

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-____-PET

Petition of New Cingular Wireless PCS, LLC d/b/a AT&T pursuant to 30 V.S.A. § 248a requesting a Certificate of Public Good for an installation of a wireless telecommunications facility in Hardwick, Vermont	
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PROJECT NARRATIVE:
Limited Size and Scope (Collocation)

I. Introduction

By this Petition, New Cingular Wireless PCS, LLC d/b/a AT&T (“AT&T”) seeks approval from the Vermont Public Utility Commission (the “PUC”) to install a telecommunications facility on and adjacent to an existing antenna support structure on property owned by Mayo Joint Revocable Trust, managed by Cloud Alliance LLC (“Cloud Alliance”) located at 1190 Hopkins Hill Road, Hardwick, Vermont (the “Project”).

An overview of the characteristics of the Site where the project will be located is as follows:

Tower Location	1190 Hopkins Hill Road, Hardwick, Vermont
Parcel Number	13008-00000
Zoning District	Rural Residential District
Latitude	44.483306
Longitude	72.337833
Closest Public Road	Hopkins Hill Road
Closest State/Fed Hwy	VT Routes 15 & 14
Tower Owner	Cloud Alliance LLC
Tower Height / Type	130’ AGL monopole self-support (matte grey steel)

This petition is filed pursuant to the PUC’s “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,” dated September 21, 2018 (the “Procedures Order”).

II. Project Description

The proposed collocated telecommunications facility on the Property will consist of the following components (the “Facility” or “Project”):

- A. Six (6) panel antennas on the existing 130' self-support tower ("Tower"), each measuring approximately 48" x 20.7", three (3) of which will be installed at a centerline height of 108' AGL and three (3) of which will be installed at a centerline height of 115" AGL;
- B. Three (3) surge arrestors to be installed behind each of the panel antennas;
- C. A walk-in operating equipment cabinet measuring 6' x 6', mounted on a 8' 6" x 8' 6" concrete pad (the "WIC") at the base of the Tower;
- D. Nine (9) remote radio head units ("RRUs") mounted to the exterior of the WIC;
- E. A 15-kilowatt diesel emergency backup generator with self-contained diesel fuel source to be located on a 5' x 4' concrete pad near the WIC (the "Generator");
- F. A 20' x 20' fence with a 12'-wide double swing access gate and a 4' wide pedestrian access gate, all to enclose the Tower, WIC, Generator, and existing outdoor equipment cabinet, while providing space for future wireless telecommunications installations (the "Compound");
- G. Utilities (power and telephone lines) running underground from a meter mounted to a new H-Frame to be installed at an existing utility pole on the property of Matthew and Stephanie Best (Hardwick Electric Pole #18B), running along the existing access road to the Compound; and
- H. Ancillary improvements consisting of an ice bridge, a GPS antenna, a utility backboard, and other equipment and appurtenances located within and around the Compound, all to be used in connection with operation of the Facility.

Site Plans depicting each feature of the Facility, and providing vertical profiles and electrical information, is attached as Exhibit ATT-JD-03. Equipment Specifications are provided as Exhibit ATT-JD-04. A Structural Analysis Report is provided as Exhibit ATT-JD-07 documenting that the existing Tower can support the Project.

AT&T has obtained Permit Authorization Letters from Cloud Alliance and Claire Mayo authorizing AT&T to proceed with the permit approval process. See Exhibit ATT-JD-11.

The Project will result in of less than 10,00 square feet of permanent earth disturbance and will involve no tree clearing of any kind. To the extent applicable, the construction plan will comply with the requirements of the Department of Environmental Conservation *Low Risk Handbook for Erosion Prevention and Sediment Control*. The Project qualifies as a "Project of Limited Size and Scope," as defined in 30 V.S.A. § 248a(b)(3).

This proceeding is subject to the general authority and limitations of the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(A), as it involves a decision by the State of Vermont regarding the placement, construction, and modification of a personal wireless service facility. The Project also qualifies as an eligible facilities request under the federal Spectrum Act, 47 U.S.C. §1455(a)(1), as it constitutes the modification of an existing wireless tower or base station that does not

substantially change the physical dimensions of wireless tower or base station. Consequently, it is subject to a 60-day timeframe for review of the application pursuant to 47 C.F.R. § 1.40001(c). AT&T hereby preserves its rights under the Telecommunications Act and the Spectrum Act to the extent necessary to proceed with the Project.

III. Project Objective and Public Good (30 V.S.A. § 248a(a) and 202c(b))

AT&T was recently awarded a contract to buildout FirstNet in Vermont, the nationwide, interoperable network for first responders featuring uninterrupted data / voice access during emergencies. FirstNet is a federal agency with a mandate to create a nationwide, interoperable public safety broadband network for first responders. First responders across the country currently rely on more than 10,000 separate radio networks which often times do not interoperate with one another. By deploying a nationwide broadband public safety network built specifically to meet the communications needs of first responders, the FirstNet network will provide a solution to the decades-long interoperability and communications challenges first responders have experienced, and which was highlighted by the 9/11 Commission's final report.

FirstNet selected AT&T to build, manage and operate the National Public Safety Broadband Network ("NPSBN") using FirstNet's Band 14 spectrum (Call Sign WQQE234, 20 MHz of the 700 MHz spectrum) together with AT&T's own wireless network. Using a combination of new and existing wireless facilities, AT&T provides prioritized, preemptive wireless services for first responders across Vermont, New England and nationwide, while also improving 4G LTE coverage for AT&T customers. AT&T works closely with local, state, and federal first responders in designing the FirstNet network and selecting each new site.

The Project will promote the general good of the state, consistent with 30 V.S.A. § 202c(b), insofar as the Project will expand and improve its wireless service coverage in the Town of Hardwick, and the surrounding area. Specifically, AT&T will improve its coverage and capacity along VT Route 15 in Hardwick and Walden, as well as portions of VT Route 14 in Hardwick and Woodbury, while also supporting AT&T's deployment of the NPSBN for public safety. Propagation maps showing existing outdoor (-108 dbM) AT&T coverage in portions of Hardwick, Walden, Woodbury, Cabot and Woodford before and after the proposed Project is activated are included as Exhibit ATT-JD-05. The new proposed facility in Hardwick is shown on the maps as VT1061SU.

IV. Environmental Criteria (30 V.S.A. § 248a(c)(1)) and Public Safety

The Project will not have an undue adverse effect on the streamlined Section 248a criteria for projects of limited size and scope under Section H(2) of the Procedures Order, being floodways, aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, and necessary wildlife habitat. AT&T has considered the criteria and submits that the Project to construct and operate the Facility complies with each of the limited criteria, as discussed more fully below.

A. Floodways

The Facility is not situated in a floodway or outstanding resource water. The Project is modification of an existing facility and an installation of a wireless telecommunications facility and involves no new impervious surfaces.

B. Aesthetics

The Project will not have an undue adverse effect on the scenic or natural beauty of the area or aesthetics. The two-pronged approach set forth in *Quechee Lakes* for addressing aesthetic effects is settled law and applies in reviewing this 248a application. *Petition of New Cingular Wireless PC, LLC (Weston)*, Docket No. 7729, Order of 6/6/11 at 10. First, the PUC must determine whether the proposed Project will have an adverse effect. If the Project is found to have an adverse effect, the PUC then looks to whether the effect is undue based upon the answer to three questions:

(1) does the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area; (2) does the project offend the sensibilities of the average person; and (3) has the applicant failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings.

In re Rinkers, Inc., 2011 VT 78, ¶ 9 (citing *Eastview at Middlebury*, 2009 VT 98, ¶ 20). An assessment of whether a particular project will have an undue adverse effect “is significantly informed by the overall societal benefits of the project.” *Petition of SBA Towers III, Inc., and New Cingular Wireless PCS, LLC*, Docket 7721, Order of 4/20/11 at 8 n.4 (“Consider, for example, the benefits of an increase in wireless telecommunications services or other societal benefits.”).

As demonstrated by the Photographic Simulations prepared by Virtual Site Simulations, LLC and provided as Exhibit ATT-JD-06 (Photographic Simulations), the Project will be adverse in the sense of being visible from several locations. However, for the reasons set forth below, the effect will not be unduly adverse.

(a) Written Community Standard.

As discussed more fully below, the Project does not violate any written community standard of the Town of Hardwick Municipal Plan or the Northeastern Vermont Development Association Regional Plan. Working with counsel, we identified no provision in the municipal / regional plans, nor in the Town zoning regulations, that conflict with the proposed Project.

(b) Shocking and Offensive.

The Project will not be shocking and offensive to the average person. No lighting or marking of the Tower is proposed. Moreover, the Photographic Simulations and the Viewshed Maps, provided as Exhibit ATT-JD-06 (Photographic Simulations), demonstrate that the Facility will be visible only from a handful of locations in the surrounding area, with most of the visual impact being on the Property itself. There will be no visual impacts from VT Route 15 (Photo 1 &

Photo 2). Even so, the Project involves no substantial increase given that the height of the Tower is not changing.

(c) Mitigation.

AT&T took steps to mitigate any adverse effects the Project might have on the surrounding area by collocating upon an existing antenna support structure, and modifying its original proposal (as reflected in the Advance Notice) to increase the height of the Tower. AT&T's steps to mitigate the visual impact of the Project must be balanced against the competing demands of providing coverage within the area where the Facility will be located, and accommodating the needs of future co-locators where possible.

C. Historic Sites

The Project will not have an undue adverse impact on any historic sites. See Programmatic Agreement Letter provided as Exhibit ATT-JD-08, confirming that the original Tower is not subject of any existing notice from the FCC as to adverse effects on historic properties.

D. Air and Water Purity

The Facility will not have an undue adverse impact on air purity. During the construction phase of the Project, there will be minimal air emissions from construction equipment and diesel and gasoline-powered support vehicles. Dust control measures will be taken when necessary during construction and will consist of the application of water and / or calcium chloride on areas disturbed.

Although certain construction activities and operation of the emergency generator will create some noise, this noise will have a minimal impact on the area. Construction activities will be short-term and generally will occur on weekdays only between the hours of 7:00 a.m. and 7:00 p.m., and on Saturdays only between 8:00 a.m. and 5:00 p.m., consistent with the PUC's conditions on recent CPGs. AT&T will observe the standard condition preventing construction activities on Sundays, as well as state and federal holidays.

The Generator is designed to operate only in the event of a prolonged power outage. Apart from a power outage, the Generator's "kick test" to ensure operability is programmed to take place once a week during weekdays for approximately a half-hour. The Facility will not involve any discharges into the environment.

The Tower is not greater than 200' in height, nor situated within 5 miles of an airport, which are the standard benchmarks to determining whether a tower is required to be lighted. AT&T does not propose to install any lighting on the Tower, and no lighting is required based on FAA regulations.

The Facility will meet Federal Communications Commission ("FCC") standards for radiofrequency emissions, as reflected in the RF Compliance Report included as Exhibit ATT-JD-09. The Report assumes a "worst case scenario" for radiofrequency emissions, using maximum power for all antennas. The Report shows that the maximum emissions will not

exceed the maximum permissible exposure limit for General Population and Uncontrolled Access.

E. Natural Environment

Based on a review of ANR mapping for this general area, as reflected on the Biofinder results attached as Exhibit ATT-JD-10, the Project will not have an undue adverse effect on the natural environment, including wetlands, floodplains, threatened or endangered species, or rare and irreplaceable natural areas. No necessary wildlife habitat is located on the Property, nor have any locations of rare, threatened, or endangered species been identified to date.

The Project will not destroy or significantly imperil other necessary wildlife habitat or any endangered species. The Project will not be located within an ANR-identified critical habitat area or a rare and irreplaceable natural area; rather, the Project will be located near the existing commercial/industrial development on the Property.

V. Municipal Impacts: 30 V.S.A. § 248a(c)(2)

A. Town Plan and Compliance

The Project is generally consistent with the principles set forth in the Hardwick Town Plan, adopted on November 6, 2019 (the “Plan”), (Exhibit ATT-JD-13). The Plan recognizes Hardwick has broadband access for the internet in the villages and in some rural locations, but the rural spaces are still lacking in full coverage. Town Plan at 17. While the Town Plan recognizes the need to expand broadband internet service, it establishes a policy that towers and other large obvious structures should be carefully sited to minimize impacts on scenic resources. Plan at 12.

The proposed Project is consistent with the strategies and objectives of the Plan insofar as the Facility will provide cutting-edge telecommunications service to the residents of Hardwick and nearby areas, which will benefit residential business customers living, working, and commuting to and from Hardwick, as well as tourists who visit the area. AT&T does so through an installation of equipment and antennas to an existing, approved telecommunications facility, which minimizes adverse impacts to the natural, scenic or cultural resources within the Town. Thus, the Project furthers these goals and objectives insofar as the Facility will enhance the availability and quality of wireless coverage in the Hardwick.

B. Unified Development Bylaws.

Section 4.17 of the Hardwick Unified Development Bylaws amended September 26, 2019 (“Bylaws”)(Exhibit ATT-JD-14) allow for new wireless telecommunications facilities in the Rural Residential District, where the Property is located, as conditional uses. Bylaws at 4.17 (C). Section 4.17 (H) contains substantive requirements for new facilities, which are addressed below:

1. The facility cannot be built on speculation.

RESPONSE: Because AT&T is an FCC-licensed carrier, and is building out the NPSBN / Band 14 spectrum for FirstNet, this criteria is satisfied.

2. The facility will not project more than 20 feet above the average tree line measured within 50 feet of the highest vertical element of the Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate collocation of facilities.

RESPONSE: The existing support structure exceeds this height requirement, but the non-conformity is not being increased. The Facility at the proposed centerline heights on the Tower is needed to meet the AT&T and FirstNet coverage objectives in the area. A propagation map depicting existing AT&T coverage, and proposed coverage from the Project—shown based on relative signal strengths for outdoor coverage—is included as Exhibit ATT-JD-05.

3. No wireless telecommunication facility shall be located within 500 feet of an existing residence.

RESPONSE: The Project is not located within 500 feet of an existing residence.

4. The minimum distance from the base of any tower to any property line is not less than 100% of the total elevation of the tower, including antenna or equipment.

RESPONSE: The existing Tower meets this criterion.

5. The tower including attached antennas does not exceed a height of 180 feet.

RESPONSE: The total Tower height with antennas mounted is 130' AGL; consequently, the Facility complies with this criterion.

6. The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, this bylaw, or as needed for the safe operation of the facility.

RESPONSE: The Project meets this criterion, as no lighting is proposed or required by FAA regulations for the Tower.

7. The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.

RESPONSE: Based on the lease agreement with Cloud Alliance, AT&T will be required to remove its Facility upon the end of the lease term.

8. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.

RESPONSE: The Facility complies with the FCC Guidelines on radiofrequency emissions. See the MPE at Exhibit ATT-JD-09.

9. The applicant will maintain adequate insurance on the Facility.

RESPONSE: The proposed AT&T lease with Cloud Alliance requires provision of sufficient insurance in connection with the construction, operation, maintenance, and removal of the Facility.

The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Development Review Board may condition a permit on the provision of appropriate fencing.

RESPONSE: The compound fence will contain the required radiofrequency emission warnings consistent with FCC requirements.

10. The proposed equipment cannot be reasonably collocated at an existing Telecommunication Facility.

RESPONSE: The Project involves collocation at and adjacent to an existing support structure.

11. The Facility provides reasonable opportunity for collocation of other equipment.

RESPONSE: The Compound will have sufficient room for future collocations, and the existing Tower still has unleased vertical space for future use.

12. The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

RESPONSE: The Facility will not unreasonably interfere with views from VT Route 15. The existing Tower is visible along VT Route 15 only for short intervals and from a distance. See Exhibit ATT-JD-06 (Photos 1 & 2).

13. The Facility will not have an undue adverse aesthetic impact.

RESPONSE: The Facility will not appear substantially different from the existing PUC-approved Cloud Alliance facility.

14. The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.

RESPONSE: No necessary wildlife habitat is located on the Property, nor have any locations of rare, threatened, or endangered species been identified to date.

15. The Facility will not generate undue noise.

The Generator will feature a ½ hour start test once a week, with the timer to be set during weekdays during regular hours (i.e., not at night or on weekends). The heating and cooling equipment at the WIC emits noise comparable to an indoor fan, substantially quieter than fans used in a conventional (12' x 20') equipment shelter.

The extent to which utility lines (e.g. power) serving telecommunications facilities follow access roads and does not involve extensive clearing; the Development Review Board may require that such utilities be buried where they are likely to otherwise have an adverse visual impact.

RESPONSE: All utilities associated with the Project will be buried from the existing pole on the Property and under the existing access road.

Following a public hearing held with the Planning Commission on April 13, 2021 (i.e., during the Advance Notice Period) where AT&T's representatives made a presentation, AT&T made changes to the Project designed to obviate the need for a tower extension. On information and belief neither the Planning Commission nor the Selectboard has issued a recommendation.

VI. Regional Impacts: Regional Plan and Recommendation, 30 V.S.A. § 248a(c)(2)

The Regional Plan for the Northeast Kingdom 2015-2023 (the "Regional Plan"), adopted August 27, 2015 and amended April 26, 2018 (relevant excerpts attached as Exhibit ATT-JD-15), states that "[t]he region can gain many economic, social, safety and cultural benefits with a strong telecommunications infrastructure." Regional Plan, Utilities & Facilities at 21. The Regional Plan acknowledges that many areas in the Northeast Kingdom do not have access to reliable broadband services. *Id.* at 22-23. The Regional Plan recognizes that land conservation measures and protection of scenic resources identified in local and regional plans will be given substantial deference when telecommunications projects are under review. *Id.* at 26.

Siting the proposed Facility will advance the goals set forth in the Regional Plan by improving public access to reliable, high quality broadband internet service without adversely impacting the County's scenic and environmental qualities. The Project will promote the general good of the state, consistent with 30 V.S.A. § 202c(b), insofar as the Project will improve its wireless service and capacity in Hardwick, while making available the FirstNet network to Caledonia County's first responders.

The Northeastern Vermont Development Association raised no concerns with the Project during the 60-Advance Notice Period.

VII. Reasonability of Co-location (30 V.S.A. § 248a(c)(3))

AT&T's proposed Facility involves a co-location on an existing, permitted tower.

VIII. Compliance with Existing Permits (30 V.S.A. § 248a(d))

The Facility is subject to a Certificate of Public Good, Docket No.: 7733. The Project is consistent with the conditions set forth in the above-mentioned permit, all of which are attached as Exhibit ATT-JD-12.

IX. Compliance with Notice Requirements

A list of the names and addresses of all adjoining property owners is included with the Petition at Tab 3, and the locations of their properties are shown on the Site Plan (Exhibit ATT-JD-03). As described in the "Certification of Advance Notice Requirements" included as document 2, AT&T has complied with the advance notice requirements under Section 248a and the Procedures Order.

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