

ORIGINAL

*Via Electronic Mail and Hand Delivery*

August 6, 2009

S. Derek Phelps  
Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051

RECEIVED  
AUG - 6 2009  
CONNECTICUT  
SITING COUNCIL

**Re: Docket No. 374 - Application of Cellco Partnership d/b/a Verizon  
Wireless for a Certificate of Environmental Compatibility and Public  
Telecommunications Facility at 199 Town Farm Road, Farmington, Connecticut**

Dear Mr. Phelps:

Enclosed are twenty (20) copies of the Claude M. Brouillard's Exceptions to Draft Findings of Fact.

Please feel free to contact me if you have any questions or require additional information.  
Thank you.

Sincerely,



Claude M. Brouillard

Enclosures

Copy to: Susan Edelson  
Joey Lee Miranda  
Sandy M. Carter

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

IN RE:	:	
	:	
APPLICATION OF CELLCO PARTNERSHIP	:	DOCKET NO. 374
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 199	:	
TOWN FARM ROAD, FARMINGTON,	:	
CONNECTICUT	:	AUGUST 6, 2009

**CLAUDE BROUILLARD'S EXCEPTIONS TO  
DRAFT FINDINGS OF FACT**

Claude M. Brouillard, party in this proceeding, submits these Exceptions to the Draft Findings of Fact dated July 8, 2009, distributed by the Council July 20, 2009. Claude M. Brouillard reserves his right to contest these and other proposed findings of fact.

1. **FOF 2.** Cellco's application is a re-submittal of a previously submitted application, designated as docket 356, that was withdrawn. (Cellco 1, p. 1 – footnote)

Draft Finding 2 is factually and procedurally incorrect. Cellco's application is not a "re-submittal of a previously submitted application" - it is an entirely new application commencing as of January 23, 2009 in Docket 374, albeit related to substantially the same facility described in Docket 356. (FOF 1; Cellco 1, p. 1; RCSA) Draft Finding 2 should therefore either (a) be deleted in its entirety, or (b) replaced with the following:

Cellco's application in Docket 374 is a new, different and separate application from the application filed in Docket No. 356, although the facilities described in each application may be substantially the same. (Cellco 1, p. 1 – footnote)

2. **FOF 3 (third sentence).** The operation of wireless telecommunications and related activities are Cellco's sole business in Connecticut (Cellco 1, p.4)

The wording of this sentence obscures the fact that Cellco is engaged in at least three related but distinct wireless telecommunications activities: (a) cellular services using cellular antennas, (b) personal communication services using PCS antennas, and (c) Cellco's recently acquired radio services using 700 MHz Antennas. (Cellco 5, Response 6) This distinction is important for the members of the Council and the public to understand because these activities are regulated differently under state and local law – and the federal Telecommunications Act of 1996 which overrides them. To make the facts more intelligible for review, the third sentence should be replaced with the following:

Cellco's sole business in Connecticut is the operation of wireless telecommunications and related activities, including: (a) cellular services using cellular antennas, (b) personal communication services using PCS antennas, and (c) Cellco's recently acquired radio services using 700 MHz Antennas. (Cellco 1, pp.2-4; Attachment 9, p.2; Cellco 5, Response 6)

3. **FOF 4.** The parties in this proceeding are the applicant, Susan Edelson, and Claude Brouillard, (Transcript, May 14, 2009, 3:25 p.m. [Tr.1, pp]. 6-7)

This sentence fails to adequately describe the rights and interests of Susan Edelson and Claude Brouillard disclosed by the Record. Finding of Fact 4 should be revised as follows:

The parties in this proceeding are the applicant, Susan Edelson, and Claude Brouillard, (Transcript, May 14, 2009, 3:25 p.m. Tr.1; pp. 6-7) Susan Edelson is the owner of, and resides with her family at, 11 Belgravia Terrace, Farmington, Connecticut. She is the closest abutting property owner to the proposed site. The elevation of her house is high in relation to the base of the proposed tower and this safety concern was not considered by applicant (Cellco 1, Attachment 5; Tr.; Record) Claude Brouillard is an abutting owner of 152 Town Farm, Farmington, Connecticut, also known as the Farmington Polo Grounds. Claude Brouillard is also the owner of real and personal property rights that will be affected by this proceeding pursuant to the partnership agreement dated May 4, 2007 placed into the record. The Farmington Polo Grounds and Avon Old Farms School are better alternate sites for the proposed facility, however, the applicant and the Town of Farmington have steered the site selection process and notice requirements to improperly favor the Town-owned site (Cellco 1, Attachments 5, 9; Cellco 5, Responses 13, 20, 24; Tr.; Record)

4. **FOF 5.** The purpose of the proposed facility is to provide coverage along Route 10 and nearby local roads in the northeasterly portion of the Town of Farmington and the southeasterly portion of the town of Avon.

The first sentence of Draft Findings of Fact 5 should be replaced by the following to reflect the real reasons for the proposed facility and the lack of public need for additional *cellular coverage* in this area:

The purpose of the proposed facility is to fill personal communication service and/or radio service gaps in applicant's overall coverage as a result of applicant's acquisition of those service delivery systems; not to provide additional cellular service as the applicant has existing suitable coverage. (Tr. 2, p. 40; Data submitted by Cellco on June 15, 2009)

5. Draft Findings of Fact Section 11 is factually incorrect in that the U.S. Department of Agriculture -Natural Resources Conservation Service (USDA) was not given a copy of the application in accordance with CGS Section 16-50l(b)(4). The USDA has concurrent jurisdiction over the proposed site by virtue of their regulation of the installation of diversion ditches at the farm set forth in the plans placed into the record (Cellco 1, Tab D)

6. Draft Findings of Fact Section 16 mischaracterizes the Governor's statement. Her statement is more properly characterized as follows:

When the residents of Connecticut spend large sums of money to purchase farmland and open space thereby preserving the natural environment and the scenic, historic and recreational values of these lands for everyone, any pecuniary benefit derived in the diminishment of those values should go back to the residents of the State.

7. Draft Findings of Facts Section 19 is factually irrelevant and should be stricken for reasons previously stated.

8. Draft Findings of Fact Section 28 should be revised to add the following thereto:

The Applicant failed to meet with the Honorable Michael Clark, Chairman Town Council and chief elected official of Farmington as required by Section 16-50l(e) and there is no evidence in the proceedings that the applicant made a good faith or any attempt to meet with Michael Clark.

9. Draft Findings of Fact Section 29 should be revised to add the following thereto:

The Applicant failed to meet with the Honorable John F. Carlson, Chairman Town Council of Avon and chief elected official of Farmington as required by Section 16-50/(e). Further, there is no evidence in the record that the applicant made a good faith or any attempt to meet with John F. Carlson.

10. **FOF 50.** Cellco's proposed site would be located on a 9.9 acre parcel (known as the Simmons Family Farm) at 199 Town Farm Road (Figures 1 and 2). The parcel is owned by the Town of Farmington and is leased for agricultural use. The Simmons Family Farm is located approximately 3,000 feet west of Route 10. (Cellco 1, p.2; p.ii)

This Section should be revised as follows:

Cellco's proposed site would be located on a 9.9 acre parcel (known as the Simmons Family Farm) at 199 Town Farm Road (Figures 1 and 2). The Simmons Family Farm is located approximately 3,000 feet west of Route 10. The parcel is owned by the Town of Farmington and is leased to Ronald W. Simmons, Sr. pursuant to Lease Agreement initially dated February 20, 2002, as amended. (Cellco 1, p.2; p.ii, Edelson Exhibit 18; Record)

Respectfully Submitted,



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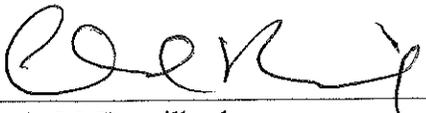
CERTIFICATION

I hereby certify that on the 6<sup>th</sup> day of August 2009, a copy of the foregoing was sent via electronic mail and mailed, postage prepaid, to:

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Claude M. Brouillard