

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7733

Petition of Cloud Alliance, LLC for a certificate of)
public good, pursuant to 30 V.S.A. § 248a, for the)
installation of telecommunications facilities in the)
Towns of Plainfield, Woodbury, Hardwick, and)
Wolcott, Vermont)

Order entered: 6/16/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the application filed on April 21, 2011, by Cloud Alliance, LLC ("Cloud Alliance" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Procedures Order ("Procedures Order")¹, and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of communications facilities in the Towns of Plainfield, Woodbury, Hardwick, and Wolcott, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on April 21, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of communications facilities in the towns identified above.

On May 12, 2011, the Department of Public Service ("Department") filed a letter recommending that the Board issue a CPG for the Project without further evidence or hearings. The Department also proposes that the Board require submission of final engineered foundation plans for the Project as a condition of the CPG. No objections to the Department's request have

1. *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 August 14, 2009.

been filed with the Board; therefore, we will include this condition as part of the CPG issued in this proceeding.

On May 11, 2011, the Board received comments in opposition to the portion of the Project proposed for the Town of Wolcott from neighboring landowners Julia and Steven Hoogasian.

On May 12, 2011, the Board received comments in opposition to the portion of the Project proposed for the Town of Wolcott from adjoining landowners Diane Olsen and Betsy Bourden, and a letter signed by twelve residents of Wolcott.²

On May 31, 2011, the Petitioner filed a response to the comments filed by Ms. Olsen, Ms. Bourden, the Hoogasians, and the group of town residents.

On May 31, 2011, the Department filed additional comments, via e-mail, stating that, based upon their review, the comments filed by the adjoining landowners and residents of Wolcott do not raise a significant issue with regard to any of the substantive criteria of 30 V.S.A. § 248a(c)(1).³

No other comments or requests for hearing regarding the Project have been filed with the Board.

The Board 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. The Project involves the installation of telecommunications towers, antennas, and associated operating equipment, in the Towns of Plainfield, Woodbury, Hardwick, and Wolcott, Vermont. The new installations will improve and expand the Petitioner's fixed-wireless broadband coverage within the surrounding area. Joint Panel pf. at 5-6.

2. The list of signatures attached to the letter filed by the town residents includes the signatures of Diane Olsen, Betsy Bourden, and Julia Hoogasian.

3. E-mail from Jeanne Elias, Esq., to the Clerk of the Board, dated May 31, 2011, at 1.

2. The Bartlett Hill facility is proposed to be located off of Upper Road in Plainfield, Vermont. The installation involves the construction of a 100-foot-tall, self-supporting, steel lattice tower with seven 6-foot-tall panel antennas and two dish antennas, adjacent to an existing 35-foot wooden pole and equipment shed. The facility will not involve any clearing and no roads or buildings will be constructed. Joint Panel pf. at 4; exhs. 8, 10.

3. The Robison Hill facility is proposed to be located off of Cabot Road in Woodbury, Vermont. The facility consists of a guyed, 130-foot-tall steel lattice tower with 21 6-foot-tall panel antennas and 3 dish antennas. Facility construction will involve limited clearing of trees near guy wires and at the tower foundation. No roads or buildings will be constructed. Joint Panel pf. at 4-5; exhs. 8, 10.

4. The Hopkins Hill facility is proposed to be located off Hopkins Hill Road in Hardwick, Vermont. The facility consists of a guyed, 130-foot-tall steel lattice tower with 21 6-foot-tall panel antennas and two dish antennas. The facility will not involve any clearing and no roads or buildings will be constructed. Joint Panel pf. at 4-5; exhs. 8, 10.

5. The Scribner Hill facility is proposed to be located off Lake Wapanaki Road in Wolcott, Vermont. The facility consists of a guyed, 130-foot-tall steel lattice tower with 21 6-foot-tall panel antennas and two dish antennas. The facility will not involve any clearing and no roads or buildings will be constructed. Joint Panel pf. at 4-5; exhs. 8, 10.

6. None of the proposed facilities will exceed 135 feet in height or result in permanent earth disturbance greater than 100 square feet. Finding Nos. 2-5, above; Joint Panel pf. at 7.

7. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 8 and 9, below.

8. The proposed facilities will be visible from certain vantage points, however, the facilities will not have an undue adverse effect on aesthetics when viewed in the overall context of the surrounding rolling topography and vegetation near the sites. Joint Panel pf. at 6-7; exh. 14.

9. There are no rare or irreplaceable natural areas or historic sites near the proposed Project sites. Joint Panel pf. at 9-10.

IV. DISCUSSION

The Board has received comments from a number of neighboring landowners regarding the portion of the Project to be located in Wolcott, Vermont. The comments of the neighboring landowners express general concerns regarding the Project's potential aesthetic impacts on the surrounding area, impacts on wildlife habitat in the vicinity, and impacts on nearby water wells. None of the neighboring landowners has sought to intervene or requested a hearing in this proceeding.

The Petitioner contends that, based upon the visual impact analysis it has conducted, the Wolcott facility will not result in an adverse impact on aesthetics. The Petitioner asserts that the analysis demonstrates "that the facility will not be visible from the overwhelming majority of town locations."⁴ The Petitioner states that there are "no rare, threatened, or endangered species, no significant natural areas (including deer wintering areas), and no sensitive soils" within the vicinity of the site.⁵ In addition, the Petitioner argues, the minimal earth disturbance associated with construction of the facility poses no risk to the water supply in the vicinity.⁶ The Petitioner also notes that the Wolcott Selectboard and the Wolcott Planning Commission have each endorsed the facility.⁷

We appreciate the neighboring landowners' effort in alerting us to potential impacts associated with the Wolcott facility. These comments have assisted us in ensuring that the petition has fully addressed the issues raised. However, after reviewing all of the submissions, we conclude that neighboring landowners have not shown that the Project raises a significant issue with respect to the applicable criteria and that the Petitioner has adequately addressed the generalized concerns expressed in these comments. The information presented demonstrates that the Wolcott facility will not adversely impact wildlife habitat or nearby water supplies, and that

4. Petitioner's Response at 4-5.

5. *Id.* at 7-8.

6. *Id.* at 7.

7. *Id.* at 3.

its aesthetic impact will be limited and not undue. We recognize that telecommunications projects of this type may impact neighboring landowners. However, the provision of statewide wireless telecommunications services is an important goal for the State, and robust and ubiquitous wireless broadband and telecommunications coverage provide substantial benefits.

V. CONCLUSION

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(j)(1), the Procedures Order defines a project of "limited size and scope" as a facility that:

(a) consists of an attachment to an existing structure that does not increase the height or width of the existing structure by more than twenty feet; or (b) does not exceed 135 feet in height and does not include road building or other earth disturbance exceeding 100 square feet, other than a temporary road or earth disturbance associated with construction or installation activities.

Further, pursuant to Section (L) of the Procedures Order, regarding projects of "limited size and scope:"

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing

The individual proposed facilities will not exceed 135 feet in height and will involve less than 100 square feet of permanent earth disturbance. Therefore, each facility qualifies as a facility of "limited size and scope" as defined in the Board's Procedures Order governing the installation of wireless telecommunications facilities. The Procedures Order provides that the

Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

Based upon all of the above evidence, 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 Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by Cloud Alliance, LLC, 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 16th day June, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 16, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.