



**Adirondack
Park Agency**

General Permit 2023G-1

**Telecommunications:
Eligible Facilities Requests**

October 11, 2023

Presentation Topics

- Overview
- Draft General Permit 2023G-1
 - Associated Documents
- Board Approval Process
- SEQRA
- Public Comment
 - Agency Response / Document Revisions
- Board Action

Telecommunications Permit Applications

- **Major Project** (e.g., new tower)
 - General Information Request (GIR)
 - Supplemental Information Request (SIR) for Telecommunications
- **General Permit** for Co-Location – effective 2005
 - Vertical co-location
- **General Permit** for Additional Tower – effective 2010
 - Horizontal co-location
- **General Permit** for Eligible Facilities Requests – **draft 2023**

What is a General Permit?

- General Permit (GP) / Order
 - Authority in 9 NYCRR 572.23
 - Requisite statutory findings on a general basis
 - Expedited process for projects that meet a certain set of criteria
 - Recorded in every county in the Park

- GP Application

- GP Certificate
 - Issued if the application meets the criteria
 - Subject to standard and project-specific conditions

What is an Eligible Facilities Request (EFR)?

- Section 6409 of the Spectrum Act of 2012; implementing regulations at 47 CFR 1.6100; FCC Rulings and Orders
- An eligible facilities request is:
 1. A proposed modification to an ***existing*** wireless tower or base station
 2. That does not **substantially change** the physical dimensions of such tower or base station; and
 3. Involves co-location, removal, or replacement of transmission equipment.

GP2023G-1 Application

Height

Appurtenances

Equipment Cabinets

Height

6. For towers not in public rights-of-way, provide the following:

- a. Percent increase in height of the proposed modification over the existing structure _____
- b. The separation distance between the highest proposed antennas and the location of the existing antennas (measure in feet from the top of the existing antennas to the bottom of the proposed highest antennas).

7. For other eligible support structures (base stations not in public rights-of-way, or towers and base stations in public rights-of-way), provide the increase in height of the modification over the existing structure in both percentage and feet.

_____ %
_____ feet

Appurtenances

8. For towers not in public rights-of-way, if the modification adds an appurtenance to the body of the tower, provide:

- a. The width (in feet) of the tower at the level of the appurtenance: _____; and

Page 5 of 9

GP 2023G-1 Application, Rev XXXXX/23

b. The distance (in feet) by which the appurtenance would protrude from the edge of the tower: _____

9. For other eligible support structures (base stations not in public rights-of-way, or towers and base stations in public rights-of-way), provide the distance (in feet) by which the appurtenance would protrude from the edge of the structure: _____

Equipment Cabinets

10. For any eligible support structure, provide the number of new equipment cabinets, if any, proposed to be installed: _____.

11. For towers in public rights-of-way and base stations, if there are no pre-existing ground cabinets associated with the structure, provide the number of new equipment cabinets on the ground, if any, proposed to be installed: _____.

12. For towers in public rights-of-way and base stations, if there are pre-existing ground cabinets, provide the increase in height (in feet) and overall volume of the additional ground cabinets compared to the height and overall volume of the existing ground cabinets: _____ feet / _____ square feet.

GP2023G-1 Application

Site boundary

Concealment elements

Siting conditions

Site Boundary

13. For any eligible support structure, provide the maximum distance of proposed excavation or deployment, if any, beyond the existing site boundary: _____

Concealment Elements

14. Describe the concealment element(s), if any, of the existing structure. "Concealment element" means any part of the facility intended to make a structure look like something other than a wireless facility.

15. Describe any proposed visual screening, including but not limited to, vegetative screening, that will be employed to conceal any proposed new ground equipment and/or cabinets, if applicable.

Conditions Associated with Siting Approval

16. Provide the permit conditions, if any, on the existing facility relating to improving aesthetics or minimizing visual impacts.

Page 6 of 9

GP 2023G-1 Application, Rev XXXXX23

17. If the proposed modification will alter the previously permitted condition, please describe alternative considered to avoid or minimize such alterations and why these alternatives were not proposed.

Approval Process GP2023G-1

- August Agency Meeting
 - Resolution approved to provide notice and hold a 30-day comment period on the draft General Permit 2023G-1

- SEQRA Review

- Public Comment Period
 - Through September 29, 2023
 - 7 comments received

- October Board Meeting (this meeting)
 - Report on public comments and Agency responses
 - Consider approving issuance of GP 2023G-1

Draft Order

General Permit 2023G-1 “Certain Modifications of Existing Wireless Towers or Base Stations (Eligible Facilities Requests)” will:

- a. be available for ***use throughout the Adirondack Park***;
- b. ***be effective from the date of issuance*** unless otherwise modified or revoked by the Agency;
- c. ***authorize jurisdictional activities*** pursuant to §§ 809(2)(a) and 810(1) of the APA Act, and 9 NYCRR §§ 572 and 574;
- d. ***allow for certain modifications of existing wireless towers or base stations*** that do not substantially change the physical dimensions of such towers or base stations and involves co-location, removal, or replacement of transmission equipment. These modifications may only occur on any existing wireless towers or base stations and are frequently undertaken by telecommunications and tower companies;
- e. ***include relevant mitigating conditions and conclusions of law***, as specified in the general permit; and
- f. ***include procedures for the issuance of a certificate*** pursuant to the general permit, as specified in the general permit.

SEQRA

- ✓ Type I Action - Complete
- ✓ Lead Agency Declaration - Complete
- ✓ Public Notice #1 - Complete
- ✓ Coordinated SEQRA Review – Complete
- ✓ Environmental Assessment Form (EAF) Parts II & III – Complete
- ✓ Determination of Significance (“Neg Dec”) - Complete
 - Board Approval of General Permit
 - Public Notice #2

SEQRA – Full EAF Parts II & III

- Part II: Identified potential for moderate to large impacts that might result from the GP
- Part III: Quantified those potential impacts
- Part III: Identified mitigation measures, which include:
 - GP Applies only to certain modifications of existing towers
 - Proposed modifications will comply with all the requirements of an EFR as defined under 6409 of the Spectrum Act
 - Any modification that defeats a concealment element will be considered a substantial change and cannot be covered by the permit
 - To the extent not preempted by federal law, APA will impose (via the Certificate) additional conditions designed to avoid any remaining significant adverse environmental impacts.

SEQRA – Determination of Significance

- When determining significance, the Agency relied upon:
 - The analysis in the Full EAF;
 - Draft General Permit;
 - Draft General Permit Application;
 - Draft Certificate;
 - Section 6409 of the Spectrum Act of 2012;
 - FCC regulations at 47 CFR 1.6100; and
 - FCC rulings and orders.

- Negative Declaration of Significant Adverse Environmental Impact adopted by the Executive Director on October 4, 2023

Public Comment and Agency Responses/ Revisions

Seven Comment Letters Received

- Cell Carriers (3)
 - Verizon Wireless
 - T-Mobile
 - AT&T
- Cellular Industry (1 joint comment)
 - Wireless Infrastructure Association & New York State Wireless Association
- Environmental Groups (2)
 - Adirondack Council
 - Protect the Adirondacks!
- Private individual (1)

Comment Letter Topics

- Telecommunications Authorization Form
- Towers Policy
- General Permit 2023G-1

General Permit Application – Landowner Signature Requirement

Overview

- Local agencies “may not deny and shall approve” an EFR.
- Shot clock: EFRs granted within 60 days of receipt of the request.
- The shot clock commences when the applicant takes the “first procedural step,” which is “submission of the type of filing that is typically required to initiate a standard zoning or siting review of a proposed deployment” that is not an EFR.

General Permit Application – Landowner Signature Requirement

Overview

- FCC: “*In taking the first procedural step* that the local jurisdiction requires as part of its applicable regulatory review process, *applicants demonstrate that they are complying with a local government's procedures.*”
- APA regulations: Applications “*shall contain the signatures of the owners of record of the land involved.*” 9 NYCRR 572.4(a)(1).

General Permit Application – Landowner Signature Requirement

Comments

- APA cannot ask for information beyond what is necessary to determine if the modification is an EFR.
- The landowner signature requirement can become an undue burden.
- Landowner signature requirement is an item that is beyond an applicant's direct control.
- APA should accept the first and signature pages of the existing, fully executed lease agreement between the facility owner and the underlying property owner in lieu of landowner signatures.

General Permit Application – Landowner Signature Requirement

Response

- Pursuant to Agency regulations, applications “shall contain the signatures of the owners of record of the land involved.”
9 NYCRR 572.4(a)(1)
- Not beyond the applicant’s direct control.
- APA is not in the position to interpret lease agreements.

EFR Definitions & Requirements – Shot Clock

Comment

- A wireless carrier suggested we clarify that the 60-day shot clock applies upon receipt of any application, but that it pauses upon timely issuance of a Notice of Incomplete Application.

Response / revision

- Revised to: “Pursuant to FCC regulations, the Agency must make a final decision on EFR applications within 60 calendar days from receipt of the ~~completed~~ **signed** application.”
- Request for additional information tolls the shot clock

General Permit Application – Attachment H: Other Permits

Comment

- A wireless carrier suggested that these materials should only be necessary for permit issuance, rather than at permit submittal

Response / revision

- “*Absent prior Agency approval of the existing tower or base station, provide permits, permit applications, agency contact information, and other correspondence if applicable...*”

EFR Definitions & Requirements – Stealth Design/Concealment Elements

Comment

- Wireless carrier: eliminate the term “stealth-designed” from Sec. 3(E)(10) because it’s a subjective term.
- Environmental group: Should give examples of when a tower has been approved to look like something else... to give clearer direction to applicants ... about what is considered a “concealment element.”

Response

- FCC: “Concealment element means an element that is part of a stealth-designed facility intended to make a structure look like something other than a wireless facility, and that was part of a prior approval.”

EFR Definitions & Requirements – Height Requirement

Comment

- A wireless carrier also noted that height increases are “as measured from the top of an existing antenna to the bottom of a proposed new antenna on the top of a tower.”

Response / revision

- Language already in the General Permit application.
- Added to the Definitions & Requirements document.

EFR Definitions & Requirements – Substantial Change

Comment

- An environmental group wanted to ensure clarity that if any of the parameters describing substantial change are met, that the facility will not be considered an eligible facility. ...including conditions associated with prior siting approvals.

Response / revision

- “A modification substantially changes the physical dimensions of an eligible support structure if it meets **any** of the following criteria...”
- The Agency can enforce a condition associated with siting approval if the provider reasonably could comply with, and meet, the purpose of the condition.

EFR Application & Certificate – Local Authority

Comment

- A modification is not an EFR if it “violate[s] conditions previously imposed by the local zoning authority.”

Response

- Agency staff agree.
 - EFR application asks about previous siting conditions.
 - EFR permit/order makes the Agency’s standard findings and conditions “to the extent not preempted by federal laws and regulations.”

GP Process – Public Notice

Comment

- Each EFR application should include notice to the public in the Environmental Notice Bulletin that the EFR application has been submitted to the APA and allow for public comment before issuing the EFR certificate.

Response

- Public comment period is held before adoption of General Permit, as just occurred and summarized today.
- No public comment period on individual uses of the General Permit, for this or any other GP.
- Time limited – to expedite review and comply with FCC shot clock.
- Do have public comment period for each major project permit application.

Statement of Concern

Environmental Group

Comment

- “Concerned that the proposed General Permit has the potential to undermine thoughtful planning and permitting that protect the Adirondack Park’s important scenic resources from the adverse impacts of visible cell towers and other communications structures.”

Response

- General Permit creates a streamlined process for FCC requirements that already exist.
- Thorough review of new wireless facilities and substantial modification of existing wireless facilities is unchanged.

Statements of Support

Wireless Infrastructure Association (WIA) & NYS Wireless Association (NYSWA):

- “The EFR Proposal is an appreciated update to the APA’s rules that will clarify and harmonize APA procedure with Federal rules which have proven to promote the rapid deployment of telecommunications infrastructure.”
- “By making the permitting process in the Adirondack Park more consistent and predictable the APA will also actively encourage investment and network deployment.”

Statements of Support

Environmental Group

- “The Council would like to elevate the impressive 25-day average turn-around time for wireless communications permit review that the Adirondack Park Agency staff are able to achieve. In addition, to date, the Agency has never rejected a signed permit application, a true testament to the staff’s review process and to [policies] allowing for appropriately sited development without compromising the wild character of the Adirondacks.”

For Board Action

For Board Action today



General Permit ready for use after recording in each County Clerk's Office within the Park

Summary & Looking Ahead

Summary / Looking Ahead

- Dual Goal
 - Support improved cell coverage
 - Maintain Park's scenic character

- Moving Forward
 - Continue review of applications for new towers
 - Work with others to share knowledge of service gaps, co-location opportunities, and available funding



**Adirondack
Park Agency**

General Permit 2023G-1

**Telecommunications:
Eligible Facilities Requests**

October 11, 2023