

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7374n

Petition of Michael and Marilyn Gardner and)
Cellco Partnership, d/b/a Verizon Wireless,)
pursuant to 30 V.S.A. §§ 248(n) and 219a, for a)
certificate of public good authorizing the)
installation and operation of a combined farm)
net metering system and wireless)
telecommunications facility in Pownal, Vermont)

Order entered: 12/6/2007

I. INTRODUCTION

This case involves a petition filed on October 19, 2007, by Michael and Marilyn Gardner (the "Gardners") and Cellco Partnership, d/b/a Verizon Wireless ("Cellco") (together the "Applicants"), requesting a certificate of public good ("CPG") pursuant to 30 V.S.A. §§ 219a and 248(n), and Vermont Public Service Board ("Board") Rule 5.100, authorizing the installation and operation of a wireless telecommunications facility to be attached to a proposed farm net metering system (comprised of a wind turbine electrical generation facility) in Pownal, Vermont ("Project").

On October 19, 2007, the Applicants filed the petition, prefiled testimony, and proposed findings with the Public Service Board ("Board"), the Vermont Department of Public Service ("Department") and the Vermont Agency of Natural Resources ("ANR"), the Town of Pownal, and the adjoining landowners as specified in 30 V.S.A. §§ 219a and 248(n).¹

Pursuant to § 248(n) and Board Rule 5.100, any party wishing to submit comments as to whether the petition raises a significant issue with respect to the relevant substantive criteria of

1. See Board Order: *In Re: Procedures governing the placement of wireless communications facilities on electric generation and transmission facilities pursuant to 30 V.S.A. § 248(n)*, issued September 5, 2007.

30 V.S.A. § 248, as outlined in the Board's order implementing the 248(n) procedures,² must file their comments with the Board within thirty days.

No comments have been filed.

The Board has determined that the petition and prefiled testimony have effectively addressed the issues raised with respect to the substantive criteria of 30 V.S.A. § 248. Consequently, we find that the procedures authorized by Section 248(n) and 219a are sufficient to satisfy the public interest, and no hearings are required.

II. FINDINGS

1. The proposed net metering project is located on property owned by the Gardners at 1209 Mann Hill Road in Pownal, Vermont. Net Metering Application at Section 1.
2. The proposed wind turbine has a tower height of 130 feet and a rotor diameter of 18 feet. The power output of the wind turbine is 6 kW. Net Metering Application at Section 5.
3. The proposed wireless communications facility includes twelve 4' x 6" panel antennas mounted at a height of 110' on the turbine tower. Net Metering Application Attachment at 2; exh. 2.
4. A 12' x 30' prefabricated equipment shelter housing a diesel-fueled emergency electrical generator will also be installed near the base of the turbine tower as part of the communications facility. Net Metering Application Attachment at 2; exh. 3.
5. The antennas will be connected to the equipment shelter by means of cables running within the turbine tower and out across a transmission line bridge. Net Metering Application Attachment at 2; exh. 4.
6. The Applicants have specified the one meter to be included in the farm net metering system by account number and location. Applicants have also provided a method for adding or removing meters included in the farm system. Net Metering Application at Section 8.
7. The Applicants have designated Marilyn Gardner as the person responsible for receiving all communications regarding the farm system. Net Metering Application at Section 8.
8. All disputes regarding the farm system will be resolved by the Gardners. Net Metering Application at Section 8.

2. *Id.*

9. The Applicants have certified that the proposed net metering project is in compliance with all of the provisions of the Net Metering Application. Net Metering Application at Section 3.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

10. The proposed Project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This finding is supported by Findings 11-13, below.

11. The area for the proposed Project is approximately 50' x 50' and is located entirely on property owned by the Gardners. Dreher pf. at 3.

12. The proposed Project allows for co-location of additional telecommunications facilities as well as emergency-response provider facilities. Dreher pf. at 3-4; Carter pf. at 2.

13. Co-location of communications facilities is consistent with the goals of the Pownal Town Plan and the Bennington County Regional Plan. Dreher pf. at 3-4; exhs. 6 and 8.

Need For Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

14. The wind turbine portion of the proposed Project will provide a source of renewable electric energy within the region, and, thus, helps meet the need for such resources. Carter pf. at 2.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

15. The electrical loads generated by the proposed Project can be met without impacting system stability and reliability. Exh. 9 (letter from Central Vermont Public Service Corporation).

Economic Benefit to the State

[30 V.S.A. § 248(b)(4)]

16. To the extent that increased wireless telecommunications signal coverage results in increased commercial investment in the region, the proposed Project will provide an economic benefit to the state.³ *Id.*

**Aesthetics, Historic Sites, Air and
Water Purity, the Natural Environment and Public
Health and Safety**

[30 V.S.A. § 248(b)(5)]

17. The proposed Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and the public health and safety. This finding is supported by Findings 18-33, below.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

18. The proposed Project as designed meets any applicable health and environmental conservation regulations regarding the disposal of wastes, and does not involve the injection of waste materials or any harmful or toxic substances into ground water or wells. All construction debris produced during construction of the proposed Project will be disposed in accordance with the law. Dreher pf. at 4; Carter pf. at 4.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

19. The proposed Project will not be located in a floodway. Dreher pf. at 4.

3. Pursuant to § 248(n)(1)(D), construction of the wireless communications facility is also consistent with the "state's interest in ubiquitous mobile telecommunications and broadband service in the state."

Streams

[10 V.S.A. § 6086(a)(1)(E)]

20. The proposed Project is not located on or adjacent to any streams. *Id.*

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

21. The proposed Project is not located near any shorelines. *Id.*

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

22. The proposed Project is not located near any wetland. *Id.*

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

23. The proposed Project will not result in unreasonable soil erosion or reduce the ability of the land to hold water. This finding is supported by Findings 24 and 25, below.

24. Soil disturbance will be limited to improvements to the existing farm and field roads and the installation of the tower and equipment shelter. Dreher pf. at 4.

25. Stone-lined ditches, check dams, ripraps and culverts will be utilized to minimize any soil erosion caused by construction activities. *Id.*

**Aesthetics, Historic Sites or Rare
and Irreplaceable Natural Areas**

[10 V.S.A. § 6086(a)(8)]

26. The proposed Project will not have an undue adverse effect on the scenic or natural beauty, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by Findings 27-30, below.

27. The tower supporting the wind turbine and telecommunications facility will be self-supporting and will not be lit. The only lighting for the proposed Project will be a 75-watt,

downshielded light at the equipment shelter's door that will be controlled by a motion detector. Steele pf. at 4.

28. No significant noise will be generated by the proposed Project. *Id.*

29. The equipment shelter will have a brown earth-tone aggregate finish to better blend with the surrounding wooded area. *Id.* at 3.

30. The proposed Project will not adversely impact any known historic sites or natural areas. Steele pf. at 3-4; Carter pf. at 3; exh. 14.

**Necessary Wildlife Habitat and
Endangered Species**

[10 V.S.A. § 6086(a)(8)(A)]

31. The proposed Project will not have an undue adverse impact on any necessary wildlife habitat or known endangered species sites. This finding is supported by Findings 32 and 33, below.

32. No state or federal rare, threatened or endangered species have been identified at the proposed Project site. Carter pf. at 3; exh 15.

33. The Applicants have agreed to the following conditions proposed by ANR regarding potential bat fatalities: (1) Applicants will allow access to the Project site by the Vermont Department of Fish and Wildlife ("VDFW") personnel to conduct bat fatality surveys for a period of three years following commencement of operation of the wind turbine; (2) Applicants will notify the VDFW when the turbine begins operation; and (3) Applicants will notify ANR upon issuance of a Board order approving the proposed Project. Carter pf. at 3; Net Metering Application Attachment at 13-14; exh 15.

Outstanding Resource Waters

[30 V.S.A. § 248(b)(8)]

34. The proposed Project is not located on or near any Outstanding Resource Waters as designated by the State of Vermont Water Resources Board. Dreher pf. at 4.

IV. CONCLUSION

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248; the public interest is satisfied by the procedures authorized in 30 V.S.A. §§ 219a and 248(n); and the proposed Project will promote the general good of the state.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of a net metered wind turbine and telecommunications facility in Pownal, Vermont, by the Applicants, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. §§ 219a and 248(n), and a certificate of public good to that effect shall be issued in this matter with the following conditions:

1. The Applicants shall allow access to the Project site by Vermont Department of Fish and Wildlife personnel to conduct bat fatality surveys for a period of three years following commencement of operation of the wind turbine.
2. The Applicants shall notify the Vermont Department of Fish and Wildlife when the turbine begins operation.
3. The Applicants shall notify the Agency of Natural Resources upon issuance of a Board order approving the proposed Project.

Dated at Montpelier, Vermont, this 6th day December, 2007.

)	
s/James Volz)	PUBLIC SERVICE
)	
s/David C. Coen)	BOARD
)	
s/John D. Burke)	OF VERMONT

OFFICE OF THE CLERK

FILED: December 6, 2007

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.