

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 25-2931-PET

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

**RESPONSE OF PETITIONER TO PUBLIC COMMENTS OF THE DEPARTMENT OF
PUBLIC SERVICE**

Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless (“Verizon”) and Vertex Towers, LLC (“Vertex”) (together, “Petitioner”), by its counsel, MSK Attorneys, hereby submits this response to the public comment of the Department of Public Service (“DPS”). At the outset, the Petitioner does not object to the DPS’s request to schedule a conference and set a schedule for the adjudication of this matter including setting a schedule for the submission of additional evidence requested by the DPS in its comments. Nor does the Petitioner object to the DPS hiring an aesthetics expert to review this project.

To the extent that the DPS’s comments state that the DPS feels the Petitioner has not yet proven that co-location is not feasible, the Petitioner objects. The Petitioner believes that the DPS’s comments articulate the incorrect standard of review. In the relevant part, 30 V.S.A. § 248a provides the following as to co-location:

(B) To obtain a finding that a proposed facility cannot reasonably be colocated on or at an existing telecommunications facility, the applicant must demonstrate that:

(i) collocating on or at an existing facility will result in a significant reduction of the area to be served or the capacity to be provided by the proposed facility or substantially impede coverage or capacity objectives for the proposed facility that promote the general good of the State under subsection 202c(b) of this title;

(ii) the proposed antennas and equipment will exceed the structural or spatial capacity of the existing or approved tower or facility, and the existing or approved tower or facility cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility;

(iii) the owner of the existing facility will not provide space for the applicant's proposed telecommunications equipment on or at that facility on commercially reasonable terms; or

(iv) the proposed antennas and equipment will cause radio frequency interference that will materially impact the usefulness of other existing or permitted equipment at the existing or approved tower or facility and such interference cannot be mitigated at a reasonable cost.

The use of the semicolon and the word “or” renders this list disjunctive in that any one of the factors identified in sections (i)-(iv), if true, would be sufficient to result in a finding that co-location is not feasible. For example, it would not make sense to find co-location is feasible (or not infeasible) if an existing structure could be modified to support the facility *but* the owner of that structure was unwilling to lease to the applicant. Yet reading the clauses as conjunctive in that all must be true, as the DPS may be suggesting, would result in an adverse finding in the above example. This is an absurd result that is not the intent of the statute nor consistent with the prior determinations of this Commission. While it is not clear exactly that the DPS's response suggest that this statute must be read as a conjunctive list, the DPS's comments do appear to suggest that even if the Petitioner proved it met criteria (ii), the Petitioner would still need to prove at least criteria (iii). This is legally incorrect to the Petitioner.

The Petitioner believes its pre-filed testimony and exhibits support an affirmative finding with respect to subsections (i) and (ii) above. The prefiled testimony of Martin Lavin at Pages 3-4 as well as Exhibits ML-2, ML-3, and ML-4 clearly demonstrate that co-locating on the Church

Steeple would result in a significant reduction in the area to be served and the capacity to be provided by the proposed facility, which in turn would substantially impede the coverage and capacity objectives of the proposed facility which would *frustrate* rather than promote the general good of the State under subsection 202c(b).

Further, the pre-filed testimony of Scott Adams at pages 9-10 discusses the structural and spatial capacity of the existing facility. Mr. Adams reviewed the plans associated with the Church Steeple (see Exhibit SA-9) and concluded in his professional opinion that the existing structure could not support an additional carrier in its current condition, as it would require a spire replacement, extension of the spire and other substantial structural modifications. As even a cursory review of Exhibit SA-9 shows, AT&T's antennas are currently installed in three (3) sectors (i.e. three of the four sides of the spire), taking up all of the 7' available behind the louvers for the installation of telecommunications equipment. See Exhibit SA-9 at Sheet A-2 and A-3. Therefore, there is no space within the existing spire for Verizon's equipment.

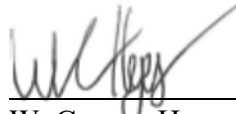
Nevertheless, an affirmative finding that under subsection (i) is conclusive. Verizon is seeking to provide macro level coverage to an underserved area in Vermont. As discussed in the prefiled testimony of Martin Lavin, the Church Steeple cannot meet the coverage objectives for this site. The significant difference in coverage is clearly shown on Exhibit ML-2 and ML-3. As the Church Steeple would fail to meet the coverage objectives for this site, it would have been futile to reach out to the owner to discuss modifications.

Accordingly, the Petitioner does not believe that the DPS comments raise a significant issue with respect to co-location. The Petitioner does not object to the proposed scheduling conference and hearing.

Dated: January 16, 2026
Burlington, Vermont

Respectfully submitted,

By:



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