

CONNECTICUT SITING COUNCIL

IN THE MATTER OF:

DOCKET NO. 355

AN APPLICATION OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT THE NORTHVILLE VOLUNTEER FIRE DEPARTMENT PROPERTY, 359 LITCHFIELD ROAD, NEW MILFORD, CONNECTICUT

AND

DOCKET NO. 342

AN APPLICATION OF OPTASITE TOWERS LLC AND OMNIPOINT COMMUNICATIONS, INC. FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 425 LITCHFIELD ROAD, NEW MILFORD, CONNECTICUT

POST HEARING BRIEF

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I. INTRODUCTION

On December 7, 2007, Cellco Partnership d/b/a Verizon Wireless (“Cellco” or “Applicant”) filed with the Connecticut Siting Council (“Council”) an application (the “Cellco Application”) for a certificate of environmental compatibility and public need (“Certificate”), pursuant to Sections 16-50g *et seq.* of the Connecticut General Statutes (“Conn. Gen. Stat.”), for the construction, maintenance and operation of a wireless telecommunications facility on property owned by the Northville Volunteer Fire Department (“NVFD”) at 359 Litchfield Road (Route 202), in the Northville section of the Town of New Milford, Connecticut (the “NVFD Property”). (Cellco Exhibit 1 (“Cellco 1”). Cellco’s proposed tower site (the “NVFD Facility”) would provide much needed coverage along Route 202, portions of Route 109, and local roadways in the Northville section of the Town of New Milford (“Town” or “Northville”). (Cellco 1, pp. 1-2 and 7). Cellco currently experiences a 1.7 mile gap in reliable wireless service along Route 202 and a 0.5 mile gap in reliable service along Route 109 in Northville, between its existing New Milford and New Milford East cell sites and its recently approved Washington North cell site. (Cellco 1, p. 2, Tab 7). These significant coverage problems must be resolved in order for Cellco to continue to provide high-quality, uninterrupted, reliable wireless telecommunications coverage within its service area consistent with its Federal Communications Commission (“FCC”) license and the demands of its customers. (Cellco 1, pp. 5-7).

On or about June 22, 2007, Optasite Towers LLC (“Optasite”), a tower company, and Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc. (“T-Mobile”), a wireless service provider, filed an Application for a Certificate with the Council (the “Optasite Application”) to construct a telecommunications tower, on private property, at 425 Litchfield Road in Northville

(the "Optasite Facility"). (Optasite 1). The Optasite Facility is located approximately ½ mile to the northeast of the NVFD Facility.

The Optasite Facility would provide T-Mobile with coverage along Route 202 in Northville connecting with coverage from its existing New Milford cell site off Russeling Road to the southwest. T-Mobile's next cell site along Route 202 to the northeast is approximately 18 miles away somewhere in the City of Torrington. T-Mobile has no plans, no candidates and no funded or unfunded search areas for any new cell sites to the northeast along Route 202 beyond the facility proposed by Optasite in Northville. (Optasite 1, pp. 5-6, Tab G).

Cellco has presented, for the Council's consideration, a cell site location that would satisfy its coverage objective along Route 202 and portions of Route 109 in Northville. The proposed NVFD Facility tower would support Cellco antennas and emergency service antennas owned and operated by the NVFD and Town. The NVFD Facility would also be designed to support antennas of additional wireless carriers, including T-Mobile, an intervenor in Cellco's Docket No. 355. (Cellco 1, pp. 2 and 10-11). Likewise, the Optasite Facility would satisfy T-Mobile's coverage objectives along Route 202 and could support T-Mobile, additional wireless carriers, including Cellco and Town emergency service antennas. (Optasite 1, pp. 5-6 and 9).

The Council commenced a hearing on the Optasite Application on September 10, 2007. On March 11, 2008, the Council commenced the hearing on the Cellco Application and reopened the hearing on the Optasite Application. The combined hearing on the Cellco and Optasite Facilities was continued on April 4, 2008. (3/11/08 Afternoon Transcript ("Tr. 1"), p. 3; 3/11/08 Evening Transcript ("Tr. 2") p. 3; 4/4/08 Transcript ("Tr. 3"), p. 4). Prior to the March 11, 2008 hearing, the Council and its staff visited the NVFD site. At the Council's request, Cellco caused a balloon, with a diameter of approximately four feet, to be flown during the March 11, 2008 site visit at the

proposed cell site location between approximately 8:00 a.m. and 5:00 p.m. The balloon was raised to an overall height of 153 feet, representing the top of Cellco's proposed antenna at the top of the NVFD tower. (Cellco 1, p. 13).

This Post-Hearing Brief is filed on Cellco's behalf pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies ("R.C.S.A.") and the Council's directives. (Tr. 3, p. 95). This brief evaluates the Cellco Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes. Where appropriate, this brief also compares the NVFD Facility and the Optasite Facility regarding issues of need, the ability of each wireless carrier to satisfy their need and the overall environmental effects of each proposed facility.

II. FACTUAL BACKGROUND

A. Pre-Application History

Cellco currently provides its customers with limited reliable wireless service in Northville. What coverage Cellco has in Northville today, extends into the area from Cellco's New Milford Facility at 4 Elkington Farms Road in New Milford; Cellco's New Milford East Facility at 399 Chestnut Land Road in New Milford; and its recently approved Washington North Facility at 6 Mountain Road in Washington, Connecticut.¹ (Cellco 1, p. 2, Tab 7). Cellco currently experiences a 1.7 mile gap in reliable service along Route 202 and a 0.5 mile gap in reliable service along Route 109 in Northville. (Cellco 1, pp. 1-2 and 7, Tab 7). As discussed at the March 11, 2008 hearing, Cellco's coverage objectives for the NVFD Facility is to fill these existing gaps, primarily along Route 202. In fact, once operational, the NVFD Facility would provide Cellco customers with

¹ Cellco's Washington North facility was approved by the Council on September 25, 2007 in Docket No. 332. The Council took administrative notice of the Docket No. 332 record at its March 11, 2008 hearing.

reliable service to a 2.0 mile portion of Route 202; a 0.6 mile portion of Route 109; and an overall area of 3.2 square miles. (Cellco 1, p. 2).

T-Mobile's existing service in the Northville area is limited to coverage that extends to the north and east from its existing New Milford cell site off Russeling Road. (Optasite 1, Tab H). T-Mobile currently has an 18 mile gap in coverage along Route 202 between its existing Russeling Road site and a facility somewhere in the City of Torrington, Connecticut. (Tr. 3, pp. 63-64). From the Optasite Facility, T-Mobile will provide coverage along Route 202 that connects with coverage from its New Milford site and extends to a point along Route 202 approximately 0.5 miles west of the Route 202/Route 45 intersection. (Optasite 1, Tab G; Tr. 3, pp. 64-65).

In an effort to avoid the unnecessary proliferation of towers, Cellco explored the use of an existing tower owned by the Town off Greiger Road and the steeple at the Northville Baptist Church at 9 Little Bear Hill Road. Neither of these existing structures would satisfy Cellco's coverage objectives in Northville. No other existing structures of adequate height were identified in the Northville area. (Cellco 1, Tab 9).

If a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and/or where the visual impact of the site is reduced to the greatest extent possible. (Cellco 1, Tab 9).

B. Local Contacts

On October 4, 2007, Cellco commenced the sixty (60) day municipal consultation process. Copies of Cellco's technical information summarizing Cellco's plans for the telecommunications facility in Northville were filed with Town Attorney D. Randall DiBella. Copies of this technical information were distributed to the Town's land use agencies and commissions. On February 19,

2008, Cellco made a formal presentation on the tower proposal during an informational hearing before the New Milford Zoning Commission (“Commission”). (Cellco 1, pp. 17-18).

Optasite commenced its 60-day municipal consultation process with the Town on March 16, 2007. On August 14, 2007, Optasite made a formal presentation on the Optasite tower proposal during an informational hearing before the Commission. (Optasite 1, p. 19; Optasite 7).

The Commission issued formal Findings and Recommendations on both proposed tower sites. In its Findings and Recommendations on the NVFD Facility, dated February 26, 2008, the Commission recognized that two competing tower sites were under consideration by the Council in Northville. Due to the benefits to the Town’s emergency service entities, the Commission determined that, of the two sites being considered, the NVFD Facility was the preferred tower location. (Cellco 5).

C. Tower Sharing

In an effort to assist the NVFD and the Town of New Milford with enhancements to its emergency service communications radio system, Cellco has agreed, as a part of its lease with the NVFD, to permit the installation of NVFD antennas at the top of the proposed tower. Consistent with its practice, Cellco will design the approved NVFD tower so that it could be shared by T-Mobile and other wireless carriers, known and unknown at the time of the Council’s decision. (Cellco 1, pp. 10-11).

D. The Proposed Northville Facilities

1. Cellco’s NVFD Facility

Cellco proposes to construct a 150-foot tower in a wooded portion of the NVFD Property behind the existing firehouse. Cellco has determined that mounting its antennas at the 150-foot level, at this location, would satisfy its coverage objectives in Northville. (Cellco 1, pp. 2-3 and

7). The NVFD Property is a 3.85 acre parcel located in the Town's R-80 residential zone district. (Cellco 1, pp. 2-3, 7 and 16, Tab 1, Project Plans).

Cellco would install a total of twelve (12) panel-type antennas with their centerline at the 150-foot level on the tower. The top of Cellco's antennas would extend to an overall height of 153 feet above ground level ("AGL"). (Cellco 1, Tab 1, p. 4). T-Mobile could install its antennas at the 140-foot level on the NVFD Facility. Equipment associated with Cellco's antennas and a diesel-fueled generator would be located inside a 12' x 30' shelter located near the base of the tower. All facility-related improvements would be located within a 36' x 93' (3,348 square foot) compound. Access to the NVFD Facility would extend from Big Bear Hill Road, over a newly constructed paved access driveway, a distance of 160 feet. The NVFD Facility compound has been designed to accommodate additional carriers, the NVFD and municipal emergency service providers, including their antennas and ground-mounted equipment. (Cellco 1, pp. 2-3, 10-11, Tab 1).

2. Optasite's Northville Facility

Optasite proposes to construct a tower on private property owned by the Estate of Edward J. Drazl at 425 Litchfield Road (the "Drazl Property"). The tower would be located in a heavily wooded portion of the Drazl Property near the top of a steep ridge. The Drazl Property is a 28.86 acre parcel, split-zoned B-2 General Business, along its Litchfield Road frontage, and R-40 Residential to the north. The Optasite Facility would be located in the R-40 Residential portion of the Drazl Property. (Optasite 1, Tab C; Tr. 3, pp. 76-78).

T-Mobile would install antennas at the 140-foot level on the Optasite tower and equipment cabinets within the facility compound. (Optasite 1 p. 2, Tab B). Access to the Optasite Facility would extend from Litchfield Road over an improved gravel access road a

distance of 1,207 feet. (Tr. 3, p. 84). The Optasite Facility could accommodate Cellco antennas and associated equipment. (Optasite 1, p. 9).

III. THE CELLCO APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Section 16-50p of the Public Utility Environmental Standards Act (the “Act”), Conn. Gen. Stat. §16-50g *et seq.*, sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need; (2) the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (3) why the adverse effects or conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, Cellco must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). In this case, the Council’s analysis must go one step further and compare the nature of the probable

environmental impacts of the NVFD and Optasite Facilities. The evidence in the record for Docket No. 355 and Docket No. 342 establishes that the above criteria have been satisfied and that Cellco is entitled to a Certificate for its facility at the NVFD Property.

A. A Public Need Exists for a New Telecommunication Facility in Northville

The first step in the review of a pending application addresses the public need for the proposed facility. As noted in the Cellco Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. (Cellco 1, pp. 5-7). More recently, the Federal Telecommunications Act of 1996 (the “Telecommunications Act”) emphasized and expanded on these aspects of the FCC’s 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. The Council took administrative notice of the Telecommunications Act in Docket No. 355. (Cellco 1, pp. 5-7; Council Adm. Notice 7).

The evidence in Docket No. 355 and Docket No. 342 would clearly support a finding that both Cellco and T-Mobile have a need for wireless service in Northville.

1. Need – Cellco

Cellco’s network currently experiences an approximately 1.7 mile gap along Route 202 and an approximately 0.5 mile gap along Route 109 in reliable service in Northville between its existing

New Milford and New Milford East cell sites and its recently approved and constructed Washington North cell site. (Cellco 1, p. 7, Tab 7).

The record in Docket No. 355 also contains ample written evidence and testimony that antennas at the 150-foot level at the proposed NVFD Facility tower would allow Cellco to satisfy its coverage objectives by providing reliable service to a 2.0 mile portion of Route 202, a 0.6 mile portion of Route 109 and an overall coverage footprint of 3.2 square miles. (Cellco 1, p. 2; Cellco 4, Response 11). The evidence demonstrating Cellco's need for a facility in Northville remains unrefuted.

2. Need – T-Mobile

T-Mobile currently maintains antennas on an existing CL&P transmission line structure off Russeling Road in New Milford. (Optasite 1, Tabs G and H). Coverage from this facility (identified as Site # CT11362B) extends to the north and east along Route 202 for approximately 1.5 miles. (Tr. 3, pp. 62-63). From that point, T-Mobile provides no coverage whatsoever along an approximately 18 mile portion of Route 202 extending into the City of Torrington. Use of the proposed Optasite Facility would allow T-Mobile to fill only a small portion (approximately 3 miles) of that 18 mile gap. (Optasite 1, Tab G; Optasite 14; Tr. 3, pp. 36-37 and 63). With the exception of the Optasite Facility, T-Mobile has no candidates and no funded or unfunded search rings for any new facilities northeast of Northville along Route 202. (Optasite 16, Response 4; Tr. 3, p. 33). While the evidence in this record supports T-Mobile's need for a facility in Northville, questions remain as to how best to satisfy that need.

3. Future Network Design

Cellco has carefully designed its wireless network along Route 202 and other major thoroughfares throughout Litchfield County. Along Route 202 between New Milford and

Litchfield, Connecticut, for example, Cellco has installed antennas on existing towers at 4 Elkington Farm Road (Cellco's New Milford cell site) and 452 Bantam Road (Cellco's Litchfield SW cell site) and recently constructed a new tower site approved by the Council in Docket No. 332, at 6 Mountain Road in the Town of Washington (Cellco's Washington North cell site). (Cellco 1, p. 2, Tab 7). The 1.7 mile gap, described above, in the Northville area would be eliminated by the NVFD Facility. The remaining approximately 3.5 mile coverage gap between Cellco's Washington North and Litchfield SW cell sites will require the establishment of one additional facility. Cellco has commenced a site search process for a location it would name Washington NE. Cellco is currently in lease negotiations for a property in Warren, Connecticut that would satisfy this remaining coverage objective between Washington North and Litchfield SW along Route 202. (Tr. 1, pp. 81-84).

T-Mobile's future plans for service along Route 202 in this same area are far less definite. Other than the Optasite Facility in Northville, T-Mobile has no plans for future sites anywhere along Route 202 between Northville and City of Torrington, an approximately 15 mile portion of Route 202. As its plans evolve, however, T-Mobile admitted that the recently approved Washington cell site would be a "great compliment" to the T-Mobile network as it extends to the north and east. (9/10/07 Tr. pp. 46-47; Tr. 3, p. 67).

As T-Mobile expands its network along Route 202, to fill in more of the remaining 15 mile coverage gap, logic and the Council's tower sharing policies would dictate that T-Mobile share the existing Washington facility. If T-Mobile installs antennas on the existing Washington tower at the 140-foot level, an available height, its coverage objective in Northville could easily be satisfied by

T-Mobile antennas at the 140-foot level on Cellco's NVFD Facility tower.² (Optasite 16, Response 1).

B. Nature of Probable Environmental Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed facility and particularly the following factors:

1. Natural Environment and Ecological Balance

a. Cellco's NVFD Facility

The proposed development of the NVFD Facility has eliminated, to the extent possible, impacts to the natural environment. For example, Cellco intends to construct a 150-foot tower within a 36' x 93' (3,348 square feet) compound area, behind the NVFD firehouse. By proposing a non-traditional (long and narrow) facility compound, Cellco's design engineers creatively worked with the existing topography on the NVFD Property to significantly reduce the total area of disturbance needed to construct the NVFD Facility. (Tr. 3, pp. 15-25). The extensive retaining wall system included as part of Cellco's development plan results in fewer trees being removed, less overall site grading and a more compact development. The total area of ground disturbance associated with the NVFD Facility, including all grading around the site compound and access drive, is approximately 20,000 square feet. Twenty-six (26) trees of a diameter greater than 6" at breast height, will need to be removed to construct the NVFD Facility. The new 12-foot wide paved driveway would extend from Big Bear Hill Road, a distance of only 160 feet to the site compound. The NVFD Facility compound will be surrounded by an 8-foot security fence.

² During the course of the proceeding some concerns were raised that the 140-foot level on the Washington facility might not be available given AT&T's involvement in Docket No. 332 and its expressed interest for the highest available location on the Washington tower. Notwithstanding AT&T's interest, the evidence in the Docket No. 332 record confirms that AT&T can satisfy its coverage objectives in Washington, Connecticut by installing antennas as low as 110' above ground level. (See Docket No. 332 Record, AT&T Interrogatory Response No. 7).

Supplemental buffer plantings on the west side of the compound along the top of the retaining wall and the retaining wall system itself, will help screen views of ground-mounted equipment in the compound. Lastly, the retaining wall would maintain a finish, texture and color that would help in blending in with the existing terrain. (Cellco 1, Tab 1; Cellco 4, Response 8; Tr. 3, pp. 22-29).

An intermittent watercourse with a narrow bordering wetland exists in the northerly portion of the NVFD Property. This watercourse is associated with a roadside drainage system along Big Bear Hill Road. All construction activity will remain approximately 40 to 45 feet from this wetland/watercourse area. Adequate soil erosion and sedimentation controls have been incorporated into Cellco's project plan. The development of the NVFD Facility will not result in an adverse impact on this nearby wetland resource. (Cellco 1, pp. 17-18, Tab 1 Plan Sheet C-1, Tab 12; Tr. 3, pp. 30-32).

Cellco's engineers have completed a stormwater drainage analysis and a geo-technical survey for the NVFD Facility. (Cellco 8; Tr. 3, pp. 20-21). The engineering design for the NVFD Facility has incorporated stormwater control measures, including, but not limited to, a gravel compound surface, rip-rap swales and stone backfill behind the retaining wall system, that results in a decrease in post-construction stormwater run-off from the NVFD Property. (Tr. 3, pp. 20-22). A portion of the runoff from the paved access road will drain into the existing stormwater drainage system along Big Bear Hill Road. The existing road drainage system maintains sufficient capacity to handle this additional run-off. Cellco's drainage design has been reviewed with the New Milford Town Engineer. (Cellco 1, Tab 1; Tr. 3, pp. 17-20).

Construction of the NVFD Facility will require a cut of approximately 1400 cubic yards of material and a fill of approximately 1000 cubic yards of material. Excess material would be removed from the NVFD Property. (Tr. 3, p. 24). Contrary to comments from the Town's

Wetlands Enforcement Officer, construction of the NVFD Facility will not impact groundwater in the area. Soil borings conducted as a part of Cellco's geo-technical survey did not encounter groundwater as indicated in the Town's comments. (Tr. 3, p. 20-21).

b. Optasite Facility

A careful examination of the Docket No. 342 record and the testimony offered by witnesses appearing on Optasite's behalf demonstrates that the proposed Optasite Facility would have a more substantial impact on the natural environment and ecological balance than Cellco's NVFD Facility.

Optasite proposes to completely clear and regrade the 70' x 70' (4,900 square feet) site compound, the entire 100' x 100' (10,000 square feet) leased area and a substantial area beyond the leased parcel to maintain a level site compound. (Optasite 1 p. 2, Tab B Sheet A02; Tr. 3, pp. 34-35). Through testimony at the hearing, Optasite attempted to minimize impacts associated with construction of the proposed 1,207-foot access road by claiming that it will simply "skim the top soil off" the existing roadway. (Tr. 3, p. 35). This testimony ignores other testimony and conflicts with Optasite's project plans that show more substantial road development activity than described at the hearing. (See Optasite 1, Tab B, Sheet A02). In addition to regrading the entire existing road surface, Optasite intends to construct roadside drainage swales, that don't exist today, and install underground utilities outside the proposed drainage swales extending from Litchfield Road to the cell site. (Optasite 1, Tab B; Tr. 3, pp. 79-80). The total area of ground disturbance required to construct the Optasite Facility compound, improve the access road and install drainage swales and underground utilities is conservatively calculated as approximately 40,000 square feet, nearly twice the area of disturbance required to construct the NVFD Facility. Large areas of disturbed soil, on steeply sloped land, like the Drazil property could result in significant drainage, erosion and scour problems, that have not been fully addressed by Optasite's project engineers.

Optasite claims that only 23 trees of a diameter greater than 6" at breast height will need to be removed to construct the Optasite Facility. (Optasite 1, Tab B). While there remains some dispute as to how many trees will actually be removed, a careful review of Optasite's grading plan (Plan Sheet A02) indicates that the number of trees to be removed clearly exceeds 23.³ (9/10/07 Tr. 15-16; Tr. 3, pp. 78-80).

Lastly, stormwater impacts associated with the construction of the Optasite Facility remain unknown primarily because Optasite has not yet completed a stormwater drainage analysis for its project. (Tr. 3, pp. 82-83). Until that analysis is complete the Council cannot fully assess the "environmental impact" of the Optasite Facility.

2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed NVFD Facility would be minimal or nonexistent.

First, the potential for the proposed tower to fall does not pose an unreasonable risk to health and safety. The proposed towers would be designed and built to meet Electronic Industries Association ("EIA") standards adopted for the State of Connecticut as part of the State Building Code. The tower would be designed with a pre-engineered fault so that the tower radius remains entirely within the NVFD Property. (Cellco 1, Tab 1, p. 6 and Plan Sheet C-1A).

Second, worst-case potential public exposure to radio-frequency ("RF") power density at the nearest point of uncontrolled access (the base of each tower) would be 2.46% of the FCC

³ At the Optasite hearing on September 10, 2007, Council Analyst Robert Mercier suggested that the total number of trees to be removed was approximately 60. A careful examination of Plan Sheet A02 submitted with the Optasite Application suggests the actual number could be even higher.

standard for Cellco's antennas. Power density levels would drop off rapidly as distance from the tower increases. (Cellco 1, p. 15, Tab 1, p. 8).

3. Scenic Values

As noted in the Application, the primary impact of any tower facility is visual. (Cellco 1, pp. 12-13). Cellco's site search methodology, described in the Site Search Summary, is designed in large part to minimize the overall visual impact of such facilities. (Cellco 1, Tab 9). As discussed above, wherever feasible, Cellco attempts to avoid the construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near its search area. (Cellco 1, Tab 9). In its site search process and as discussed throughout the course of the hearing on this docket, Cellco identified and evaluated existing telecommunications towers and a church steeple in the Northville area. Cellco currently maintains antennas at the highest possible location on the existing adjacent towers located at 4 Elkington Farm Road and 399 Chestnut Land Road in New Milford (Cellco's New Milford and New Milford East Facilities) and 6 Mountain Road in Washington (Cellco's Washington North Facility). (Cellco 1, pp. 10-11, Tab 7 and Tab 9).

The 60-foot steeple at the Northville Baptist Church was too low to satisfy Cellco's coverage objectives in Northville. (Cellco 1, Tab 9; Cellco 5, Response 4 and 8).

Cellco also explored the use of an existing 60-foot lattice tower located on Town property off Greiger Road approximately one mile north of the NVFD Property. This structure is too short and located too far to the north to provide reliable coverage along Route 202 in the Northville area. (Cellco 1, Tab 9).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the site would be reduced to the greatest extent possible. As indicated in numerous

other filings, the installation of a tower, used for commercial wireless telecommunications and municipal emergency services, is appropriate on municipal or fire department properties.

Visual impact of a tower facility can be further reduced through the proper use of alternative tower structures; so-called “stealth installations.” Where appropriate, telecommunications towers camouflaged as described in this proceeding, as pine trees, can help to reduce visual impacts associated with more traditional telecommunications towers. (Cellco 1, pp. 12-13, Tab 10). In Northville, given the setting there does not appear to be any benefit in a stealth tower at the NVFD Property. (Tr. 3, pp. 60-61).

In his testimony during the March 11, 2008 hearing, Mike Libertine stated that the visual impacts of the Optasite Facility and the NVFD Facility were comparable (Tr. 3, pp. 73-74). There are, however, some important distinctions between the two alternative locations that would support a finding that the visual impact of the Optasite Facility in a number of important respects is more significant than the NVFD Facility. For example, the Optasite Facility is located at a ground elevation approximately 200 feet higher than the NVFD Facility. This results in the Optasite Facility having year-round visibility from an overall area of 38 acres. The NVFD Facility will be visible year-round from an overall area of only 23 acres. Perhaps more importantly, there are 25 residences that will have year-round views of the Optasite Facility tower. Of these 25 residences, 13 are located within one-half mile of the Optasite Facility. Only 10 residences will have year-round views of the NVFD Facility tower. Of these 10 residences, only 3 are located within one-half mile of the NVFD Facility. (Cellco 1, Tab 10; Optasite 1, Tab J).

4. Historical Values

As it does with all of its tower applications, prior to filing an application with the Council, Cellco requested that the State Historic Preservation Office (“SHPO”) of the Connecticut Historical

Commission (the “Commission”) review the proposed sites. The SHPO determined that the NVFD Facility would have no adverse effect on Connecticut’s historic, architectural or archeological resources listed on or eligible for the National Register of Historic Places. (Cellco 1, Tab 11). This evidence remains unrefuted.

5. Recreational Values

There are no recreational activities or facilities that would be impacted by the proposed NVFD tower development. (Cellco 1, Tab 10). There is no contrary evidence in the record to support a claim that the NVFD tower location would impact recreation resources in the area.

6. Forests and Parks

There are no State Forests located within a two-mile radius of the NVFD Facility location. The proposed tower will, therefore, have no impact on any State Forest lands or any of the hiking trails located therein. (Cellco 1, Tab 10). This evidence remains unrefuted.

7. Air and Water Quality

a. Air Quality

The equipment associated with the proposed NVFD Facility would generate no air emissions under normal operating conditions. (Cellco 1, Tab 1, p. 7). During power outage events and periodically for maintenance purposes, Cellco would utilize an on-site backup generator to provide emergency power to the NVFD Facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection (“DEP”) Bureau of Air Management prior to installation of the proposed generator. (Cellco 1, Tab 1, p. 7).

b. Water Quality

The proposed NVFD Facility would not utilize water, nor would it discharge substances into any groundwater, or public or private sewage system. There are no lakes, ponds, rivers, streams, wetlands or other regulated water bodies in the area that will be impacted by the NVFD Facility. (See discussion in Section IIIB.1. above). Thus, the proposed NVFD Facility will not impact local water quality. (Cellco 1, Tab 1, p. 7). There are no public or private drinking water wells that will be impacted by the development and use of the NVFD Facility. (Cellco 1, Tab 1, p. 7; DPH Memorandum dated March 27, 2008).

8. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco received comments on the NVFD Facility from the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Environmental and Geographic Information Center of the DEP. Both the USFWS and the DEP have confirmed that no known populations of Federal or State Endangered, Threatened or Special Concern Species occur at the site. (Cellco 1, pp. 18-19, Tab 11). This evidence remains unrefuted.

C. The Cellco Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the proposed NVFD Facility, and an examination of impacts of alternative sites, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts “are not sufficient reason to deny the Application.” Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the benefits to the public from the proposed NVFD Facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from the proposed towers involves “scenic values.” As the record overwhelmingly demonstrates, the proposed NVFD Facility would have minimal impacts on scenic values in the area. What impact the NVFD Facility will have, are less significant than the visual impacts of the Optasite Facility. (Cellco 1, pp. 12-13, Tab 10). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of this facility. Unlike many other types of development, telecommunications facilities do not cause indirect environmental impacts, such as increased traffic and related pollution.

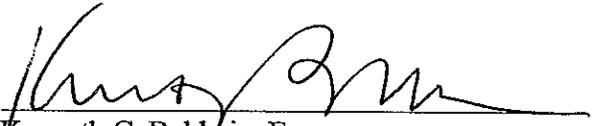
The limited aesthetic and environmental impacts of the proposed facility can be further mitigated by the sharing of the NVFD Facility by either wireless carriers and municipal emergency service providers. The proposed NVFD Facility is capable of supporting these additional uses.

In sum, the potential environmental impacts from the proposed NVFD Facility would be minimal when balanced against the significant benefits the facility would provide to the public. These impacts, therefore, do not provide a sufficient basis to deny the Application. The proposed NVFD Facility, therefore, satisfies the criteria for a Certificate pursuant to Connecticut General Statutes § 16-50p, and the Applicant’s request for a Certificate should be granted.

IV. CONCLUSION

Based on the unrefuted evidence contained in the record and the arguments presented above, Cellco has satisfied the criteria in Connecticut General Statutes Section 16-50p. Accordingly, the issuance of a Certificate to Cellco for the NVFD Facility is appropriate and fully consistent with the Act.

Respectfully submitted,
CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS

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CERTIFICATION

This is to certify that on this 5th day of May, 2008, a copy of the foregoing was mailed,

postage prepaid, to the following:

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