

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24 - _____ - PET

Limited Size and Scope Application)
of Bell Atlantic Mobile Systems, LLC)
d/b/a Verizon Wireless and Vertex Towers, LLC,)
for a Certificate of Public Good,)
pursuant to 30 V.S.A. § 248a, authorizing the construction)
of a telecommunications facility in Manchester, Vermont)

Order entered:

I. INTRODUCTION

In this Order, the Vermont Public Utility Commission (“Commission”) approves the application filed on January 12, 2024 by Vertex Towers, LLC (“Vertex”), Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless (“Verizon”; collectively, “Petitioners”), pursuant to 30 V.S.A. § 248a, and the Commission's Amended Procedures Order ("Procedures Order"),¹ and grants the Petitioners a certificate of public good ("CPG") authorizing the construction of a telecommunications facility in the Town of Manchester, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioners on January 12, 2024, requesting that the Commission issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing construction of a telecommunications facility. Petitioners are seeking approval for the Project as one of limited size and scope pursuant to 30 V.S.A. § 248a(b)(4)(A)(i).

¹ *Order Adopting Revised Standards and Procedures Implementing 30 V.S.A. § 248a*, issued by the Commission on January 18, 2023.

On _____, 2024, the Department of Public Service (the “Department”) filed a letter with the Commission recommending that the Commission issue an order approving the petition without additional hearings or investigation.

No other comments or requests for hearing regarding the petition have been filed with the Commission.

The Commission 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. Vertex intends to construct a telecommunications facility on a (“Parcel”) located at 410 Hunter Park Road in Manchester, Vermont for the initial use of Verizon and subsequent use by other communications providers. Verizon refers to the project as "Manchester 2." The property owner has given Verizon and Vertex permission to proceed with this Application. The coordinates for the Project are latitude 43°11'25.80" North and longitude 73°02'57.37" West. See Permit Plans (Exhibit DH-1) for a visual depiction of the Project's location.

2. Vertex will create a 50' x 50' “Compound” enclosed by an 8' high chain link fence, with a locked gate, and topped with barbed wire. A 140' above ground level (“AGL”) telecommunications monopole tower ("Monopole") will be constructed within the Compound.

3. Verizon will center six (6) panel antennas (“Antennas”), six (6) Remote Radio Heads (“RRHs”) and three (3) “clip-on” combined Antennas and RRHs known as “MMUs” at the 137' AGL level on the Monopole on a triangular mounting bracket with two (2) Antennas, two (2) RRHs, and one (1) MMU per side or “sector”. Each Antenna will measure

approximately 72” long and 11.9” wide. The topmost point of the antennas will extend to a height of 140’ AGL. Each of the RRHs, measuring approximately 15.9” long and 15.5” wide, will be mounted directly behind each of the Antennas. The MMU, measuring approximately 35” long and 16” wide and will also be mounted with a centerline elevation of 137’ AGL. One (1) OVP distribution box (“OVP”), measuring approximately 25.8” long by 15.9” wide will be mounted on the Monopole at the same centerline as the Antennas and the RRHs. The Tower, OVP and Antennas will be painted gray.

4. The Tower has been designed to support the proposed equipment.

5. Verizon will install a 12’ by 20’ equipment steel platform with ice canopy (“Platform”) within the Compound, located to the northwest of the Monopole.

6. The Platform will contain the electronics equipment necessary for the operation of the Project. Verizon will also place an emergency generator (“Generator”) on the Platform. The Generator will function if there is a power outage. Verizon will remotely test the Generator once a week at a time to be determined. If diesel is used to power the Generator, its tank will be placed underneath the Generator. If propane is used to power the Generator, Verizon will install a 500-gallon propane tank on an 11’ by 4’ concrete pad in the Compound.

7. Co-axial and fiber optic cables from the Antennas will descend inside the hollow Monopole. The cables will exit near the base of the Monopole and will connect with the Platform via conduits. Electric and telephone services will be brought to the Platform from an equipment backboard adjacent the Monopole. Verizon will use an existing paved drive extending from Winter Park Road for access to the Compound.

8. No clearing is required for the Project. Proposed new impervious surface will total approximately 4,691 square feet.

9. Construction shall meet the requirements of the State of Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control.

Co-Location Analysis

10. As part of the design for this Project, Verizon RF engineers evaluated existing telecommunications facilities and existing structures for possible co-location opportunities. There are no such facilities or structures that would allow Verizon to meet its coverage and capacity needs for the Manchester 2 search ring. See Propagation Plots (Exhibit MM-2).

Analysis of Effects Under Applicable Criteria

11. The Applicants conducted an assessment of the Project's potential effects on the natural environment in accordance with the criteria applicable to those resources - floodways (10 V.S.A. § 6086(a)(1)(D)), rare and irreplaceable natural areas (10 V.S.A. § 6086(a)(8)) and necessary wildlife habitat and endangered species (10 V.S.A. § 6086(a)(8)(A)).

12. With respect to each of those criteria, the Project will not result in an undue adverse impact upon the natural environment in accordance with these criteria. See Exhibit JP-2.²

13. Criterion 8 – Historic Sites: Because this project involves the construction of a new telecommunications tower, the consultant retained by the Applicants analyzed its conformance with Section 106 of the National Historic Preservation Act. The standards in that Section are closely related to the historic sites criterion applied by this Commission. In

² With regard to Criterion 8(A), the consultant employed by the Applicants observed that the Project is located in both summer roosting habitat and winter hibernacula for federally endangered Northern Long Eared and Indiana bats. The Applicants do not presently expect to need to do any clearing. However, if clearing were to become necessary, the Applicants would consent to a condition of approval stating that any clearing needed for the Project will be carried out only from November 1 to March 31 or with prior written approval from the Vermont Department of Fish and Wildlife.

accordance with FCC requirements, that consultant compiled the attached Submission Packet, FCC Form 620, (Exhibit BT-1) which presented the details on the proposed project as well as efforts that have been taken to identify, assess, and make determinations of effect based on an assessment of the impacts of the proposed project on Historic Properties.

14. Applicants' consultant concluded that the proposed project will have "No Adverse Effect" on historic resources. As seen by its stamp on the first page of Exhibit BT-1, the Vermont Division for Historic Preservation has concurred with those conclusions.

15. Criterion 8 – Scenic or Natural Beauty: The Applicants retained Virtual Site Simulations ("VSS") to perform photo simulations of the proposed Tower. VSS determined that the Tower will have few views from public roads or residential homes. The majority of the areas that had visibility were in open fields throughout the Area of Analysis ("AOA") and the immediate area around the project site, including the gravel pit to the North, Hunter Park just to the South and the open field just to the West.

16. In particular, VSS created a Photo Simulation Package for this Project. Using several software programs, the photos and photo metadata, VSS is able to accurately represent a tower with photo simulations to show how much of the proposed tower would be seen. Photos from locations where the balloon is visible and not visible within the AOA are used in the package to show the overall visibility characteristics of the proposed tower location. The Photo Simulation Package is attached as Exhibit DA-2.

17. On October 18, 2023, VSS visited the proposed site and floated a three (3)-foot diameter helium balloon to 140' above ground level at the location of the proposed tower. From available mapping and with the balloon in the air, VSS drove public roads within a one-mile radius of the tower site, trying to determine from how many viewpoints the tower would be seen

and, if visible, how much of the tower would be seen. VSS identified 28 representative viewpoints. The balloon was visible (marking the highest point of the tower) from seven (7) of those viewpoints. It was not visible from the other 21 viewpoints. Other than a location .12 miles away from the tower site (next to the existing solar farm), the seven (7) simulations that VSS prepared using the results of the balloon float showed that only the topmost part of the tower would be visible. In many of those cases, it would be backdropped by higher terrain.

18. Due to this limited visibility, the Tower will not have an undue adverse effect on scenic or natural beauty.

19. Criterion 10 – Conformance with Local and Regional Plans -- According to 30 V.S.A. § 248a(c)(2), during the Commission’s review, "substantial deference [will be] given to the land conservation measures" in the local and regional plans of the "affected municipality." We are, therefore, addressing the relevant provisions of the Manchester Town Plan (adopted on May 9, 2017) ("Town Plan"; excerpts attached as Exhibit A) and the Bennington County Regional Plan amended as of March 23, 2017 (the "Regional Plan"; excerpts attached in Exhibit B) to illustrate that the proposed Project will comply.

20. The Town Plan contains a Policy section devoted to “infrastructure,” which states in pertinent part:

Appropriate infrastructure must be in place to serve the needs of the community and employers. More than just water, sewer, and power, this includes fiber optics, access to high-speed, wide-bandwidth telecommunications facilities, and other types of technological capacity. Broadband access throughout Manchester is as essential as electricity in allowing citizens, employers, and home businesses to thrive and participate in community and commerce.

Id. at 4.

The Town Plan also contains a section entitled, “Power and Telecommunications

Facilities.” *Id.* at 37. That section states, in pertinent part:

with regard to wireless telecommunications facilities, the *Manchester Land Use & Development Ordinance* requires conditional use review of all proposed development and siting of towers and related infrastructure. Visual impacts, lighting, noise generation, natural resource impacts, and site screening are all required to be carefully considered by the Development Review Board prior to approval of any new facilities.

Id. at 38.

21. The Regional Plan contains the following general observation:

Vermont has invested and worked aggressively to bring broadband services to all parts of the state. High speed telecommunications currently is available throughout most of the region, with complete coverage still being pursued in some rural areas. **Improvements in wireless/cell service for all carriers are still needed and all of the major providers currently are working to expand coverage.**

Id. at 55 (emphasis added).

22. The Regional Plan contains a more specific discussion in its section entitled, “Information and Telecommunications Services:

Cellular telephone service providers have been steadily expanding their coverage area within the region with the installation of new towers and antennas at strategic locations. The widespread availability and use of tablet computers and handheld wireless phones, including “smart phones,” that offer portable access to the internet has led to an even greater demand for these wireless facilities.

The infrastructure required for wireless communication services include towers, antennas, equipment buildings, access roads, and electrical service. Bennington County is a challenging area for the development of wireless communication infrastructure. The narrowness of the inhabited valleys and highly visible slopes and ridges of the surrounding mountains require careful siting to ensure that adequate coverage is efficiently provided while not having undue adverse impacts on natural or scenic resources. Those concerns can be minimized by careful planning that includes siting antennas on existing buildings or structures, co-location of antennas on towers to limit the number of towers, and careful site design to avoid sensitive areas and avoid disruption of viewsheds identified as particularly important to local communities.

The Vermont Public Service Board has regulatory jurisdiction over the siting of telecommunication facilities, weighing the public good of a proposal together

with its environmental and social impacts. Municipal and regional plans are given consideration by the Public Service Board, so it is important that those plans include clear policy guidelines regarding sensitive areas, tower height, co-location requirements, and other factors. In some cases it may be preferable to develop one tall (140 feet or more) tower that provides coverage over a relatively wide area in a location where identified local and regional impacts can be avoided. In other cases, two or more smaller and lower towers (90 feet in height and possibly using a “monopole” design) might be needed to provide the same coverage while avoiding impacts to natural and scenic resources or residential neighborhoods.

Id. at 165-66.

23. The Project will enhance the quality of the Verizon’s infrastructure serving Manchester in a manner that will maintain and improve the reliability of the Verizon network and Internet connectivity and speed on that network. Verizon shares the goals of the Town Regional Plans of using existing infrastructure rather than building new towers where feasible. However, in this case, there is no existing infrastructure that will allow Verizon to accomplish its objectives of enhancing coverage and capacity in this area. The location that Verizon has chosen is well developed and is not in an ecologically sensitive area. There will be little disruption of viewsheds.

24. Neither Vertex nor Verizon has applied for, obtained, nor been denied a permit or permit amendments under applicable provisions of Title 24 or chapter 151 of Title 10 for the proposed improvements covered by the current application or substantially similar improvements.

25. There are no known permit conditions that would impact the proposed improvements.

26. The Project will promote the general good of the State by improving wireless telecommunication infrastructure to increase capacity and support state-of-the-art wireless services in the community; improving high speed data services; providing competitive choices

for consumers; and providing the opportunity to improve economic development within the State – all in conformance with the substantive criteria under 30 V.S.A. § 248a.

IV. DISCUSSION and CONCLUSION

The procedures governing Commission approval of communications facilities are set forth in 30 V.S.A. § 248a. Section 248a(1) provides that the Commission:

may issue rules or orders implementing and interpreting this section. In developing such rules or orders, the commission shall seek to simplify the application and review process as appropriate. . . .

In order to implement the statute, the Commission adopted the Procedures Order. In accordance with § 248a(b)(3), the Procedures Order, at Section II, defines a project of "limited size and scope" as:

a new telecommunications facility, including ancillary improvements, that does not exceed 140 feet in height; or an addition, modification, replacement, or removal of equipment at an existing telecommunications facility or support structure, and ancillary improvements, that would result in a total facility height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet. In order to qualify as a project of limited size and scope, construction of the project shall not result in earth disturbance of more than 10,000 square feet of earth, excluding temporary earth disturbance associated with construction activities,

As required by § 248a(c)(1), and set forth in Section IV(H) of the Procedures Order, in reviewing projects of limited size and scope the Commission conditionally waives:

all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. §§ 6086(a)(1)(D) (floodways) and 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, necessary wildlife habitat).

The proposed Project will consist of the construction of a new telecommunications facility, which, including ancillary improvements does not exceed 140 feet in height and will not result in permanent earth disturbance of more than 10,000 square feet. Therefore, the Project qualifies as a project of limited size and scope.

There is no evidence that this Project will have any adverse impact on floodways, aesthetics, historic sites, rare and irreplaceable natural areas, endangered species or necessary wildlife habitat. The Project will comply with the applicable municipal and regional plans.

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 the installation of a wireless telecommunications facility at the location specified in the above findings, by Vertex Towers, LLC and Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless, 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 ____ day of _____, 2024.

_____	)	
	)	PUBLIC UTILITY
	)	
_____	)	COMMISSION
	)	
	)	OF VERMONT
_____	)	

OFFICE OF THE CLERK

FILED: _____

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 thirty 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 ten days of the date of this decision and order.

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 24 - _____ - PET

Limited Size and Scope Application)
of Bell Atlantic Mobile Systems, LLC)
d/b/a Verizon Wireless and Vertex Towers, LLC,)
for a Certificate of Public Good,)
pursuant to 30 V.S.A. § 248a, authorizing the construction)
of a telecommunications facility in Manchester, Vermont)

Entered:

**CERTIFICATE OF PUBLIC GOOD ISSUED
PURSUANT TO 30 V.S.A. SECTION 248a**

IT IS HEREBY CERTIFIED that the Public Utility Commission of the State of Vermont ("Commission") this day found and adjudged that the construction of a wireless telecommunications facility proposed by Vertex Towers, LLC and Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless, located in the Town of Manchester, Vermont (the "Project") will promote the general good of the State, subject to the following conditions:

1. Operation and maintenance of the Project shall be in accordance with the plans and evidence submitted in this proceeding. Any material or substantial change in the Project is prohibited without prior Commission approval.

2. The Project shall comply with all applicable existing statutory requirements and Commission Rules and Orders.

3. The Certificate of Public Good shall not be transferred without approval of the Commission.

Signatures on the following page.

Dated at Montpelier, Vermont, this ____ day of _____, 2024.

_____	)	
	)	PUBLIC UTILITY
	)	
_____	)	COMMISSION
	)	
	)	OF VERMONT
_____	)	

OFFICE OF THE CLERK

FILED: _____

ATTEST: _____
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