

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7710

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility ("AT&T"), for authority,)
pursuant to 30 V.S.A. § 248a, to install a wireless)
communications facility in Mount Holly, Vermont)

Order entered: 3/9/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the petition filed by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Order implementing standards and procedures under this section ("Procedures Order")¹, and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of telecommunications facilities located in the Town of Mount Holly, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on January 25, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of the facilities identified above.²

On February 15, 2011, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending that the Board issue a CPG authorizing installation of the Project without further evidence or hearings.

No other comments regarding the Project have been filed with the Board.

1. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 14, 2009.

2. AT&T filed its prefiled testimony largely in the form of a "project narrative" that addresses the applicable § 248a criteria. We find that this approach is sufficient for this type of project given that § 248a allows for a simplified review process. However, the Board notes that this approach may not be sufficient for other projects seeking Board approval under § 248, and the Board may require prefiled testimony in traditional question and answer form for those projects.

The Board has determined that the petition and prefiled testimony and exhibits have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project will provide wireless telecommunications coverage along Route 103 in the Town of Mount Holly. The Project will also interconnect with existing AT&T facilities and those planned for construction in the future in nearby areas. Exh. JP-3-6.B.1 § III.

2. The Project is to be located at 581 Stewart Road South in Mount Holly, Vermont. Exh. JP-3-6.B1 § I.

3. The Project involves the installation of a telecommunications tower with antennas, an equipment shelter, a generator, and associated operating equipment within a new fenced compound on property leased by AT&T. The Project also includes the construction of a new access road and a parking/turn-around area. Exh. JP-3-6.B.1 § II.

4. The facilities include a new 130-foot-tall self-supporting monopole tower with up to twelve antennas, each measuring approximately 4.5 feet high by 10 inches wide by 6 inches deep, mounted at a height of 127 feet on the tower. The equipment shelter will be approximately 11.5 feet by 20 feet by 10 feet high. The diesel-fueled generator will be mounted on a 4-foot by 11-foot platform within the 50-foot by 50-foot fenced compound. The Project also includes the construction of a new access road, extending 1803 feet from an existing gravel driveway, and a parking/turn-around area, transformer and bollards to be located directly east of the compound. Exh JP-3-6.B.1 § II.

State Telecommunications Policy

[30 V.S.A. § 248a(a)]

5. The Project is consistent with the goal of directing the benefits of improved telecommunications technology to all Vermonters pursuant to 30 V.S.A. § 202c(b). The Project will allow interconnection with the other similar AT&T facilities comprising AT&T's Vermont network, some of which have already been built and others that are planned to be built in the future. Exh. JP-3-6.B.1 § III.

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

[30 V.S.A. § 248a(c)(1)]

6. The Project will not have an undue adverse effect on aesthetics, historical sites, air and water purity, the natural environment, and the public health and safety. This finding is supported by findings 7 through 26 below, which are the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a) (1)-(8) and (9)(k).

Outstanding Resource Waters, Headwaters

[10 V.S.A. §§ 1424a(d), 6086(a)(1)(A)]

7. The Project will have no impact on outstanding resource waters or headwaters. Exh. JP-3-6.B.1 § IV.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

8. The Project will not result in undue water or air pollution. This finding is supported by findings 9 through 11, below.

9. Dust associated with construction vehicles will be controlled at the site. Exh. JP-3-6.B.1 § IV.

10. Noise associated with construction activities will be short term, and noise from the generator will be limited in the absence of a prolonged power outage. Exh. JP-3-6.B.1 § IV.

11. The Radio Frequency Radiation associated with the Project will meet all standards prescribed by the Federal Communications Commission. Exh. JP-3-6.B.6.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

12. The Project does not involve disposal of wastes or injection of any material into ground water or wells. Exh. JP-3-6.B.1 § IV.

Water Conservation, Sufficiency of Water, and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(1)(C),(a)(2) and (3)]

13. The Project will have minimal impact on water conservation measures, as the Project will not be connected to water supplies. Exh. JP-3-6.B.1 § IV.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

14. The Project is not located in a floodway. Exh. JP-3-6.B.1 § IV.

Streams

[10 V.S.A. § 6086(a)(1)(E)]

15. The Project, including the access road, is not located near any streams or watercourses. Exh. JP-3-6.B.1 § IV.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

16. The Project is not located on a shoreline. Exh. JP-3-6.B.1 § IV.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

17. The Project is not located near any wetlands. Exh. JP-3-6.B.1 § IV.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

18. The Project will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water. All construction work will comply with Vermont standards and specifications for erosion and sediment control. Exh. JP-3-6.B.1 § IV.

Transportation System

[10 V.S.A. § 6086(a)(5)]

19. The Project will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports or airways, and other means of transportation existing or proposed. Traffic, following construction, will consist of limited maintenance visits. Exh. JP-3-6.B.1 § IV.

Educational Services

[10 V.S.A. § 6086(a)(6)]

20. The Project will not cause an unreasonable burden on the ability of a municipality to provide educational services. Educational services will not be impacted by the Project. Exh. JP-3-6.B.1 § IV.

Municipal Services

[10 V.S.A. § 6086(a)(7)]

21. The Project will not place an unreasonable burden on the ability of the local government to provide municipal or governmental services. The Project will not require any additional municipal or governmental services. Exh. JP-3-6.B.1 § IV.

Aesthetics, Historical Sites, and Rare and Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

22. The Project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 23 through 25, below.

23. The Project will be located in a forested area with the base of the monopole tower located below the ridgeline to provide screening and lessen the visual impact of the Project. Exhs. JP-3-6.B.1 § IV, 6.B.3.

24. There are no known historic sites within the immediate vicinity of the Project site. Exhs. JP-3-6.B.1 § IV, 6.B.7.

25. There are no known irreplaceable natural areas, endangered species sites or areas of necessary wildlife habitat in the Project area. Exh. JP-3-6.B.1 § IV.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

26. The Project will not unnecessarily or unreasonably endanger any public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to public investments. Exh. JP-3-6.B.1 § IV.

Town and Regional Plans

[30 V.S.A. § 248a(c)(2)]

27. The Project is consistent with the land conservation measures contained in the Mount Holly Town Plan and the Windham Regional Plan. Exh. JP-3-6.B.1 § V.

State and Local Permits

[30 V.S.A. § 248a(d)]

28. There are presently no local or Act 250 permits related to the parcel on which the Project site is to be located. Exh. JP-3-6.B.1 § VII.

IV. DISCUSSION & CONCLUSION

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title.

Further, pursuant to the Procedures Order:

Unless the Board determines that an application raises a significant issue, it shall issue a final determination on an application within 90 days of its filing

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. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, 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 communications facilities at the location specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, 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. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 9th day March, 2011.

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

OFFICE OF THE CLERK

FILED: March 9, 2011

ATTEST: 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.