articulates what is at stake in speculative projects like this one, “the economic importance of landscape in Vermont is growing every day. In an increasingly competitive market for tourists, landscape is one of the unique things Vermont has to offer.... If that landscape were lost, as some fear it may be, Vermont would lose not only its prime economic resource in the battle for tourists, it would lose a part of its identity, and possibly its soul, as well.” And in the Summer 1996 issue, he stresses Vermont’s traditional “sense of place” is based in “respect for the natural world”. “Because of a lack of commitment and respect, many localities in America are no longer places. They have become interchangeable... Vermont has fortunately always been a real place... Vermont’s strong environmental laws, its concern for the purity of its streams, the integrity of its mountains, the health of its pastoral landscape are all an expression of the bred-in respect Vermonters have for the natural world they have inherited.”

Now almost 30 years later, with fewer and fewer places in Vermont untrammelled by industrial structures, it is all the more critical to preserve the natural character of places like Willoughby for all to experience on into the future. The numbers of people, residents and visitors alike, who cherish the Willoughby area and praise it with descriptions such as “the last piece of paradise in the lower 48” should be proof enough that the construction of a 140’ metal lattice radio tower with little demand, no future plans, and minimal evidence of serving the public **should not be allowed to outweigh the importance of keeping this “crown jewel” of the Northeast Kingdom as free as possible from industrialized development.**

Please protect this unique scenic resource, part of the “soul” of our state of Vermont, from the expansionist ambitions of ITW and stop this unnecessary, out of place radio tower from becoming a reality in Westmore!

As a Vermont property owner and tax payer, member of a family enjoying summers at Willoughby Lake for five generations, a Middlebury College graduate, and true Vermonter at heart, I thank you for your consideration and anything you can do to save this singularly exceptional scenic resource of Vermont from being industrialized.

Respectfully,
Cynthia Kriebel

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