

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7739

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility, for a certificate of public)
good, pursuant to 30 V.S.A. § 248a, for the)
upgrade of telecommunications facilities in the)
Town of Plainfield, Vermont)

Order entered: 6/27/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the application filed on May 26, 2011, 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 Procedures Order ("Procedures Order"),¹ and grants the Petitioner a certificate of public good ("CPG") authorizing the upgrade of telecommunications facilities located in the Town of Plainfield, Vermont.

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on May 26, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the upgrade of telecommunications facilities in the Town of Plainfield, Vermont.

On June 16, 2011, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending that the Board issue an order approving the Project without further hearings or investigation.

No other comments or requests for hearing 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.

The Board has determined that the petition and prefiled testimony 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 involves modification of an existing facility through the installation and replacement of antenna canisters and antennas on an existing support structure in the Town of Plainfield, Vermont. The modifications will improve wireless telecommunications coverage within the surrounding area, and enable the use of Enhanced 911 service to allow emergency responders to identify the locations from which emergency calls are placed. Exh. JP-3-6.B.1 § III.

2. The Project facilities are proposed to be located in and around an existing barn located at 399 Upper Road in Plainfield, Vermont. Exh. JP-3-6.B.1 § I.

3. The Project includes the replacement of the existing 24-inch diameter, 5-foot 8-inch tall fiberglass stealth canister located on the roof of a barn, with a new 30-inch diameter canister of the same height. The canister will contain two replacement panel antennas. The Project also includes the installation of a second 30-inch diameter, 5-foot 8-inch tall canister containing 2 antennas on the barn roof. The barn is approximately 18 feet in height. In addition, the Project involves minor structural upgrades to the barn roof, modifications within the existing equipment shelter and additional cabling. Exhs. JP-3-6.B.1 § II, JP-3-6.B.2.

4. The modifications will not alter the height or width of the existing barn, nor will the Project result in earth disturbance. Finding No. 3 above; exh. JP-3-6.B.1 § III.

5. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 6 and 7, below.

6. The proposed canisters will extend approximately 6 feet above an existing barn roof and will be barely perceptible except when passing immediately in front of the property. Therefore,

the installation of the facilities will not have an undue adverse effect on aesthetics when viewed in the overall context of the site. Exh. JP-3-6.B.1 § IV.

7. The proposed installation of the facilities will not have undue adverse impacts to rare or irreplaceable natural areas or historic sites within the vicinity of the existing site where the Project will be located, because there will be no ground disturbance and because the new facilities will represent a barely discernable change from the existing facilities. Exh. JP-3-6.B.1 § IV.

IV. DISCUSSION and 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. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(j)(1), the Procedures Order defines a project of "limited size and scope" as a facility that:

(a) consists of an attachment to an existing structure that does not increase the height or width of the existing structure by more than twenty feet; or (b) does not exceed 135 feet in height and does not include road building or other earth disturbance exceeding 100 square feet, other than a temporary road or earth disturbance associated with construction or installation activities.

Further, pursuant to Section (L) of the Procedures Order, regarding projects of "limited size and scope:"

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing

The proposed Project will consist of attachments to an existing structure that will not increase the overall height or width of the structure and will not result in any permanent earth disturbance. Therefore, the Project qualifies as a facility of "limited size and scope" as defined in the Board's Procedures Order governing the installation of wireless telecommunications facilities. The Procedures Order provides that the Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

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 27th day June, 2011.

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

OFFICE OF THE CLERK

FILED: June 27, 2011

ATTEST: s/June 27, 2011
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.