

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF MCF
COMMUNICATIONS bg, INC. AND
OMNIPOINT COMMUNICATIONS, INC.
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 12 CARPENTER ROAD IN THE
TOWN OF BOLTON, CONNECTICUT

DOCKET NO. 323

DATE: APRIL 13, 2007

PROPOSED FINDINGS OF FACT

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, MCF Communications bg, Inc. and Omnipoint Communications, Inc. (the "Co-Applicants") submit these Proposed Findings of Fact ("Proposed Findings").

Introduction

1. The co-Applicants, in accordance with provisions of Connecticut General Statutes ("C.G.S.") §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the Regulations of Connecticut State Agencies ("R.C.S.A."), applied to the Connecticut Siting Council ("Council") on October 5, 2006 for a Certificate of Environmental Compatibility and Public Need ("Certificate") for the construction, operation and maintenance of a 130-foot monopole wireless telecommunications facility ("Facility") at 12 Carpenter Road, Bolton, Connecticut ("Site"). (App. at 1).
2. The purpose of the proposed Facility is to provide wireless coverage service to this area for Omnipoint Communications, Inc. ("T-Mobile"). (App. at 1, Exhibit F; T-Mobile Interrogatory Responses; Pre-Filed Testimony of Scott Heffernan ("Heffernan Testimony") at 3).
3. Both Sprint/Nextel Corporation ("Sprint/Nextel") and Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") intervened in this proceeding

because of their need for service in this area. (Sprint/Nextel's Notice of Intervention; Verizon Wireless' Notice of Intervention).

4. In order to satisfy Verizon Wireless's coverage needs in this area, Verizon Wireless required an extension of the proposed 130 foot Facility to 140 feet. (Verizon Wireless' Supplemental Information dated December 20, 2006).
5. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on Wednesday, January 24, 2007, beginning at 3:00 p.m., continued at 7:00 p.m., at the Town Hall of Waterbury, Community Room, 222 Bolton Center Road, Bolton, Connecticut and continued on Wednesday, March 14, 2007 at 10:00 a.m. at the Connecticut Siting Council, Hearing Room 1, 10 Franklin Square, New Britain, Connecticut ("Hearing"). (Hearing Notice; 3:00 p.m. Transcript ["Tr."] at 3; March 14th Tr. at 3).
6. The Council and its staff made an inspection of the Site on January 24, 2007 at 2:00 p.m. (Hearing Notice).
7. The co-Applicants flew a four foot red balloon at a height of 140 feet at the Site from 8:30 am to 4:30 pm on November 21, 2006. (7:00 p.m. Tr. at 8; Exhibit 5).
8. In addition, to accommodate the requests of several neighbors, the co-Applicants voluntarily flew a four foot red balloon at a height of 140 feet on Sunday, March 21, 2007 from approximately 8:00 a.m. until 1:00 p.m. (3:00 p.m. Tr. at 29-31).

Need

9. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services. Through the Federal Telecommunications Act of 1996 (the "Act"), Congress seeks to promote competition, reduce regulation to encourage technical innovation, and foster lower prices for wireless telecommunications services. The Act pre-empts any state or local determination of public need. (App. at 5-6; 3:00 p.m. Tr. at 4-5; Telecommunications Act of 1996).

10. A Facility at the Site will provide coverage for significant coverage gaps experienced by T-Mobile in Bolton specifically along Interstate I-384 ("I-384") and the surrounding area. (App. at 5-6, Exhibit F; Interrogatory Responses; Heffernan Testimony).
11. A Facility at the Site will provide coverage for significant coverage gaps experienced by Sprint/Nextel along I-384 and the surrounding area. (Sprint/Nextel Interrogatory Responses, March 14th Tr. at 47-63).
12. A Facility at the Site will provide coverage for significant coverage gaps experienced by Verizon along I-384 and the surrounding area. (Sprint/Nextel Interrogatory Responses; March 14th Tr. at 47-63).
13. Neighbors and town residents testified that there is a lack of coverage in the area, including along I-384 in the area. (3:00 Tr. at 12; 7:00 Tr. at 64).
14. A Facility at the Site will not alleviate T-Mobile's need for an additional site in Manchester located at 1027 Middle Turnpike to provide coverage for significant coverage gaps along Route 6/44. (March 10th Tr. at 56).

Coverage

15. T-Mobile testified that they need to locate at a height of 127 feet on this Facility to minimize the number and height of future telecommunications towers in this area. (Heffernan Testimony at 4).
16. Sprint/Nextel testified that they need to locate at a height of 117 feet on this Facility to minimize the number and height of future towers in this area. (Sprint/Nextel Interrogatory Responses).
17. Verizon Wireless testified that they need to locate at a height of 137 feet on this Facility to minimize the number and height of future towers in this area. (Verizon Wireless' Supplemental Information at 1, Exhibit 2).

Site Search

18. MCF determined that there were no existing structures of a suitable height or location from which the existing lack of coverage experienced by licensed telecommunications carriers in this area of Bolton could be remedied. Only after determining that there were no buildings or

structures of sufficient height in this area did MCF search for an appropriate location for a new telecommunications facility. (App. at 8-9; Pre-filed testimony of Brad Gannon ("Gannon Testimony") at 2-3).

19. MCF conducted a survey of property within the area to identify the best possible location to serve the needs of T-Mobile and other wireless carriers. MCF found that site selection in the area was limited by residential development throughout the area. Therefore, MCF focused its search efforts on large parcels. (Gannon Testimony at 3).
20. MCF considered numerous other parcels of land in the area of the proposed Facility. MCF investigated several large parcels owned by the Town of Manchester in the area that are classified as Class II Watershed land. The Town of Manchester indicated to MCF that it was not willing to change the classification of this land to permit the development of the Facility. (App. Exhibit H; Gannon Testimony at 3).
21. Neighbors and public officials from the Town of Bolton requested that MCF review eight additional possible alternative locations for the proposed Facility. (Council Exhibit 1; 7:00 Tr. at 22-23, 40-44; Interrogatory Responses, Question 42, Exhibit 8).
22. T-Mobile evaluated each of those eight possible alternative locations to determine the feasibility of utilizing those locations. T-Mobile determined that five of those sites (Liberty Candle, Quarry North, Quarry West, Birch Mountain, DOT Garage) would provide adequate coverage to the target area of Bolton but at heights substantially higher than the height at the proposed Site. The remaining three proposed alternative locations could not provide adequate coverage for T-Mobile to the target area. (Interrogatory Responses, Question 42, Exhibit 8).
23. MCF investigated those eight possible alternative locations to determine if those locations would be available for leasing and constructing the proposed Facility. (March 10th Tr. at 9-12).
24. Of the five proposed alternative locations that would allow T-Mobile to provide adequate coverage to the target area, three were not available for

lease or were not developable due to site access concerns (Quarry North, Quarry West, Birch Mountain). (March 10th Tr. at 10-11).

25. In order to develop a Facility at the Liberty Candle site, one of possible alternative locations proposed by local officials, the proposed Facility would need to be 240 feet tall in order for T-Mobile, Verizon Wireless and Sprint/Nextel to provide adequate coverage to the target area. (Interrogatory Responses at Question 42, Exhibit 8; March 10 Tr. at 64-65; March 10th Tr. at 81).
26. In order to develop a Facility at the DOT Garage site, one of possible alternative locations proposed by local officials, the proposed Facility would need to be 240 feet tall in order for T-Mobile and Verizon Wireless to provide adequate coverage to the target area. (Interrogatory Responses at Question 42, Exhibit 8; March 10th Tr. at 64-65).
27. The development of a Facility at the DOT Garage site would not allow Sprint/Nextel to provide adequate coverage to the target area and therefore would require Sprint/Nextel to develop a second Facility in the target area in order to provide adequate coverage. (March 10th Tr. at 76).

The Site

28. MCF proposes to construct the Facility in the northeastern portion of a 43 acre parcel of land owned by Terry Veo as Trustee, known as 12 Carpenter Road, Map 6, Lot 27 of the Bolton Tax Assessor's Map. (App. at 3, Exhibit A).
29. The Site is located partially in both the R-1 and R-2 residential zones. The Bolton Zoning Regulations (the "Regulations") do not prohibit wireless facilities in residential zones. (App. at 3, 10-16; Regulations §17).
30. The Site is currently developed with three residential structures. Large portions of the Site are undeveloped and wooded. (App. at 3; January 24th Site Review).
31. The area surrounding the Site is primarily composed of residential land and undeveloped watershed property owned by the Town of Manchester. (App. at Exhibit H, Gannon Testimony).

32. The proposed Facility has been designed to accommodate T-Mobile, Sprint/Nextel, Verizon Wireless and the equipment of one (1) other telecommunications carrier as well as the Town of Bolton emergency services equipment, if requested. (App. at 2, Exhibit A; Revised Tower Elevation (Applicants' Exhibit 4)).
33. The Facility will accommodate the antennas and equipment of Verizon at a height of 137 feet AGL, T-Mobile at a height of 127 feet AGL, Sprint/Nextel at 117 feet AGL and one other carrier at 107 feet AGL. (App. Exhibit A; Revised Tower Elevation).
34. The 70 foot by 70 foot compound area at the base of the Facility will include locations for T-Mobile, Verizon, Sprint/Nextel, and the equipment of one (1) other telecommunications carrier. The compound will be enclosed by a new eight-foot chain-link fence. (App. at 9, Exhibit A).
35. Vehicular access is proposed over an existing driveway off of Carpenter Road and a new gravel driveway of approximately 460 feet in length. (App. at 9, Exhibit A).
36. Utility service will run underground from existing utility service currently serving the existing office building on the Property. No water or sanitary facilities are required and, once built, the Facility will generate minimal traffic because each of the co-locating entities will only need to visit the Site about once a month to perform routine maintenance and inspection. (App. at 9-11, Exhibit A).
37. The total estimated cost of the proposed Facility is approximately \$285,473. The total duration of the construction would be approximately six weeks. (App. at 20).

Municipal Consultation

38. MCF first met with the Town of Manchester and Town of Bolton on June 8, 2006. (App. at 18).
39. The Town of Manchester indicated that did not have any comments to the proposed Facility. (App. at 18).

40. The Town of Bolton raised several concerns, all of which were addressed in the Application. (App. at 18).

Environmental Considerations

41. The Site contains no known existing populations of Federal or State Endangered, Threatened or Special Concern Species, according to the Connecticut Department of Environmental Protection Diversity Database. (App. at 20, Exhibit N; March 14th Tr. at 34-46).
42. The proposed development will not directly or indirectly affect any wetlands or watercourses. (App. at 13, Exhibit J).
43. The State Historic Preservation Officer (SHPO) has determined that the construction of the Facility will not have an effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (App. at 13, Exhibit L).
44. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Facility would not require marking or lighting. (App. at 19, Exhibit P; Verizon Wireless' Supplemental Information at Exhibit 4).
45. There would be no impact any known scenic, historic or recreational areas. (App. at Exhibit K).
46. Studies prepared by T-Mobile, Verizon Wireless and Sprint/Nextel indicate that maximum emissions levels from the proposed Facility would be less than 20% of the safety criteria adopted by the FCC. (App. at Exhibit M; Verizon Wireless' Interrogatory Responses; Sprint/Nextel's Interrogatory Responses).

Visibility

47. The Facility is proposed to be located at the Site in order to minimize impact to residential receptors; the Facility will be located as low as it can be while still providing the necessary coverage to the area. The topography and the mature vegetation at the Site will significantly limit the visual impact of the Facility. (App. at 11-12, Exhibit K).
48. The proposed Facility will be visible from only 37 acres within a two-

- mile radius of the tower, which is less than one half of one percent (>.5%) of the study area. (App. at 11, Exhibit K).
49. Views from the Facility are expected to be limited to primarily within 0.5 miles of the Facility. (Interrogatory Responses at Exhibit 3).
50. The compound area will have a de minimis visual impact as it will be screened by the proposed fencing as well as the vegetative screening provided by the existing vegetation at the Site. (App. at 12, Exhibit K).
51. The ten-foot extension requested by Verizon Wireless will not result in a significant increase in the visual impact of the proposed Facility. (March 10th Tr. at 55).
52. The visibility of a proposed Facility at either the DOT Garage site or Liberty Candle site, both possible alternative sites proposed by neighbors/local officials, would be far greater than the anticipated visibility from the Site. (March 10th Tr. at 44-46).

Towersharing

53. This Facility will provide co-location opportunities for public safety communications systems and four (4) wireless carriers, thus avoiding the proliferation of towers.

MCF COMMUNICATIONS BG, INC.
OMNIPOINT COMMUNICATIONS, INC.

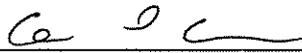
By: 
Attorneys for the Applicants
Julie D. Kohler, Esq.
jkohler@cohenandwolf.com
Carrie L. Larson, Esq.
clarson@cohenandwolf.com
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604
Tel. (203) 368-0211
Fax (203) 394-9901

Certification

This is to certify that a copy of the foregoing has been mailed, this date to all parties and intervenors of record.

Thomas J. Regan
Brown Rudnick Berlack Israels LLP
City Place I, 185 Asylum Street
Hartford, CT 06103-3402

Kenneth C. Baldwin
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103-3597



Carrie L. Larson