

DOCKET NO. 335 – MetroCast Communications of Connecticut, LLC application for a Certificate of Environmental Compatibility and Public Need for the Expansion of its existing CATV Headend facility located at 689 Old Colchester Road, Uncasville-Montville, Connecticut. } Connecticut
 } Siting
 } Council

July 26, 2007

Findings of Fact

Introduction

1. Pursuant to Chapter 277a, Sections 16-50g et seq. of the Connecticut General Statutes (CGS), as amended, and Section 16-50j-1 et. seq. of the Regulations of Connecticut State Agencies (RCSA), MetroCast Communications of Connecticut, LLC (MetroCast) applied to the Connecticut Siting Council (Council) on April 13, 2007 to modify an existing community antenna television (CATV) headend facility located at 689 Old Colchester Road in the Town of Montville, Connecticut. (MetroCast 1, p. 1, 10)
2. MetroCast Communications of Connecticut, LLC was formed under the laws of the State of Delaware and is doing business as MetroCast Communications. Its principal place of business is 61 Myrock Avenue, Waterford, Connecticut. MetroCast is a public service company and a CATV company within the meaning of Sections 16-1 and 16-331 of the CGS. (MetroCast 1, p. 2)
3. Since September 1, 2006, MetroCast has held a Certificate of Public Convenience and Necessity issued by the Connecticut Department of Public Utility Control (DPUC) to operate a CATV system serving a franchise area consisting of the Towns of East Lyme, Griswold, Killingly, Montville, New London, Plainfield, Putnam, Sterling, and Waterford. (MetroCast 1, p. 2)
4. The party in this proceeding is the applicant. (Transcript, June 14, 2007, 3:00 p.m. [Tr. 1], p. 48)
5. MetroCast seeks to add nine satellite dishes (or “earth stations”) and install headend electronic equipment at its existing facility. MetroCast would also include its existing CATV tower on the site as part of its application, thereby providing the Council with jurisdiction over it. (MetroCast 1, pp. 1-2)
6. The addition of nine satellite dishes to its facility on Old Colchester Road would eliminate the need to use earth stations currently located at MetroCast’s Myrock Avenue office. (MetroCast 1, pp. 2-3)
7. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on June 14, 2007, beginning at 3:00 p.m. and continuing at 7:00 p.m. in Montville, Connecticut. (Tr. 1, p. 2 ff.)

8. The Council and its staff conducted an inspection of the site property on June 14, 2007, beginning at 2:00 p.m. (Tr. 1, p. 17 ff.)
9. Pursuant to CGS § 16-50(b), notice of MetroCast's intent to submit this application was published on April 10 and 12, 2007 in The New London Day. (MetroCast 1, Exhibit 4)
10. MetroCast published an additional notice in the Montville Times on June 7, 2007. (Tr. 1, p. 38)
11. In accordance with CGS § 16-50(b), MetroCast sent notices of its intent to file an application with the Council to each person appearing of record as owner of property abutting the property on which the site is located. (MetroCast 1, p. 4; Exhibit 5)
12. MetroCast received return receipts from 19 of the 20 abutting property owners to whom notices were sent. On May 15, 2007 MetroCast sent a regular delivery letter to the one property owner who did not claim the original certified letter. (MetroCast 2, CSC-01 Answer)
13. Pursuant to CGS § 16-50/ (b), MetroCast provided notice to all federal, state and local officials and agencies listed therein. (MetroCast 1, p. 4; Exhibit 3)
14. MetroCast posted a sign on its property notifying the general public of its pending application. The sign was four feet by eight feet in size and was installed on May 29, 2007. (Tr. 1, pp. 23, 49)

State Agency Comments

15. Pursuant to CGS § 16-50l, the Council solicited comments on MetroCast's application from the following state departments and agencies: Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, and the Department of Transportation. The Council's letter requesting comments was sent on May 14, 2007. (CSC Hearing Package dated May 14, 2007)
16. The Connecticut Department of Public Health responded to the Council's solicitation with no comments. (DPH Memorandum dated April 27, 2007)
17. The Connecticut Department of Transportation responded to the Council's solicitation with no comments. (ConnDOT Letter dated June 7, 2007)
18. Comments were not received from any other state agency. (Record)

Municipal Consultation

19. In a letter dated March 12, 2007, MetroCast informed the Town of Montville of its intent to file an application with the Council and requested the town waive the requirement for its 60-day review period. Montville's Mayor, Joseph Jaskiewicz, signed an acknowledgement waiving the 60-day review requirement on April 5, 2007. (MetroCast 1, p. 5; Exhibit 20)
20. Representatives of MetroCast met with Mayor Jaskiewicz on March 30, 2007 to discuss the plans for its expanded facility. The town was provided with materials related to the planned expansion, including technical specifications of the proposed earth stations, a site plan, MetroCast's prospective channel lineup, the list of abutting property owners, and MetroCast's letters to the Connecticut's Department of Environmental Protection and State Historic Preservation Officer. (MetroCast 1, p. 5; Exhibit 8)
21. The Town of Montville submitted a letter in support of MetroCast's application. (MetroCast 1, Exhibit 9)

Public Need for Service

22. On August 21, 2006, the DPUC approved the transfer of the assets and Certificate of Public Convenience and Necessity of Eastern Connecticut Cable Television, Inc. to MetroCast. In making its decision, the DPUC concluded that the transfer of assets from Eastern Connecticut Cable Television to MetroCast was in the public interest. (MetroCast 1, Exhibit 13, p. 13)
23. As part of this transfer, the DPUC granted MetroCast a nine-year franchise term provided that the company complete a system-wide upgrade to no less than 860 megahertz (MHz) by March 1, 2009. (MetroCast 1, Exhibit 13)
24. MetroCast decided to surpass the DPUC's requirement and upgrade its system to one gigahertz (GHz). (Tr. 1, p. 19)
25. MetroCast's franchise area comprises the towns of East Lyme, Griswold, Killingly, Montville, New London, Plainfield, Putnam, Sterling, and Waterford. (MetroCast 1, p. 2)
26. MetroCast's system and the planned upgrades to it would improve system reliability and picture quality and would increase the quantity and diversity of programming and services available to subscribers. (MetroCast 1, p. 8)
27. According to MetroCast, the primary public benefit expected from the expansion of its facility is the ability to receive, process, and distribute additional satellite-delivered services. (MetroCast 1, p. 9)
28. MetroCast's planned expansion would also allow the company to enhance television picture reception quality, simplify and expedite maintenance procedures, and reduce costs. (MetroCast 1, p. 9)

29. MetroCast's planned expansion and system upgrade would cost about \$25 million. (Tr. 1, p. 20)

Site Selection

30. This site was selected because the company owns the property, which has existed as a CATV headend facility since 1972. (MetroCast 1, p. 2)
31. There is no technological alternative to a headend facility. MetroCast needs a suitable location to receive, process, and distribute via cable satellite transmissions. (MetroCast 1, p. 14)
32. MetroCast's other facility on Myrock Avenue in Waterford does not have adequate room to accommodate the system upgrade being proposed by the company. (MetroCast 1, pp. 14-15)
33. MetroCast's facility on Myrock Avenue in Waterford is inadequate for the reception of satellite-delivered programming. (MetroCast 1, p. 13)

Site Description

34. MetroCast's site is located on an 8.75 acre parcel at 689 Old Colchester Road in Montville. (MetroCast 1, p. 10; Exhibit 12; MetroCast 1, CSC-03 Answer)
35. MetroCast's property is located in an R-40 residential district. Wireless communications facilities are allowed in residential zones with the issuance of a special permit. (MetroCast 1, p. 11; Exhibit 17 – Montville Zoning Regulations)
36. There are residential neighborhoods to the north, northeast, south and west of MetroCast's site. (MetroCast 1, p. 11)
37. The nearest residence to MetroCast's facility is approximately 300 feet due south at 687 Old Colchester Road. It is owned by Ines Mazzei. (MetroCast 2, CSC-05 Answer)
38. MetroCast's site includes a 350-foot guyed lattice tower that was originally approved by the Montville Planning and Zoning Commission in 1972. The site has been operating as a headend site since this date. (MetroCast 1, p. 6)
39. The guyed lattice tower accommodates antennas that receive signals from off-air broadcasters as well as antennas for Verizon (formerly Bell Atlantic Mobile), Cingular (formerly SNET), Federal Express, U.S. Secret Service, and Page New England. (MetroCast 1, Amended Exhibit 21; Tr. 1, p. 25)

40. MetroCast would add nine satellite dishes/earth stations to its Old Colchester Road property. These dishes would be Prodelin 4.5 meter antennas made of glass fiber reinforced polyester. Once installed, the earth stations would be approximately 14 feet from pad level or 15 feet above ground level. The ground elevations where the earth stations would be installed would range from 490 to 495 feet above mean sea level. (MetroCast 1, p. 6; Exhibit 8)
41. The earth stations would be located approximately 500 feet from Old Colchester Road. (MetroCast 1, p. 7)
42. MetroCast would install a six-foot high chain link fence around its property after the installation of the earth stations and the completion of other related site improvements. (MetroCast 1, p. 7)
43. MetroCast would install a new 30-foot by 50-foot pre-cast concrete building to house headend equipment and to provide sufficient room for related on-site storage. The headend equipment would consist of various receivers, transmitters, signal processors, television modulators, and television demodulators involved with the reception, processing and distribution of satellite-delivered services. (MetroCast 1, p. 7)
44. One earth station would remain at MetroCast's facility on Myrock Avenue in Waterford to provide the capability of emergency satellite reception as well as reception of satellite programming that could be used for community access programming that originates from the Waterford site. (MetroCast 1, p. 3)
45. Vehicular access to the facility is from Old Colchester Road via a 15-foot wide gravel drive that was recently repacked and graveled. (MetroCast 1, p. 8; Tr. 1, p. 37)
46. MetroCast would like to pave its access road within the next couple of years to ensure its ability to access its equipment during inclement weather. (Tr. 1, p. 36)
47. MetroCast would upgrade its existing single phase electrical service to three-phase service in order to accommodate its greater anticipated air conditioning demands. (Tr. 1, p. 13)
48. At the time of application, MetroCast was using an on-site 40 kilo volt-ampere (KVA) generator for backup power. MetroCast would replace this unit with a 100 KVA generator to handle the increased load of the new satellite dishes. (MetroCast 2, CSC-08 Answer)
49. The costs of MetroCast's expanded facility would be as follows:

Equipment (Prodelin earth stations and related equipment)	\$343,000
Regulatory Approval Expenses	100,000
Construction Costs	175,000
<u>Engineering Costs</u>	<u>9,000</u>
Total	\$627,000

(MetroCast 1, Exhibit 2; MetroCast 2, CSC-07 Answer)

50. MetroCast would consolidate its technical facilities at Old Colchester Road by relocating some of its existing technical facilities from its administrative offices in Waterford. (Tr. 1, p. 20)

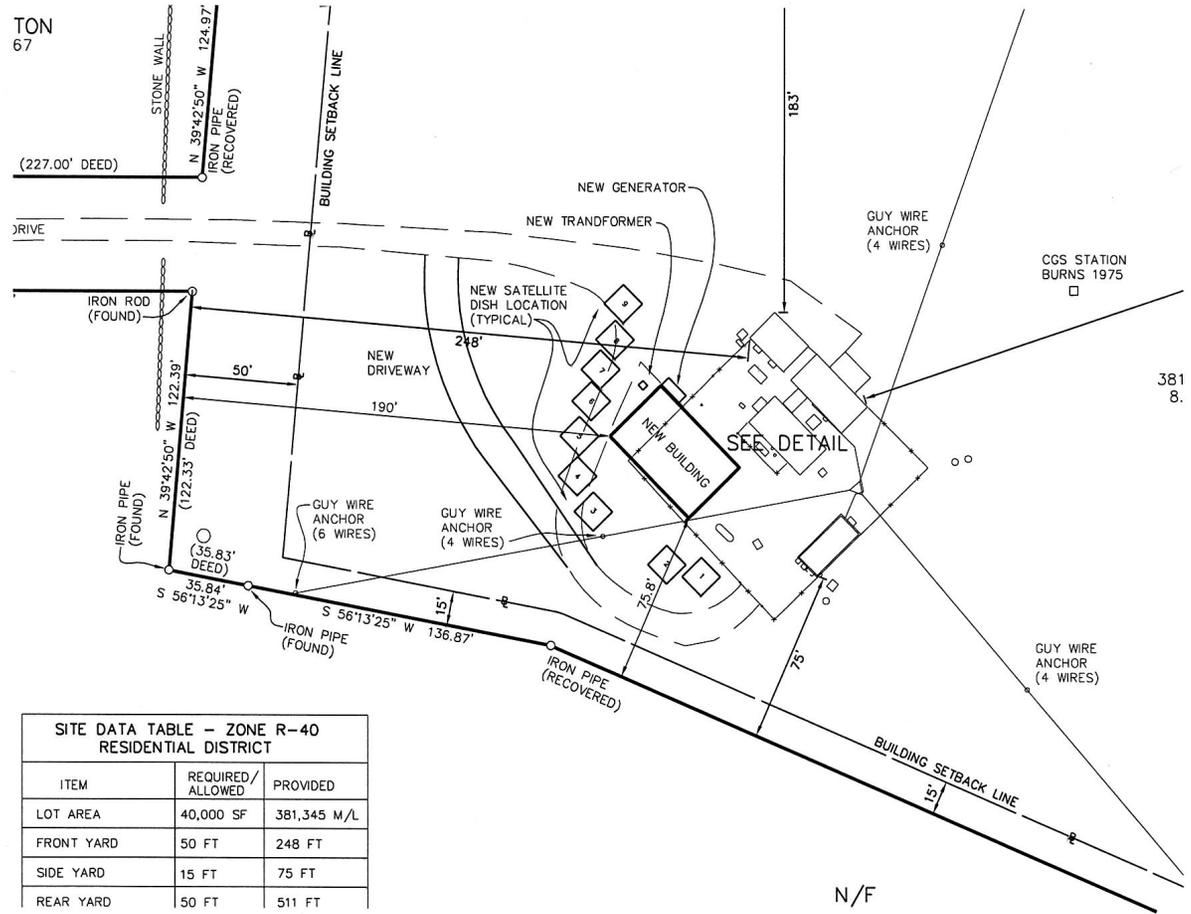
Environmental Considerations

51. The proposed facility expansion would have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (MetroCast 1, Exhibit 7 – Letter from SHPO dated April 9, 2007)
52. No known extant populations of Federal or State Endangered, Threatened or Special Concern Species occur at the site. (MetroCast 1, Exhibit 6 – Letter from DEP dated April 3, 2007)
53. There are no wetlands on any portion of the property. (MetroCast 1, p. 12)
54. The earth stations would only receive transmission signals. As a result, there would be no measurable increase in the facility's power density. (MetroCast 1, p. 7)
55. MetroCast would be willing to install landscaping around the proposed earth stations to lessen their visible impact. (Tr. 1, p. 37)

Service Provision

56. At the time of application, MetroCast offered 147 programming services on its cable system. The proposed upgrade would enable MetroCast to offer an additional 89 programming services, plus Video-On-Demand. (MetroCast 2, CSC-02 Answer)
57. At the time of application, MetroCast was receiving its programming from its CATV tower at 689 Old Colchester Road in Montville, via a fiber optic interconnection with an adjacent cable operator, and via satellite dishes at its offices at 61 Myrock Avenue in Waterford. (MetroCast 2, CSC-06 Answer)
58. The proposed earth stations would allow MetroCast to receive cable programming from the following satellites: AMC 1, AMC 3, AMC 10, AMC 11, Galaxy IR, Galaxy 10R, Galaxy 11, Galaxy 12, Galaxy 13, INTAM 13. (MetroCast 1, pp. 6-7)
59. The new services that MetroCast would offer its customers include digital telephone and Video-On-Demand. (Tr. 1, pp. 19-20)

Figure 1: Site Plan of MetroCast's Proposed Expansion



(MetroCast 1, Amended Exhibit 12)