

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-3175-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 283 Cooper Brook Drive in Hardwick, Vermont	
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Order entered: 01/07/2021

ORDER GRANTING MOTION TO DISMISS AND CLOSING CASE

I. INTRODUCTION

In this Order, the Vermont Public Utility Commission (“Commission”) grants the motion for dismissal filed by New Cingular Wireless PCS, LLC (the “Petitioner”).

II. PROCEDURAL HISTORY

On October 21, 2020, the Petitioner filed a petition requesting a certificate of public good for the installation of a wireless telecommunications facility in Hardwick, Vermont.

On November 25, 2020, Wayne and Lenore Renaud filed a motion to intervene and a request for a hearing.

On November 30, 2020 Julie Gregorius filed a motion to intervene.

On December 2, 2020, Judith Ruskin filed a motion to intervene.

On December 4, 2020, Julie Gregorius filed a motion to dismiss and Brenda Bolieu filed a motion to intervene.

On December 7, 2020, Nora Gyetko filed a motion to intervene.

On December 9, 2020, the Petitioner filed a motion to dismiss its petition without prejudice.

On December 11, 2020, the Vermont Agency of Natural Resources filed a response to the Petitioner’s motion to dismiss stating that it does not object to the granting of the motion.

On December 14, 2020, the Department of Public Service filed a response to the motion stating that it does not object to the granting of the motion and that all the other motions filed in the proceeding should be denied as moot.

On December 15, 2020, the Hardwick Planning Commission filed a letter with the Commission expressing support of Julie Gregorius' motion to dismiss.

On December 11 and 21, 2020, the Petitioner filed responses to the other motions filed in the proceeding stating that they should be denied as moot provided its motion to dismiss the case is granted.

III. DISCUSSION AND CONCLUSION

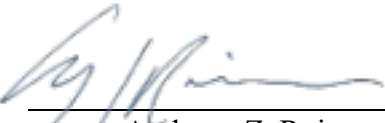
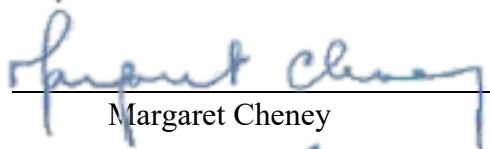
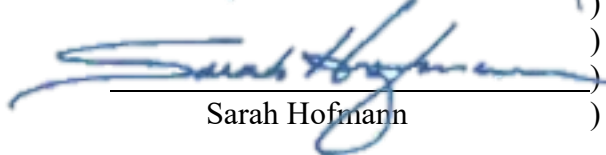
In support of its motion, the Petitioner states that, due to opposition to the project, it is no longer pursuing the project. The Petitioner states that it has identified an alternative location for its project in the same general area and will be filing a new petition for that new project in the future. Therefore, the Petitioner requests that the instant petition be dismissed without prejudice.

Rule 41(a)(2) of the Vermont Rules of Civil Procedure permits dismissal of an action at the plaintiff's request by an order of the court upon such terms and conditions as deemed proper by the court. Unless otherwise specified in the dismissal order, the dismissal is without prejudice.¹ In this case, the Petitioner has stated that it is no longer seeking approval of its petition. Accordingly, we conclude that dismissal of the petition is warranted and that all other pending motions filed in the proceeding should be denied as moot. Further, because it appears that the only prejudice arising from dismissal of this petition would be to the Petitioner and it is the Petitioner that is now requesting the dismissal, we also conclude that the petition may be dismissed without prejudice, all other pending motions are denied as moot, and this docket may be closed.

¹ V.R.C.P. 41(a)(2).

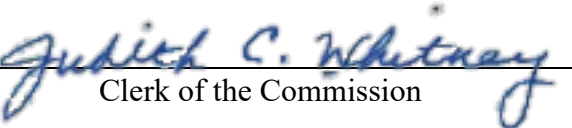
SO ORDERED.

Dated at Montpelier, Vermont, this 7th day of January, 2021.

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

OFFICE OF THE CLERK

Filed: January 7, 2021

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. 20-3175-PET - SERVICE LIST

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