

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-0017-PET

Petition of New Cingular Wireless PCS, LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 248a, authorizing the installation of wireless telecommunications equipment at North Avenue in Burlington, Vermont	
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Order entered: 02/20/2020

ORDER GRANTING CERTIFICATE OF PUBLIC GOOD

I. INTRODUCTION

In this Order, the Vermont Public Utility Commission (“Commission”) approves the application filed on January 3, 2020, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility (the “Petitioner”), pursuant to 30 V.S.A. § 248a and the Commission’s Amended Standards and Procedures Order (“Procedures Order”),¹ and grants the Petitioner a certificate of public good (“CPG”) authorizing modifications to an existing structure in Burlington, Vermont (the proposed “Project”).

II. BACKGROUND

This case involves a petition and prefiled testimony filed on January 3, 2020, requesting that the Commission issue a CPG approving *de minimis* modifications to the existing structure, pursuant to 30 V.S.A. § 248a(b)(2). Pursuant to § 248a(k), notice of the Project was provided to the host property owner, the Vermont Department of Public Service (“Department”), and the legislative body of the host municipality.

On February 3, 2020, the Department filed comments on the Project. The Department recommends that the Commission approve the petition without further hearings or investigation.

No other comments on the application were received by the Commission.

¹ *Sixth 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 September 21, 2018.

No party has requested an evidentiary hearing or objected to the project narrative and exhibits. The Commission has determined that the petition and supporting materials 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. Accordingly, the following are admitted as if presented at a hearing: the affidavit of David Ford (exh. 5) and exhs. 5A-D.

III. FINDINGS

Based upon the application and its accompanying documents, the Commission makes the following findings in this matter.

1. The Project involves modifications to an existing utility pole at North Avenue in Burlington, Vermont. Petition at exh. 5.

2. The Project involves the installation of one canister antenna, measuring approximately 36” by 10”, on top of the 34’ utility pole. The Project also involves the installation of a 32” by 15” equipment cabinet at a height of 8’ on the pole, and associated operating and ancillary equipment. Petition at exhs. 5 and 5B.

3. The antennas and equipment will extend approximately 3’ above the pole, and will extend a maximum of approximately 15” horizontally from the pole. The net increase in aggregate surface area of the faces of the antennas and equipment to be attached to the pole is approximately 6 square feet. Petition at exh. 5.

4. The Project, excluding equipment, antennas, or ancillary improvements, does not increase the height or width of the existing structure. The Project will not increase the amount of impervious surface at the existing site. Findings No. 2 and 3, above, and Petition at exh. 5.

IV. DISCUSSION AND CONCLUSION

Pursuant to 30 V.S.A. § 248a(b)(2), *de minimis* modification means:

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 an antenna, or any other equipment on a facility or support structure does not extend vertically more than 10 feet above the facility or support structure and does not extend horizontally more than 10 feet from the facility or support structure;
- (D) the additional 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.

Pursuant to the Procedures Order at Section II:

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 minimis* modifications:

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

The proposed Project will consist of modifications to an existing structure that, excluding equipment, antennas, or ancillary improvements, will not increase the height or width of the structure, and will not create impervious surfaces surrounding the structure. The net increase in aggregate surface area of the faces of the antennas attached to the existing structure will not exceed 75 square feet, and the antennas will not extend vertically or horizontally from the structure by more than 10 feet. Therefore, the Project qualifies as “*de minimis* modifications” to an existing structure pursuant to § 248a(b)(2). Further, no objection to the classification of the Project as *de minimis* modifications has been filed with the Commission.

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.

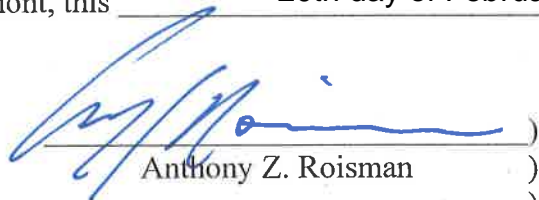
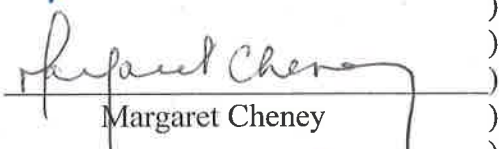

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission of the State of Vermont that:

1. The modifications to the structure 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.

2. As a condition of this Order, the Petitioner shall comply with all terms and conditions set out in the CPG issued in conjunction with this Order.

Dated at Montpelier, Vermont, this 20th day of February, 2020.

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Anthony Z. Roisman)	PUBLIC UTILITY
)	
Margaret Cheney)	COMMISSION
)	
Sarah Hofmann)	OF VERMONT

OFFICE OF THE CLERK

Filed: February 20, 2020

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 20-0017-PET - SERVICE LIST

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