

November 8, 2019

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To: Parties Entitled to Notice Pursuant to 30 V.S.A. § 248a(e) and Procedures Order

Re: AT&T: Wireless Communications Facility at U.S. Route 4, Mendon, Vermont 05701  
Tax Map Number: 06-02011.006  
AT&T Site Name: Mendon (Route 4, VT6345)  
**60-DAY ADVANCE NOTICE (NEW TOWER PURSUANT TO 248a REGULAR PETITION)**

Dear Recipient:

New Cingular Wireless PCS, LLC d/b/a AT&T (“AT&T”) proposes to construct and install a new communications support structure and wireless communications facility at along U.S. Route 4, Mendon, Vermont (the “Facility” or “Project”), on property owned by Skybrooke Enterprises, LLC (the “Property” or “Site”). The Property is located in the Residential 1 zoning district. Downs Rachlin Martin PLLC (“DRM”) represents AT&T in connection with the Project. Pursuant to 30 V.S.A. § 248a, this letter is intended to provide 60 days advance notice that AT&T intends to submit to the Vermont Public Utility Commission (“PUC”) a petition for approval to construct the Facility at the Site.

Exhibit A to this notice is a statement that itemizes the rights and opportunities available to municipal representatives and planning officials pursuant to §§ 248a(c)(2), (e)(2), (m), (n), (o), and (p). This notice is being filed electronically with the PUC via its ePUC system to distribute to the Vermont Agency of Natural Resources, the Vermont Department of Public Service, the Vermont Division for Historic Preservation, and the Vermont Agency of Transportation (collectively, “Advance Notice Parties”).

AT&T’s petition will be 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”). The Procedures Order, as well as more information concerning review of communications projects under 30 V.S.A. § 248a, is available at the PUC’s office in Montpelier and on its website: <http://puc.vermont.gov/>.

I. Background on AT&T and FirstNet

AT&T is a global telecommunications company helping to connect family, friends and neighbors in meaningful ways every day. From the first phone call 140+ years ago to mobile video streaming today, AT&T innovates to improve lives. AT&T’s wireless network currently covers more than 99% of all Americans and has become the fastest wireless network in the nation, according to the first quarter 2019 results from leading analysts reviewing average data download speeds. During 2016-2018, AT&T invested nearly \$40 million in its Vermont wireless networks to boost reliability, coverage, speed and overall performance for residents and businesses.

The Facility described in this notice is intended to improve AT&T’s network coverage and capacity in Ferrisburgh and Addison County, as part of its commitment to the federal First Responder Network Authority, better known as “First Net”). FirstNet was created by Congress in 2012, following

recommendations from the 9/11 commission.<sup>1</sup> FirstNet was given the mission of building, deploying and operating the first high-speed, nationwide wireless broadband network with spectrum dedicated to public safety. This special capability, known as the Nationwide Public Safety Broadband Network (“NPSBN”) using Band 14 (700MHz) spectrum, is built especially for first responders. By deploying the NPSBN 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. Once implemented, FirstNet’s NPSBN will replace more than 10,000 non-interoperable radio networks currently in use.

FirstNet established a bidding process to determine how best to implement the NPSBN nationwide, marshalling the power of the private sector in addition to public investment. On March 30, 2017, FirstNet announced AT&T as the winning bidder of the contract to build the NPSBN, subject to an “opt out” period for each state. In Vermont, the Public Safety Broadband Network Commission (“PSBC”) was formed by Governor’s Executive Order in 2013 to act as a guiding group to evaluate the AT&T / FirstNet plan for the NPSBN versus constructing its own network.<sup>2</sup> On November 29, 2017, Governor Phil Scott announced his decision to accept the FirstNet and AT&T plan to develop the NPSBN in Vermont. At the end of the national decision period for states, every state and territory choose to opt-in to the federal FirstNet plan.

Using a combination of new and existing wireless facilities, AT&T will provide 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, with the area around the proposed Facility being identified as requiring for coverage improvement. The Project will allow AT&T to improve its coverage and capacity in portions of Mendon and Rutland and along U.S. Route 4, while also supporting AT&T’s deployment of FirstNet.

## II. Project Description

The proposed Facility will generally consist of the following components:

- A. A light grey monopole telecommunications tower measuring 140’ above ground level (“AGL”) (the “Tower”);
- B. Six (6) panel antennas (4 per sector) to be installed at a centerline height of 136’ AGL, with twelve (12) remote radio head units (“RRUs”), and four (4) surge arrestors to be installed behind the panel antennas;
- C. A 6’ 8” x 6’ 8” walk-in cabinet on a 8’ 6” x 8’ 6” concrete pad for housing AT&T’s antenna operating equipment (the “WIC”);
- D. A 20-kilowatt diesel emergency backup generator with self-contained diesel fuel source to be located near the WIC (the “Generator”);

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<sup>1</sup> For more information about FirstNet, visit: <https://firstnet.gov/>.

<sup>2</sup> To learn more about FirstNet’s implementation in Vermont, visit: <https://psbc.vermont.gov/>.

- E. A 50' x 50' fenced communications site gravel compound, comprised of a 8'-tall chain link fence with 3 strands of barbed wire, to enclose the Tower, WIC, Generator, and other appurtenances, and accessed by a 12'-wide swing gate (the "Compound");
- F. A 12' x 1,250' wide gravel access road off of U.S. Route 4 following an existing logging road, then extending up to the Compound (the "Access Road"), and a parking/turnaround area immediately in front of the Compound;
- G. Utilities (power and telephone lines) commencing from a pole along U.S. Route 4 and running underground along the Access Road to the Compound; and
- H. Ancillary improvements consisting of an ice bridge, a GPS antenna, a transformer, 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.

The Facility is being designed to allow for co-location by additional wireless carriers in the future. Each feature of the Facility is described and depicted in more detail on the Site Plan attached as Exhibit B. As demonstrated by the predictive viewshed map and photographic simulations prepared by Virtual Site Simulations, LLC and provided as Exhibit C (Viewshed Maps and Photographic Simulations), the Project will have an insignificant effect on the overall aesthetics of the area when viewed from public vantage points. The Project is expected to result in 26,779 square feet of permanent earth disturbance in total. Accordingly, the Project does not qualify as a project of limited size and scope as defined in 30 V.S.A. §248a(b)(4)(A)(i) and (B).

### III. Process for Review of Communications Facilities under 30 V.S.A. § 248a

Pursuant to 30 V.S.A. § 248a, the PUC may grant a certificate of public good for construction or installation of one or more telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence if, after review of the project, the PUC finds that the facilities will promote the general good of the state consistent with the policies favoring improved telecommunications technology to all Vermonters, articulated by 30 V.S.A. § 202c(b).

Among the criteria considered by the PUC in evaluating each facility under 30 V.S.A. § 248a is whether the project is consistent with the recommendations of selectboards, municipal planning commissions and regional planning commissions. In turn, those recommendations can be based on town / regional plans, as well as telecommunications provisions in local zoning bylaws or a stand-alone ordinance. 30 V.S.A. § 248a(c)(2). Based on a review of the relevant municipal and regional planning documents, AT&T believes that the Facility is consistent with the applicable substantive criteria.

#### I. Mendon Town Plan

The Mendon Town Plan, Re-adopted on December 14, 2015 (the "Town Plan"), establishes a goal "to allow for the installation of wireless telecommunications facilities, within the town limits, that will provide good service for the residents and local businesses while preserving the aesthetic character of its neighborhoods, property values, natural areas, ridgelines, historic districts, community preservation goals and environment." Town Plan at 16. In 2004, Mendon adopted a comprehensive zoning by-law for the regulation of wireless telecommunications facilities that guides the installation, operation and maintenance of wireless telecommunications facilities within the Town (the "Telecommunications Bylaw"). *Id.*

The AT&T Project is consistent with the Town Plan insofar as it expands wireless broadband service into unserved areas of the Town without significant adverse environmental, health or aesthetic impacts. AT&T will be prepared to demonstrate in the petition (or to the Town in advance of filing the petition where requested) the following:

- i. Reasons for which the Project cannot be located within one of the permitted districts listed in the Telecommunications Bylaw, including why the Project is located within the Ridgeline Overlay District;
- ii. Support for the position that there are no existing structures in this area that will obviate the need for a new tower;
- iii. Reasons for locating the project in a designated natural and scenic resources identified on Town Plan maps for this area;
- iv. Absence of any natural or wildlife habitats / corridors thus far determined based on preliminary research; and
- v. Ensure that the Compound will be situated outside of the 25% Slopes Overlay District.

2. Mendon Telecommunications Bylaw

Mendon's Telecommunications Bylaw set forth various substantive requirements for the siting of wireless telecommunications facilities in the municipality. Below is a response to each of the applicable requirements in these provisions:

*1.6 Permitted and Prohibited Locations: Wireless telecommunications towers or facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in the following zoning districts: Commercial District; East District; and Village District.*

**RESPONSE: AT&T searched areas within the Commercial, East, and Village District and confirmed that no existing structures or properties were identified that would meet AT&T's coverage objective for this area of U.S. Route 4. (Please see Exhibit E.)**

*Additionally, freestanding telecommunications towers or antennas over 20 feet in height may not be located in any of the following locations:*

A. *within two hundred (200) feet of a wetland designated by the State of Vermont or any Federal Agency,*

**RESPONSE: Based on a preliminary review from the Agency of Natural Resources Atlas ("ANR Atlas"), attached as Exhibit D. there are no class 2 wetlands located on the Property. AT&T will continue its review of wetlands as part of the contemporaneous National Environmental Policy Act ("NEPA") consultative process.**

B. *the habitat of any Rare or Endangered Species recognized by the State of Vermont or any Federal Agency,*

**RESPONSE: Based on a preliminary review from the ANR Atlas, the Facility will be located just outside of deer wintering areas, and there are no other state-listed rare or**

**endangered wildlife or plant species on the Property. AT&T will continue its review of this issue as part of the contemporaneous NEPA consultative process.**

*C. within one thousand (1000) feet horizontally from any Historic District or property already listed or eligible to be listed on the Federal Historic Register,*

**RESPONSE: Based on preliminary desktop work being conducted through the Section 106 process, there are no historic districts or properties within 1,000 feet of the Project. AT&T is contemporaneously undertaking the required analysis under Section 106 of the federal National Historic Preservation Act ("Section 106") to meet its FCC requirements, and will undergo review of the Project by the Vermont Division for Historic Preservation concurrently with the CPG petition.**

*D. closer than two hundred (200) feet horizontally to the boundary of the property on which the tower is located,*

**RESPONSE: The proposed Tower will be setback approximately 161' from the nearest property line, which is less than the 200' required in the Telecommunications Bylaw. However, the Tower will be designed to substantially reduce the risk of collapse. It will meet the Electronics Industry Alliance / Telecommunications Industry Association Standard 222-G, otherwise known as the EIA/TIA 222-G and referred to as the G-Standard, which is applicable to towers and other antenna support structures and is accredited by the American National Standards Institute.**

*E. closer than five hundred (500) feet horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building;*

**RESPONSE: The Project meets this requirement.**

*F. within three hundred (300) feet horizontally of any river or perennial stream.*

**RESPONSE: The Project meets this requirement.**

*G. within five hundred (500) feet horizontally of a designated scenic road, highway or trail recognized by the State of Vermont or Federal Agency.*

**RESPONSE: The Project meets this requirement.**

*H. No tower may be erected which protrudes by more than twenty (20) feet above the average height of the surrounding trees.*

**RESPONSE: AT&T is preparing a radiofrequency report to confirm that the height above 85' (i.e., 20' above the trees) is needed in order to provide coverage and to allow for collocation, which will be presented at a public hearing by the Town (if requested), and included with the petition.**

*In addition to the above, a safety zone must be established which is defined as twice the height of the tower where no other structures, recreational areas or storage of hazardous material can exist.*

**RESPONSE:** The proposed Tower will be setback approximately 161' from the nearest property line. Although it does not control the use of the property outside of its leased area, the likelihood that additional structures, recreational uses or storage of hazardous materials would occur within the area defined as twice the tower height is unlikely. Moreover, Tower will be designed to substantially reduce the risk of collapse. It will meet the Electronics Industry Alliance / Telecommunications Industry Association Standard 222-G, otherwise known as the EIA/TIA 222-G and referred to as the G-Standard, which is applicable to towers and other antenna support structures and is accredited by the American National Standards Institute.

*1.10. Co-location Requirements:*

**RESPONSE:** Based on review by AT&T's engineers, there are no towers or other communications structures within the immediate vicinity of this area of U.S. Route 4 in Mendon with sufficient height to obviate the need for the Facility. In addition, no alternative structure such as a water tank, high-rise building, silo, or other non-communications structure has been identified in the area that could achieve comparable coverage to the proposed Project. The Tower is designed to an optimum height necessary to achieve AT&T's coverage objective, and will be designed to accommodate at least three additional wireless carrier collocations with configurations similar to AT&T's antenna array.

*1.11 Access Roads and Above Ground Facilities:*

**RESPONSE:** The Project relies on the existing forest to use existing contours of the land as much as possible for screening the Facility from portions of U.S. Route 4, while also ensuring reliable wireless service in the area.

*1.12 Tower and Antenna Design Requirements:*

**RESPONSE:** AT&T's proposed Facility is designed to blend into the surrounding environment with minimal disruption to existing vegetation and resources. The proposed Tower will extend more than 20 feet above the average height of the tree line, which is approximately 69' tall. AT&T submits that the proposed elevation is necessary to provide adequate capacity and coverage, as well as facilitating co-location of at least three additional wireless carriers in the area.

AT&T has attempted to locate its Facility in an area that both ensures coverage along roadways and in areas of population concentration, while also keeping in mind the need to avoid unreasonable interference with significant public views. The Facility is not located in the vicinity of any public parks, natural scenic vistas, or historic districts. As demonstrated by the predictive viewshed map and photographic simulations prepared by Virtual Site Simulations, LLC and provided as Exhibit C, the Project will have an insignificant effect on the overall appearance of the area.

*1.14 Tower Lighting and Signs; Noise Generated by Facility:*

**RESPONSE:** The proposed Tower should not require lighting under the applicable FAA regulations. Petitioner will complete an aeronautics study confirming that no lighting is required, and will include the report in the 248a Petition filed with the PUC. With respect to signage, AT&T will install signage on or within its equipment cabinet as required pursuant to applicable FCC regulations and guidelines. The Facility will not generate undue noise. The only noise associated with the site will be generator “start tests” that will take place roughly once a week for a half hour during daylight hours. The generator would otherwise only run during a prolonged outage.

*1.16 Continuing Obligations: Upon receiving a permit, the permittee shall demonstrate annually by testing that he or she is in compliance with all FCC standards and requirements regarding radio frequency exposure and provide to the Board in writing the basis for his or her representations. (Submission of measurements assumes that they were necessary to demonstrate compliance. Most compliance can be established by other means.) Failure to comply with continuing obligations will make the operator subject to fines by the Town of Mendon.*

**RESPONSE:** The Facility will comply with FCC standards regarding radiofrequency emissions. Petitioner will include in the Petition filed with the PUC a Maximum Permissible Exposure Study, documenting the Facility’s compliance with the FCC’s safety threshold for both general and occupational safety.

*1.17-1.19 Insurance, Maintenance and Removal Facility Removal:*

**RESPONSE:** AT&T is obligated under its agreement with the landowner to remove the Facility should it be abandoned or cease to operate. AT&T is also required to maintain adequate insurance for general casualty and property damage associated with the Facility.

3. Rutland Regional Plan

The Rutland Regional Plan, adopted June 19, 2018 (the “Regional Plan”) recognizes that access to broadband internet connectivity, emergency radio service, and consistent wireless communications services for voice and data have become increasingly important to residents, schools, colleges, institutions, local business, emergency responders, and visitors to the region. Regional Plan at 196. The Regional Plan also recognizes that through careful siting of wireless communication infrastructure, including siting infrastructure on existing towers, concerns about adverse impacts to natural and scenic resources can be minimized. Id. at 198. Siting the proposed Facility will advance the goals set forth in the Regional Plan. The Project will directly advance these goals 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 Mendon, while making available the FirstNet network to Rutland County’s first responders.



IV. Opportunity to Comment; Contact for More Information

As a recipient of this notice, you or your organization will be notified when the petition is filed with the PUC, which will be at least 60 days from the date the PUC receives this notice. During the 60-day period, should you have any questions relating to the Project, please direct all inquiries and/or comments to Jennille Smith, at (774) 409-5807 or email to [jsmith@clinellc.com](mailto:jsmith@clinellc.com). I can be reached at the telephone number and/or email provided in the letterhead above.

Once AT&T's petition has been accepted for filing by with the PUC, any interested person may submit comments and/or seek to intervene in the proceeding within 30 days of the receipt of the notification that the petition has been filed, as further outlined in the links to the PUC siting guidance reference on Attachment A. Thank you in advance for your attention to this important project.

Sincerely,



Elizabeth Köhler

cc: Service List

Jeff DelliColli, Simon Brighenti, and Jennille Smith, Centerline Communications (via email)



**MUNICIPAL AND REGIONAL REPRESENTATIVES / OFFICIALS**

<p><b><i>Via US Mail</i></b>  Mendon Selectboard  Attn: Richard Wilcox, Chair  2282 US RTE 4  Mendon, VT 05701</p>	<p><b><i>Via U.S. Mail</i></b>  Mendon Planning Commission  Attn: Teri Corsones, Chair  2282 US RTE 4  Mendon, VT 05701</p>
<p><b><i>Via Email and U.S. Mail</i></b>  Rutland Regional Planning Commission  Attn: Ed Bove, Executive Director  PO Box 965, 67 Merchants Row  Rutland, VT 05702  ebove@rutlandrpc.org</p>	

**LANDOWNER AND ADJOINING LANDOWNERS (VIA U.S. MAIL ONLY)**

<p>Site Land Owner - Parcel ID: 06-02-11.006 and also 06-02-21.000   Skybrooke Enterprises, LLC  75 Edgerton Street  Rutland, VT 05701</p>	
<p>Parcel ID: 03-02-39.000   Josiane Delepine  125 Medway Road  Mendon, VT 05701</p>	<p>Parcel ID: 03-02-60.000   John and Judy Stansbury  240 Medway Road  Mendon, VT 05701-6715</p>
<p>Parcel ID: 06-02-11.000   Steven Hicks formerly Chimayo LLC  28 Ampere Avenue  Ludlow, MA 01056</p>	<p>Parcel ID: 06-02-11.004   Michael Khilkin &amp; Juliana Secches  525 East 14<sup>th</sup> St. Apt 10H  New York, NY 00009</p>
<p>Parcel ID: 06-02-11.005   Andrew and Shannon Weinberg  320 Old Stockbridge Path  Mendon, VT 05701</p>	<p>Parcel ID: 06-02-15.000 &amp; 07-00-36.000   Rutland City  PO Box 969  Rutland, VT 05702</p>

**STATE OFFICIALS**

Vermont Public Utility Commission (via ePUC)	Vermont Agency of Transportation (via ePUC)
Vermont Agency of Natural Resources (via ePUC)	Vermont Division for Historic Preservation (via ePUC)
Vermont Department of Public Service (via ePUC)	

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