

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 19-4901-PET

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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 581 Stewart Road South in Mount Holly, 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 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”),<sup>1</sup> and grants the Petitioner a certificate of public good (“CPG”) authorizing the installation of a wireless telecommunications facility in Mount Holly, Vermont (the proposed “Project”).<sup>2</sup>

**II. PROCEDURAL HISTORY**

On December 17, 2019, the Petitioner filed a petition and prefiled testimony requesting that the Commission issue a CPG. A copy of the petition was filed with all required State agencies and the host municipality pursuant to § 248a(e). Notice of the filing of the petition was provided to all adjoining landowners of record.

On January 22, 2020, the Vermont Agency of Natural Resources (“ANR”) filed comments on the Project. ANR requested an extension of the comment deadline until February

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<sup>1</sup> 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.

<sup>2</sup> The Petitioner states that it received a CPG for another project on the same parcel in Docket No. 7710 on March 9, 2011. The Petitioner also states that it is no longer pursuing that project and has filed a new and revised application for the instant Project. The Petitioner has not formally requested revocation of the existing CPG. However, we will consider this new application an implicit motion for a revocation of the CPG issued in Docket No. 7710. Accordingly, that CPG is hereby revoked.

5, 2020 in order to review a revised site plan to be submitted by the Petitioner. No party has objected to ANR's request and we, therefore, grant ANR's request for an extension of the comment period.

On January 22, 2020, the Vermont Department of Public Service ("Department") filed comments on the Project. The Department recommends that the Commission approve the petition without further hearings or investigation.

On January 31, 2020, the Petitioner submitted a revised site plan.

On February 3, 2020, Rutland Regional Planning Commission filed public comments on the Project. The Planning Commission states that the Project will not have a significant regional impact and is consistent with the regional plan.

On February 5, 2020, ANR filed comments on the Project recommending certain conditions related to wetland and stream protection be added to the CPG. ANR represents that the Petitioner does not object to the inclusion of these conditions and we will add them to the CPG.

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

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 Jeffrey DelliColli (exh. 5) and exhs. 5A-R.

### **III. FINDINGS**

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

1. The Project involves the construction of a telecommunications facility at 581 Stewart Road South in Mount Holly, Vermont. The objective of the Project is to expand and improve wireless coverage in the surrounding area. Petition at exh. 5B.

2. The Project includes the installation of a 135' monopine tower with 9 panel antennas mounted at a centerline height of 127' within a 50' by 50' fenced compound. The Project also

includes the installation of an equipment cabinet, underground and overhead utilities, a backup generator, a parking area, and ancillary operating equipment. The Project will be accessed over a new 12' wide gravel drive extending approximately 2,518' from Stewart Road South to the facility. Petition at exh. 5B.

3. The Project will involve approximately 41,214 square feet of permanent earth disturbance. All Project construction will conform to the *Low Risk Site Handbook for Erosion and Sediment Control*. Petition at exhs. 5B and 5R.

**State Telecommunications Policy**

[30 V.S.A. § 248a(a)]

4. The Project is consistent with the goal of directing the benefits of improved telecommunications technology to all Vermonters pursuant to 30 V.S.A. § 202c(b). The Project will provide new service and improve existing wireless service in this area. Petition at exh. 5B.

**Aesthetics, Historic Sites, Air and Water Purity,  
the Natural Environment, and Public Health and Safety**

[30 V.S.A. § 248a(c)(1)]

5. The Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety. This finding is supported by findings 6 through 26, below.

**Public Health and Safety**

[30 V.S.A. § 248a(c)(1)]

6. The Project will not have an undue adverse impact on public health and safety because it will be constructed to meet the requirements of industry standards relative to structural safety and will comply with Federal Communications Commission standards related to radiofrequency emissions. Petition at exh. 5B.

**Outstanding Resource Waters, Headwaters**

[10 V.S.A. §§ 1424a(d), 6086(a)(1)(A)]

7. The Project will have no impact on outstanding resource waters or headwaters. The Project is not located near any outstanding resource waters or headwaters. Petition at exhs. 5B, 5J and 5R.

**Water and Air Pollution**  
[10 V.S.A. § 6086(a)(1)]

8. The Project will not result in undue water or air pollution. This finding is supported by findings 9 and 10, below.

9. Noise associated with construction activities will be short-term and will have a minimal impact on the area. Petition at exh. 5B.

10. The Project will not involve the use of water for commercial or industrial manufacturing or processing. Petition at exh. 5B.

**Discussion**

The Petitioner has not proposed construction hours for the Project. The Commission's practice is to limit construction hours to certain times in order to minimize adverse impacts from construction noise on nearby residences. Therefore, the Commission will add a condition to the CPG limiting construction activities to between 7:00 a.m. and 7:00 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on Saturdays, and prohibiting construction activities on Sundays and state and federal holidays.

**Waste Disposal**  
[10 V.S.A. § 6086(a)(1)(B)]

11. The Project will meet all applicable health and Vermont Department of Environmental Conservation regulations regarding the disposal of wastes and will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells. Petition at exh. 5B.

**Water Conservation, Sufficiency of Water, and Burden on Existing Water Supply**  
[10 V.S.A. §§ 6086(a)(1)(C), (a)(2) and (3)]

12. The Project will have minimal impact on water conservation measures, as the Project will not require water or sewer facilities. Petition at exh. 5B.

**Floodways**  
[10 V.S.A. § 6086(a)(1)(D)]

13. The Project is not located within a floodway or floodway fringe and therefore will not restrict or divert the flow of flood waters, significantly increase the peak discharge of a river or

stream within or downstream from the Project, or endanger the health, safety, or welfare of the public or of riparian owners during flooding. Petition at exh. 5B.

**Streams**

[10 V.S.A. § 6086(a)(1)(E)]

14. The Project will not have an undue adverse effect on streams. The Project will require a stream alteration permit from ANR prior to construction due to construction of culvert across an intermittent stream. Petition at exh. 5B.

**Discussion**

ANR recommends a condition related to stream protection be added to the CPG to ensure that the majority of the stream area remains undisturbed. The Petitioner does not object to the inclusion of this condition and we will add it to the CPG.

**Shorelines**

[10 V.S.A. § 6086(a)(1)(F)]

15. The Project will not have an undue adverse effect on any shorelines because the Project is not located on or near a shoreline. Petition at exh. 5B.

**Wetlands**

[10 V.S.A. § 6086(a)(1)(G)]

16. The Project will not have an undue adverse effect on wetlands because it is not located in a wetland or wetland buffer. Petition at exhs. 5B and 5R.

**Discussion**

ANR recommends a condition related to wetlands protection be added to the CPG to ensure no adverse impacts to wetlands in the area. The Petitioner does not object to the inclusion of this condition and we will add it to the CPG.

**Soil Erosion**

[10 V.S.A. § 6086(a)(4)]

17. The Project will not cause undue soil erosion or reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results. All construction work will comply with Vermont standards and specifications for erosion and sediment control. Petition at exh. 5B.

**Transportation Systems**  
[10 V.S.A. § 6086(a)(5)]

18. The Project will not cause undue congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports, airways, or other means of transportation, whether existing or proposed. Traffic to the unstaffed site will be limited following construction. Petition at exh. 5B.

**Educational Services**  
[10 V.S.A. § 6086(a)(6)]

19. The Project will not cause an unreasonable burden on the ability of a municipality to provide educational services. Educational services will not be affected by the Project. Petition at exh. 5B.

**Municipal Services**  
[10 V.S.A. § 6806(a)(7)]

20. The Project will not place an unreasonable burden on the ability of the local government to provide municipal or governmental services. The Project will not require any additional municipal or governmental services. Petition at exh. 5B.

**Aesthetics, Historic Sites, and Rare and Irreplaceable Natural Areas**  
[10 V.S.A. § 6086(a)(8)]

21. The Project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas. This finding is supported by findings 22 through 26, below.

22. The monopine tower will be 135' high and is designed to blend in with existing surrounding vegetation, thereby mitigating the visibility of the Project from the surrounding area. The Project will not appear offensive or shocking to the average person given that the Project will be visible from only a handful of locations in the surrounding area. Petition at exhs. 5B and 5F.

23. The Project is consistent with and does not violate any clearly identified community standards and is consistent with the goals in the Mount Holly Town Plan and the Rutland County Regional Plan. Petition at exh. 5B.

24. The Project will not have an undue adverse impact on known historic sites as there are none in the area. Petition at exh. 5B.

25. The Project will not have an adverse impact on rare and irreplaceable natural areas. Petition at exhs. 5B and 5J.

26. The Project will not destroy or significantly imperil endangered species or necessary wildlife habitat. Petition at exhs. 5B and 5J.

#### **Collocation**

[30 V.S.A. § 248a(c)(3)]

27. The Project cannot be located on or at an existing telecommunications facility. There are no existing facilities in the area that would allow the Petitioner to satisfy its coverage objectives. Petition at exh. 5B.

#### **IV. CONCLUSION**

Based upon all of the above evidence, the Commission concludes that 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.

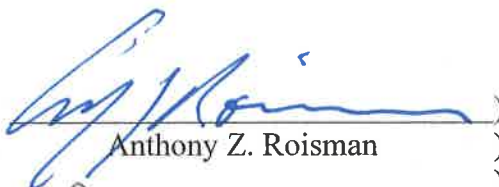
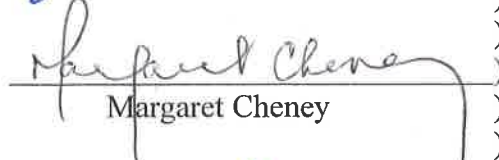
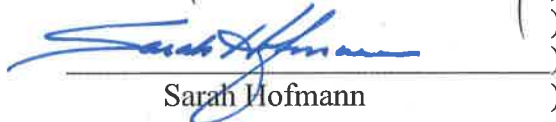
#### **V. ORDER**

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

1. The installation and operation of a wireless telecommunications facility 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.

	)	
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](mailto: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. 19-4901-PET - SERVICE LIST

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