

TESTIMONY OF CHARLES STORROW, LEONINE PUBLIC AFFAIRS, LLP
ON BEHALF OF AT&T
SENATE FINANCE COMMITTEE, APRIL 20, 2017

- As passed by the House H.50 would extend the July 1, 2017 sunset on section 248a of Title 30 to July 1, 2020. It also provides that the version of the “pre-file notice”¹ that must be sent to town Selectboards and Planning Commissions inform those bodies of certain rights and opportunities they have under 248a.²
- Section 248a allows telecommunications providers to seek approval for their proposed facilities from the Public Service Board in lieu of having to go through Act 250 and, if applicable, local zoning.
- Section 248a was originally enacted in 2007 with a three year sunset (July 1, 2010). Since then the sunset has been extended three times [Act 54 (2009) until 07/01/2011); Act 53 (2011) until 07/01/2014; and Act 190 (2014) until July 1, 2017].
- Each time the sunset was extended the statute has also been amended to fine tune it. In addition, in response to a controversy in the town of Calais the statute was amended in 2016 to require applicants to satisfy more granular criteria concerning the possibility of co-locating communications equipment on existing towers and structures.
- Section 248a requires the Public Service Board to balance the provisions of town plans and zoning bylaws with the need to provide cell and wireless broadband coverage. There are a number of cases where the Board has balanced those

¹ The “pre-file notice” is the notice document that has to be sent to towns, state agencies and adjoining landowners *at least* 60 days prior to submitting an application to the PSB.

² Those rights and opportunities are: (a) The PSB’s obligation to give substantial deference to town plans and Selectboard recommendations, (b) an applicant’s obligation to meet with a Selectboard and/or Planning Commission during the 60 day pre-file period, with the Department also being required to be present, (c) a Selectboard and/or Planning Commission’s right to appear and participate in 248a cases, (d) the obligation on the part of the PSB to consider and address a Selectboard and/or Planning Commission’s comments and recommendations, and (e) the right to ask the Department to retain an expert.

sometimes competing tensions. For instance, there have been cases where the Board applied town zoning set back requirements and made the applicant move their proposed tower. In other cases the Board did not require the applicant to reduce the height of a tower, as requested by a town, because the height was important to the facility being able to provide adequate coverage.

- Section 248a has been used extensively by wireless telecommunications providers. Between 2010 and 2016 the Public Service Board issued 566 Certificates of Public Good under section 248a. Of that amount approximately 200 CPGs have been for new towers, while approximately 360 have been for small (“de minimis”) projects involving the upgrading of equipment at existing sites.
- 248a has greatly facilitated AT&T’s ability to invest in upgrading and expanding its cell phone networks in Vermont. Since the company purchased Unice’s Vermont assets in 2009 it has constructed 46 new cell sites and performed numerous technology upgrades to its cell sites. Of the 566 section 248a CPGs issued during 2010-2016 AT&T obtained more of them—184—than any other telecom provider. AT&T’s need to expand and upgrade its network in Vermont will be an ongoing effort for the foreseeable future. This is especially the case in light of AT&T’s selection by the federally created First Responder Network Authority (“FirstNet”) to create a national, broadband based public safety network. If the State of Vermont accepts AT&T’s plan for the state it will result in the need for considerable additional deployment of wireless telecommunications infrastructure in Vermont.
- Because the statute has facilitated the expansion and upgrading of wireless telecommunication networks in Vermont, because there is a continual need for further expansion and upgrading of those networks, and because section 248a balances local concerns with the greater public good the committee should favorably recommend H.50 to the Senate.