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January 12, 2024

The Honorable Ann Cummings, Chair
Senate Committee on Finance

The Honorable Amy Sheldon, Chair
House Committee on Environment and Energy

Re: Report on the Process of Siting Telecommunications Facilities Under 30 V.S.A. § 248a

Dear Honorable Senator Cummings and Representative Sheldon:

Pursuant to Act 20 of 2023 (H.110), the Department of Public Service hereby files its report on the process of siting telecommunications facilities under 30 V.S.A. § 248a.

If you have any questions about this report, please do not hesitate to contact me or the Director of Telecommunications and Connectivity, Hunter Thompson, at Hunter.Thompson@vermont.gov.

Kind regards,

DocuSigned by:

A handwritten signature in black ink that reads "June E. Tierney".

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June E. Tierney
Commissioner



**Report to
The Vermont Legislature**

**ACT 20: 2023 Report on the Process of Siting Telecommunications Facilities
Under 30 V.S.A. § 248a.**

In Accordance with Act 20 of 2023, Section 2

Submitted to: Senate Committee on Finance
House Committee on Environment and Energy

Submitted by: June E. Tierney, Commissioner
Vermont Department of Public Service

Prepared by: Hunter Thompson, Director of Telecommunications and Connectivity
Vermont Department of Public Service

Report Date: January 12, 2024

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Executive Summary

This report is presented by the Vermont Department of Public Service (“Department”) in response to the language included in Act 20 of 2023 (Bill H.110), signed by the Governor on May 25th, 2023. Act 20 established the following requirement:

On or before January 15, 2024, the Commissioner of Public Service in consultation with the Public Utility Commission shall report to the Senate Committee on Finance and the House Committee on Environment and Energy on the process of siting telecommunications facilities under 30 V.S.A. § 248a. The report shall address how to make the process easier to participate in for municipalities and individuals, how to encourage municipal participation, and recommend any necessary updates to 30 V.S.A. § 248a. The Commissioner shall hear from the Vermont League of Cities and Towns, the utilities, and any other interested parties.

The Department identified three primary Legislative directives in the language of Act 20:

- “[A]ddress how to make the process easier to participate in for municipalities and individuals.” See page 13.
- Address “how to encourage municipal participation.” See page 14.
- “[R]ecommend any necessary updates to 30 V.S.A. § 248a.” See page 15.

The report also provides background information on the current process for permitting telecommunications facilities under 30 V.S.A. § 248a (“Section 248a”), addresses the methodology used to solicit public and stakeholder input regarding that process, and then summarizes the input received as relevant to topics raised in Act 20. In preparing this report, the Department has worked to identify common themes in the feedback and comments provided by members of the public, the municipalities, and the utilities, gathered from public listening sessions held by the Department in the Fall of 2023 and via online surveys. The public and stakeholder input reflects a wide range of views and experiences, highlighting some of the complexities, competing interests, and differing priorities involved in siting telecommunications infrastructure.

Telecommunications facilities, while providing critical services and public benefits, can raise legitimate concerns for the communities they serve. From public safety to environmental and aesthetic impacts, these facilities can present complex challenges. Participating in the Section 248a process at the Vermont Public Utility Commission is one way for towns and interested parties to gain additional insight and information on the details of a proposed project, while ensuring that their specific concerns are represented.

Considering the diversity of opinions, values, and interests surrounding the Section 248a process and telecommunications infrastructure more broadly, the Department has not identified clear areas of consensus on specific modifications to the process or the underlying statute.

This report aims to represent the input received to date and extract key takeaways to inform further discussion.¹

Introduction

In response to the charge set forth in Act 20, the Department’s Telecommunications and Connectivity Division developed and undertook a multipronged outreach and engagement effort through the summer and fall of 2023 to solicit input from the public, the municipalities, and the utilities. To provide context for the input received, it is helpful to first examine the current permitting process for the siting, construction, and modification of telecommunications facilities under 30 V.S.A. § 248a (“Section 248a”) and the avenues available for individuals and municipalities to participate.

The Section 248a Process: Current Participation Avenues and Opportunities

The Section 248a process enables applicants to seek approval for the siting and construction or modification of a telecommunications facility, by filing an application, or “petition,” with the Vermont Public Utility Commission (“Commission”) for a permit known as a certificate of public good (“CPG”). This process is available as an alternative to permitting under Act 250 and local zoning regulations.

Once an application is filed with the Commission, a case is opened and the review begins. For all but one category of projects under Section 248a, applicants must provide advance notice of their project to a number of individuals and entities including: the Commission, the Department, the Vermont Agency of Natural Resources (“ANR”), the Vermont Division for Historic Preservation, municipal legislative bodies and planning commissions in the town where the project is proposed, regional planning commissions (“RPCs”), and adjoining landowners. When required, advance notice must be provided at least 60 days before the formal application is filed with the Commission. There are generally three different categories of projects recognized under Section 248a, with different levels of review.

De Minimis Modifications to an Existing Facility

De minimis projects involve relatively small modifications to an existing facility or support structure, such as the co-location of new equipment on an existing tower. To qualify for *de minimis* status, the project must meet specific criteria as described in statute under

¹ All written comments and submissions received in connection with this report are available on the Department’s website:

Public input: <https://publicservice.vermont.gov/document/h110-248a-public-input-survey-results-and-written-public-commentary>

Municipal input: <https://publicservice.vermont.gov/document/h110-248a-municipality-input-survey-results-and-commentary>

Utility input: <https://publicservice.vermont.gov/document/h110-248a-utility-survey-results-and-commentary-submitted-email>.

30 V.S.A. § 248a(2) and in the Commission’s *Standards and Procedures Implementing 30 V.S.A. § 248a* (“*Standards and Procedures Order*”).²

There is no advance notice requirement for *de minimis* applications. Any interested parties must limit their comments to whether the project meets the specific *de minimis* criteria, and those comments must be filed within 30 days of the date the application was served on all required recipients. If the Commission does not receive any comments objecting to the project’s classification as *de minimis* within the 30-day comment period, the Commission shall issue a CPG without further proceedings.³

Projects of Limited Size and Scope

Limited size and scope projects include certain new facilities up to 140 feet in total height (other restrictions also apply) and certain modifications to existing facilities. Specific criteria as to what qualifies as “limited size and scope” are described in statute and the Commission’s *Standards and Procedures Order*.⁴ For these projects, applicants must provide advance notice to all required recipients, including municipalities, RPCs, and adjoining landowners, at least 60 days before filing an application. Any comments or motions to intervene are due within 30 days once the application is filed.

Full Section 248a Projects

A regular or “full” Section 248a project is any project that does not fall into the two other categories: in other words, it is not of limited size and scope or a *de minimis* modification. There are no set height or size limitations, but proposals must satisfy the applicable criteria under the statute.⁵ An applicant must provide advance notice to all required recipients, including municipalities, RPCs, and adjoining landowners, at least 60 days before filing an application. Any comments or motions to intervene are due within 30 days once the application is filed.

Participation for Municipalities and Individuals

Municipalities

Towns where a proposed project is located, specifically the municipal legislative body and/or planning commission, may participate in the Section 248a review process in three primary ways. First, a town has the right to request a public meeting with the applicant and the Department of Public Service. Second, a town may submit comments or recommendations to the Commission. Third, the town has the right to intervene in the proceeding and become a formal party.

² The *Standards and Procedures Order* is available at: <https://puc.vermont.gov/document/procedures-applicable-request-construction-or-installation-telecommunications-facilities>.

³ See 30 V.S.A. § 248a(k).

⁴ See 30 V.S.A. § 248a(b)(4); *Standards and Procedures Order*, available at: <https://puc.vermont.gov/document/procedures-applicable-request-construction-or-installation-telecommunications-facilities>

⁵ 30 V.S.A. §§ 248a(a), (c).

Public Meeting

During the 60-day advance notice period before the application is filed, the municipal legislative body and/or the planning commission of the host town have a statutory right to request that the applicant attend a public meeting.⁶ This meeting gives town planners and the public an opportunity to ask questions and learn about the proposed project. The Department will also attend the meeting at the request of the town. The Department will consider the views expressed during the public meeting in its recommendations to the Commission.

Filing Comments with the Commission

Any person or entity, including the town where the proposed project is located, may file comments with the Commission within the 30-day comment period that begins when the application is served. Filing comments online through the ePUC system is generally the preferred and most efficient method but it is possible to file via email or in paper form.⁷ Recommendations from a municipal legislative body and/or planning commission regarding the town plan are given substantial deference “unless there is good cause to find otherwise.”⁸ The Commission must provide “a detailed written response to each recommendation of the municipal legislative body and planning commission.”⁹ Towns can file comments without intervening; however, intervention may provide additional benefits and opportunities.

Intervention and Requests for Evidentiary Hearing

While any person or entity wishing to intervene may file a motion to intervene within the 30-day comment period, the legislative body and/or planning commission of the town where the proposed project is located may intervene “as of right.” In other words, those municipal bodies have the legal right to participate as a party in the case and need only file the appropriate notice by the 30-day deadline.¹⁰ Party status provides the opportunity to, among other things: participate in discovery, file testimony or additional comments, cross-examine witnesses at an evidentiary hearing, submit legal briefs, and comment on proposals for decision. If a town has specific concerns or recommendations regarding a project, participating as a party may provide opportunities to clarify or refine those recommendations and work with the other parties (including the applicant) find agreeable solutions as the case moves forward.

Any requests for an evidentiary hearing are also due within the 30-day comment period and are often filed at the same time as notices of intervention or motions to intervene. Evidentiary hearings are generally held when the Commission determines that an application raises a significant issue regarding one or more of the substantive criteria of Section 248a.

⁶ 30 V.S.A. § 248a(e)(2).

⁷ For more information see the *Standards and Procedures Order* at page 10, available at: <https://puc.vermont.gov/document/procedures-applicable-request-construction-or-installation-telecommunications-facilities>.

⁸ 30 V.S.A. § 248a(c)(2). “Substantial Deference” is discussed in more detail later in this report.

⁹ 30 V.S.A. § 248a(n).

¹⁰ A notice of intervention form is available on the Commission’s website, at: <https://puc.vermont.gov/document/notice-intervention-form>.

As such, a successful request for hearing will show that the proposed project raises a significant issue under the applicable criteria.¹¹

Department Observations

As a statutory party, the Department is included to some degree in every Section 248a proceeding before the Commission. This frequent involvement provides general insights as to how and when municipalities currently participate. In the Department's experience, the majority of Section 248a applications move through the process without raising significant concerns at the local level. RPCs and municipalities sometimes provide comments and recommendations on uncontroversial proposals, often to indicate that the project complies with the regional or town plan. The comparatively few proposals that do draw additional attention tend to reflect matters of concern to the broader community and result in higher degrees of participation.

In those instances, comments from individual members of the public are often received and adjoining landowners may intervene to become parties in the case. Written recommendations from the town, the RPC, or both, are not uncommon – but municipal (and RPC) participation beyond filing comments is rare. Looking at who becomes a party in any given case, individuals are likely to be more involved than municipalities or RPCs. In short, towns and RPCs routinely file comments and recommendations but seldom become active participants.

Individual Members of the Public

Members of the public may submit comments to the Commission for consideration and may become parties in the case by intervening. Landowners whose property adjoins the proposed site for a project are entitled to 60-day advance notice, which among other things provides additional time to become familiar with the proposal and evaluate potential impacts. Unlike towns, members of the public do not have a statutory right to participate as a party and must file a motion to intervene showing that their interests meet certain criteria.¹² If the motion is granted, the intervenor will have the opportunities that come with party status including the ability to participate in discovery, file testimony or additional comments, cross-examine witnesses at an evidentiary hearing, submit legal briefs, and comment on proposals for decision. A standard form for motions to intervene is available on the Commission's website.¹³

Individuals may also request an evidentiary hearing and may appear before the Commission without a lawyer, but it is recommended that interested persons consider securing legal representation before intervening in a case.¹⁴

¹¹ *Standards and Procedures Order* at page 10, available at: <https://puc.vermont.gov/document/procedures-applicable-request-construction-or-installation-telecommunications-facilities>.

¹² See Commission Rule 2.209, available at: <https://puc.vermont.gov/about-us/statutes-and-rules/current-rules-and-general-orders>.

¹³ The motion to intervene form is available at: <https://puc.vermont.gov/document/motion-intervene-form>.

¹⁴ More information about public participation in Commission proceedings, including evidentiary hearings, is available on the Commission's website: <https://puc.vermont.gov/document/public-participation-and-intervention-proceedings-public-utility-commission>.

Department Observations

As noted above, the Department observes that most projects undergo Section 248a review without raising significant concerns in the host town or region. Where proposals do generate concerns, however, the Commission is likely to see robust participation from individual community members. Public comments can be numerous, with voices both in opposition and support. It is not uncommon in these cases for individuals in the community, particularly adjoining landowners, to intervene and request a hearing. Those who become parties often participate in discovery, evidentiary hearings, and briefing. Some choose legal representation, some are self-represented, and still others participate with a mix of the above.

Gathering Input on the Section 248a Process: Methodology

The Department's Telecommunications and Connectivity Division gathered input from the public, the municipalities, and the utilities using three primary approaches: (1) online surveys, (2) requests for comment, and (3) in-person and virtual public meetings, or "listening sessions."

As the first step, the Department created a press release announcing the preparation of this report and sent it to over 150 news organizations. The press release included a brief overview of the goals of the project and a link to a Department webpage with additional information. The webpage also provided a link to the public survey where respondents could provide comments, and a signup form to allow interested individuals to receive updates. An additional press release was posted to the Department's website two weeks before the closure of the public survey.

To ensure that Vermonters across the state had the opportunity to provide their comments, the Department also publicized and conducted 6 in-person public listening sessions in Bennington, Brattleboro, Randolph, Montpelier, St. Albans, and St. Johnsbury. Two virtual listening sessions were held to hear from those who could not attend at an in-person location. The notices for the listening sessions included information on how to submit written comments via email or U.S. mail.

Three sets of online surveys were created in total, one each for the public, the municipalities, and the utilities. In order to engage the municipalities, the Department worked with the Vermont League of Cities and Towns to distribute a press release soliciting feedback and survey responses from its members. A second press release was sent two weeks prior to the closing of the online survey. The Department's Telecommunications and Connectivity Division also informed the utilities of the project and solicited survey responses and written comments.

Each online survey included the ability for participants to enter full written comments as part of their response and directed any further comments to a Department email address. Comments received were read and grouped to represent the various themes that emerged.

Public themes

In both the listening sessions held by the Department and the public survey, a number of common themes eventually solidified. Broadly speaking, those themes can be placed in the following categories:

1. Notice, Access, and Transparency
2. How to be Heard and Provide Input
3. Health and Safety

Notice, Access, and Transparency

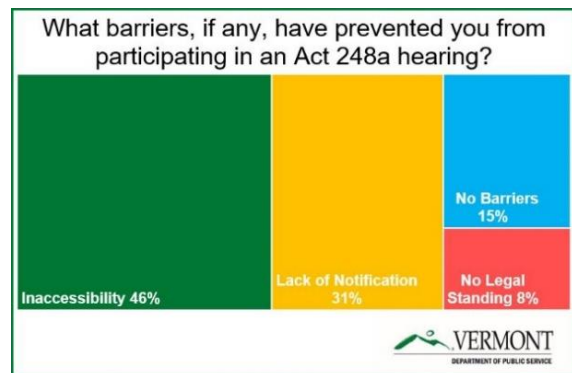
Concerns regarding notice of and access to Commission proceedings were raised in each of the public listening sessions and were also expressed in the online survey. Many respondents to the public survey indicated they had not participated in a Section 248a proceeding, with only 19% stating they had – but the respondents did provide input on perceived barriers to participation.

The survey included a question inquiring as to the barriers, if any, that prevented participation in the Section 248a process, and the responses largely reflected difficulties with accessibility and notification.

Regarding notice of Section 248a petitions, there was a common throughline among several comments suggesting that there is no easy place to find out if and when a petition was filed, or no “one stop” location to look up pending petitions.¹⁵

Several commenters also requested that all Section 248a petitions, including applications for *de minimis* projects, have a notice period. Suggestions for the required period varied from 30 days to 180 days. A number of public participants also highlighted an interest in increased notice from the municipality to the citizens of the town when projects are contemplated or proposed in the area, and some participants suggested the list of entities which are required to receive notice in Section 248a proceedings be expanded beyond the current requirements.

As to access, comments reflected three core sentiments: (1) a need for additional information and resources in plain language, communicated through web-based, social, and traditional media, (2) a need for accessibility services and accommodations for individuals with disabilities, and (3) a need for virtual or remote meeting options for Commission proceedings. Presently, most Commission proceedings are held remotely via virtual meeting services, and the meetings are generally open to the public. The comments received reflect an opportunity to, among other things, increase awareness and outreach around the existing modes of access.



¹⁵ The Department notes that the ePUC system does provide search functionality to look up all pending petitions. Commenters expressed some difficulties with the user interface on ePUC.

The broader goal of transparency, often interrelated with issues of notice and access, was also topic of frequent discussion among public respondents. Commenters shared a mix of views as to whether the current Section 248a process as a whole is sufficiently transparent, and some indicated disillusionment or a lack of trust in project developers, the state agencies conducting reviews, and the process more generally. However, the feedback received suggests that additional public outreach efforts and community engagement in advance of formal filings, particularly from project proponents, may have a significant impact in closing information gaps, promoting transparency, and yielding beneficial outcomes.

Some participants perceived a high barrier to entry for participating in Section 248a cases due to the quasi-judicial nature of the Commission proceedings. Those commenters expressed a concern that the formality and complexity of the process pushes interested parties toward retaining legal counsel to ensure effective representation.

How to be Heard and Provide Input

The second common theme raised in both the public survey responses and in public listening sessions indicates that some find it challenging to assess how and when to provide their comments and represent their interests in the Section 248a process once a petition is filed. A number of individuals expressed a general lack of awareness regarding the appropriate steps to ensure their voice is heard. When participants were familiar with the appropriate steps, filing written comments online through ePUC for example, some expressed frustration with a perceived lack of user friendliness in the interface and felt that online filing was burdensome. Several participants in the listening sessions suggested the need for alternate or expanded options for filing comments.

There was no consensus on the best methods or timeframes for public comment submissions, but many members of the public echoed a similar sentiment that all Section 248a proceedings should include a noticed public hearing by default. When discussions went further, diving into the details of *de minimis* petitions and routine maintenance or upgrade work, participants suggested that carveouts be made for certain types of work but that any net new or technology upgrade, 4G to 5G antennas for instance, should entail a public meeting by default where the citizens of the impacted area could discuss the petition.

Regardless of petition types, there was cross-sectional tie between issues of access and how to be heard when commenters considered the quasi-judicial nature of Section 248a proceedings. As noted above, some participants perceived a need to retain legal counsel to ensure their input was worded and filed correctly.

Health and Safety

A third theme which arose at all public listening sessions revolved around the health effects or impacts of radiofrequency (“RF”) emissions from cell towers. Many participants expressed concerns that RF emissions have detrimental impacts on the health of adults, children, wildlife, and the surrounding flora.

Some suggestions received at the listening sessions included a full RF exposure health and safety study for each petition submitted to the Commission, a federal level reevaluation of the health and safety of RF radiation on humans, and a study on the long-term effects of RF radiation on plant and animal life.

Commenters also expressed concern around the lack of materials made available from sources with diverse opinions on the topic. Many participants cited the November 2020 New Hampshire report titled “Final Report of the Commission to Study the Environmental and Health Effects of Evolving 5G Technology” as an example approach for Vermont to follow.¹⁶

The Department is familiar with the concerns expressed at the listening sessions and elsewhere about possible adverse health effects of 5G radios and other wireless technologies. Standards established by the Federal Communications Commission (“FCC”) govern the maximum permissible exposure limits in this area, and the Department informed participants that the federal standards preempt state regulators from addressing RF emissions in the context of the Section 248a process.¹⁷

Municipal themes

While the input collected from municipalities via the online survey process was limited, the Department took note of the comments of town representatives in several of the public listening sessions. Two clear topics of interest emerged from the feedback received from municipalities in the listening sessions as well as the limited feedback received in the online survey. Both topics relate to municipal participation in the 248a process:

1. Desire for clarity on the role of municipalities in the process, and specifically how municipal recommendations are considered with respect to “substantial deference.”
2. Requests for assistance from Regional Planning Commissions in crafting town plan language and bylaws which will be valid for Section 248a proceedings.

Substantial Deference

As is the case in other areas of this report, the input received by the Department here suggests that additional outreach and education can play a vital role in providing clarity and facilitating participation in the Section 248a process. It is evident that towns are interested in gaining a better understanding of how telecommunications projects are reviewed, how to avail themselves of the process, and how any municipal recommendations will be considered.

In reviewing a proposed project under the Section 248a criteria, the Commission must give substantial deference to “the plans of the affected municipalities; to the recommendations of the municipal legislative bodies and the municipal planning commissions regarding the municipal

¹⁶ *Final Report of the Commission to Study the Environmental and Health Effects of Evolving 5G Technology*, Pursuant to RSA 12-K:14, III, available at:

<https://www.gencourt.state.nh.us/statstudcomm/committees/1474/reports/5G%20final%20report.pdf>.

¹⁷ 47 U.S.C § 332(c)(7)(B)(iv).

plans; and to the recommendations of the regional planning commission concerning the regional plan” unless there is good cause to find otherwise.¹⁸

Towns and RPC’s may submit recommendations to the Commission during the 30-day comment period, and Section 248a defines “substantial deference” and “good cause” as follows:

“Substantial deference” means that the plans and recommendations [of the municipal legislative bodies, municipal planning commissions, and regional planning commissions regarding their respective plans] are presumed correct, valid, and reasonable.

“Good cause” means a showing of evidence that the substantial deference required . . . would create a substantial shortcoming detrimental to the public good or the State’s interests [under 30 V.S.A. § 202c].”¹⁹

In addition to referencing the language of town plans, municipalities may base their recommendations on local zoning bylaws.²⁰ And, as described above, the municipality’s recommendation is entitled to substantial deference unless there is good cause to find otherwise. This is an area that can create some confusion because local bylaws generally do not apply directly in Section 248a proceedings, they are preempted by the state statute.²¹ Practically speaking: an applicant under Section 248a is not obligated to obtain a local zoning permit, and local bylaws are not part of the Section 248a criteria – but the Commission must consider municipal recommendations which may be informed by local bylaws and include references to them. While municipal recommendations are presumptively entitled to substantial deference, the Commission has indicated in the past that there may be good cause not to defer to a recommendation which is based only on a town’s “desire for strict compliance” with zoning and would frustrate the coverage goals for a project.²²

The comments received by the Department regarding substantial deference largely reflected: (1) uncertainty as to what “substantial deference” means and its implications, and (2) uncertainty as to the requirements, if any, to be met before the Commission will give substantial deference to town recommendations, town plan language, or local bylaws. Some respondents did not know there was a provision in 30 V.S.A. § 248a by which a town could provide meaningful recommendations in the siting process. The Department directed town representatives to the language of the statute and encouraged them to continue discussions with colleagues and others in their communities.

¹⁸ 30 V.S.A. §§ 248a(c)(2); 248a(b)(3) (defining “Good cause”); 248a(b)(5) (defining “Substantial deference”).

¹⁹ See 30 V.S.A. §§ 248a(b)(5) (defining “Substantial deference”); 248a(b)(3) (defining “Good cause”).

²⁰ 30 V.S.A. § 248a(c)(2).

²¹ 30 V.S.A. § 248a(h).

²² See *Petition of Vtel Wireless*, Docket No. 8548, Order of 11/10/15 at 10 (citing *Petition of SBA Towers IV, Inc.*, Docket No. 8162, Order of 10/24/14 at 13).

Requests for assistance

The second topic also relates to substantial deference but reflects a more focused inquiry. A number of municipal representatives participating in the public meetings requested assistance in the crafting of bylaws which would be given substantial deference.

As noted above, while local bylaws do not apply directly in Section 248a proceedings, town plans and recommendations are applicable – and those recommendations may be based on local bylaws. The Department informed commenters of past efforts by the RPCs to assist towns with crafting helpful language in similar contexts. Many municipal participants indicated that they would like to work with RPCs and benefit from their assistance once again.

Making the Process Easier to Participate in for Municipalities and Individuals

Act 20 of 2023 directs the Department to address:

“[H]ow to make the process easier to participate in for municipalities and individuals.”

While the Department’s engagement process did not reveal specific areas of consensus for modifications to the Section 248a process itself, feedback from individual members of the public and from municipalities suggests that additional outreach and education efforts could provide tangible benefits.

Individuals

The potential benefits of additional outreach and education, along with more digestible and available resources, became clear through survey responses and meetings with communities across the state. This was a common thread that was present regardless of the specific topic. As can be seen in the Public Themes outlined in this report, distributing more information in more places and improving existing resources and systems should prove helpful in making the process easier to participate in for individuals. The Department recommends that the Department and the Commission coordinate to (1) harmonize and update existing resources on the Section 248a process from both entities, for clarity and consistency, and (2) identify any beneficial and technically feasible improvements to the ePUC system, for ease of use and improved access to information on pending Section 248a petitions.

Municipalities

Though the improvements above could certainly benefit municipalities in a similar way, the feedback received from Vermont’s municipalities thus far suggests that they have more specific questions and informational needs. Additional outreach and resources tailored to municipalities may provide valuable assistance, specifically to help (1) clarify their role in the process, (2) outline the potential impacts of “substantial deference,” and (3) clarify the applicability of town plans and bylaws. As a starting point, the Department intends to expand the municipal participation portion of its public guide to the Section 248a process with additional details on the three topics outlined above.

The Department further recommends coordination between the Department and the Commission to harmonize existing resources on the Section 248a process and identify areas to bolster informational support for cities and towns.

Encouraging Municipal Participation

Act 20 also directs the Department to address:

“[H]ow to encourage municipal participation”

In the Department’s view, the improvements described above could have the added benefit of encouraging interested cities and towns to participate in the process moving forward. To further encourage municipal participation, another consideration that has emerged from feedback received is the possibility of more concentrated local outreach and collaboration. Municipalities have expressed interest in working with RPCs, and it could be that additional dialogue between regional and municipal entities around the Section 248a process would yield positive results. The Department recommends that municipalities continue discussions in their communities but has not solicited feedback from RPCs on this topic.

Utility Themes

The Department received limited input from individual utilities while preparing this report: only one utility filled out the utility survey and provided written feedback on the Section 248a process. The Department also received written comments through the public survey from CTIA, a trade association representing the wireless communications industry. Representatives from some utilities attended the public listening sessions but did not provide input at those meetings.

The limited feedback provided suggests that the Section 248a process is largely effective from a utility or carrier perspective. With that said, the comments included several recommendations for improvements to the process and its administration. Perhaps most relevant here, considering the topic of participation, is a suggestion regarding improvements to the ePUC system to facilitate communication during the 60-day advance notice period:

“At the moment, the ePUC system creates a disincentive to communication, insofar as a petitioner cannot supplement its initial notice with materials in order to distribute to other state agencies, municipalities, regional planning commissions, or interested parties who seek to participate – any follow-ups have to be sent via mail. To better meet the public objectives, the ePUC system should be redesigned to allow for improved communications among all parties during the 60-day advance notice period.”

Additional recommendations from the utilities include:

- Clarifying and/or updating certain application submission requirements.
- Tailoring the process to ensure compliance with federal “shot clock” regulations.
- Reconfiguring the process to align with federal regulations regarding wireless facility modifications and collocations.
- Adopting an expedited process for transfer of telecommunications facility CPGs.

- Clarifying the process and applicable standards for CPG amendments.
- Assigning Hearing Officers based on a random rotation.
- Addressing the overlap between Section 106 review under the National Historical Preservation Act and the requirement that a Section 248a project not have an undue adverse effect on historic sites.
- Addressing eminent domain authority for CPG Holders.

Further details on these suggestions can be found in the full written comments, which are available on the Department’s website along with comments from the public and the municipalities.²³

Updates to Section 248a

Act 20 of 2023 directs the Department to:

“[R]ecommend any necessary updates to 30 V.S.A. § 248a.”

This report has identified potential avenues to make the process easier to participate in, and to encourage participation, but as described elsewhere and shown in the comments received, the engagement process did not reveal a consensus on specific or necessary modifications to the Section 248a process or the statute. At this time, in the absence of an emerging consensus on necessary updates, the Department recommends no changes to 30 V.S.A. § 248a.

Conclusion

As Vermonters continue to take advantage of new ways to connect, share, and work together, the benefits of comprehensive and resilient telecommunications services are becoming increasingly central to our day-to-day lives. The increased reliance on communications networks and connectivity means that the overlapping goals of universal access and achieving ubiquitous coverage tend to implicate an array of issues, including those of public safety, economics, and equity. Telecommunications facilities are part of the foundation required to meet broader connectivity goals, but it is also true that the individual facilities themselves represent significant infrastructure developments and can raise legitimate concerns in communities where they are proposed.

Vermont’s Section 248a process recognizes the state’s telecommunications planning goals and objectives, while providing a framework for thorough review of the potential impacts and benefits associated with any given project. As a result, the process often reflects the diversity of opinions and values surrounding telecommunications infrastructure and the competing interests that are inherent to questions of siting and project design.

²³ **Public input:** <https://publicservice.vermont.gov/document/h110-248a-public-input-survey-results-and-written-public-commentary>.

Municipal input: <https://publicservice.vermont.gov/document/h110-248a-municipality-input-survey-results-and-commentary>.

Utility input: <https://publicservice.vermont.gov/document/h110-248a-utility-survey-results-and-commentary-submitted-email>.

There are multiple avenues for participation, including opportunities for individuals and municipalities to take part in every stage of Section 248a proceedings at the Commission.

The Department has observed robust participation from individuals, and consistent participation from towns through written comments and recommendations. The input received in preparing this report shows varying degrees of awareness and familiarity around the opportunities to be heard – and varying degrees of satisfaction with the options available. Considering the wide range of views on these topics and telecommunications infrastructure more broadly, the Department has not identified a consensus on beneficial modifications to the process or the underlying statute.

There is, however, an area that the Department suggests is ripe for improvement. The Public Themes identified in this report and the public comments received to date indicate that broadening the distribution of information, improving ease of access and user interfaces, and enhancing or publicizing available resources should make the Section 248a process easier to participate in for individuals. While these efforts would likely benefit towns and cities as well, the Municipal Themes which emerged suggest that municipalities have specific questions regarding their role and the import of their recommendations. With that in mind, informational support tailored to the municipal role may have a significant impact in facilitating and encouraging their participation moving forward.

There is no doubt that the Section 248a process can be complicated and challenging at times. This reflects the importance of the review, and the complexities and challenges involved in telecommunications projects of all types and sizes. A full and fair review includes careful consideration of the many interests affected, including those of neighboring landowners and the host community at large. A sound process also benefits from effective participation by interested parties. The current process does provide meaningful opportunities in that regard, and the input gathered by the Department to date suggests that a concerted effort in outreach and education would help Vermonters and Vermont's communities to take full advantage.