

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7753

Petition of VTel Wireless, Inc., for a certificate of )  
public good, pursuant to 30 V.S.A. § 248a, for the )  
installation of telecommunications facilities in the )  
Town of Colchester, Vermont )

Order entered: 8/10/2011

**I. INTRODUCTION**

In this Order, the Vermont Public Service Board ("Board") approves the application filed on June 20, 2011, by VTel Wireless, Inc. ("VTel" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Procedures Order ("Procedures Order")<sup>1</sup>, and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of communications facilities located in the Town of Colchester, Vermont.

**II. BACKGROUND**

This case involves a petition and prefiled testimony filed by the Petitioner on June 20, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of three communications facilities in the Town of Colchester, Vermont. The Petitioner is seeking approval for the project as de minimus modifications to existing structures, pursuant to § 248a(b)(2).

On July 11, 2011, the Vermont Department of Public Service ("Department") filed a letter recommending that the Board issue a CPG for the Project without further evidence or hearings.

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1. *Amended 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 10, 2011.

On July 18, 2011, Board staff held a status conference via telephone with representatives of the Petitioner and the Department, to request supplemental information regarding the application.

On August 1, 2011, the Petitioner filed supplemental information with the Board in response to the request from Board staff.

No other comments or requests for hearing regarding the Project have been filed with the Board.

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 three existing support structures through the installation of additional antennas and ancillary equipment at three locations in the Town of Colchester, Vermont. Petition at exh. 1.

2. The Project facilities are proposed to be located in and around three existing farm silos located at 4335 Roosevelt Highway, 483 Mill Pond Road, and 2149 Mallets Bay Avenue in Colchester, Vermont. Petition Supp. at Section 1.

3. The Project includes the installation of up to 12 panel antennas each approximately 4 feet in length to be installed on the silos. The aggregate surface area of the antenna faces at each location will be approximately 67 square feet. The Project also includes the installation of a 6-foot by 8-foot raised platform at the base of each silo, which will support up to three equipment cabinets each approximately 30 inches by 30 inches by 5 feet tall. Petition Supp. at Section 1.

4. The modifications will not increase the height or width of the existing support structures by more than 10 feet, the aggregate surface area of the antenna faces attached to the structure will not exceed 75 square feet, nor will the Project create any impervious surfaces. Finding No. 2, above.

#### **IV. DISCUSSION and CONCLUSION**

Pursuant to 30 V.S.A. § 248a(b)(2), the Procedures Order defines a de minimus modification as:

the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements on a telecommunications facility or existing support structure, or the reconstruction of such facility or support structure, provided:

(a) the height and width of the facility or support structure, excluding equipment, antennas, or ancillary improvements, are not increased;

(b) the total amount of impervious surface, including access roads, surrounding the facility or support structure is not increased by more than 300 square feet;

(c) the addition, modification, or replacement of equipment, antennas, or ancillary improvements does not increase the height or width of the facility or support structure by more than 10 feet;

(d) the addition, modification, or replacement of equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

For purposes of this definition, where the proposed ancillary improvements will be installed on, within, or at the base of a building, the ancillary improvements may be excluded from the aggregate surface area calculation in subsection (d) provided that: (1) the ancillary improvements comply with the limitations in subsection (c) measured from the outer walls of the building (for width) and the highest existing element of the building (for height); (2) the aggregate surface area of the antennas and equipment other than ancillary improvements does not exceed 75 square feet; and (3) any other additions, modifications, or replacements associated with the facility otherwise comply with subsections (a) and (b).

Further, pursuant to § 248a(k) and Section VIII of the Procedures Order, regarding de minimus modifications:

If no objections to the classification of the project are timely filed with the Board, a CPG shall be issued without further proceedings.

The proposed Project will consist of attachments to an existing support structure that will not increase the height or overall width of the structure by more than 10 feet, will not create any impervious surfaces, and the antennas installed on each structure will have aggregate surface area of less than 75 square feet. The ancillary improvements located at the base of each support structure will not extend more than 10 feet from the outer walls of the structure. Therefore, the Project qualifies as "de minimus modifications" to existing support structures pursuant to § 248a(b)(2). Further, no objection to the classification of the Project as de minimus modifications has been filed with the Board.

Based upon all of the above evidence, 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 VTel Wireless, Inc., 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 10<sup>th</sup> day August, 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: August 10, 2011

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.*