

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF NEW CINGULAR WIRELESS
PCS, LLC (AT&T) FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION,
MAINTENANCE AND OPERATION OF A
TELECOMMUNICATIONS TOWER FACILITY
LOCATED AT 1363 BOSTON POST ROAD IN
THE TOWN OF OLD SAYBROOK

DOCKET NO. 411

March 17, 2011

NEW CINGULAR WIRELESS PCS, LLC ("AT&T")
POST HEARING BRIEF

Respectfully Submitted,

Daniel M. Laub, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue
14th Floor
White Plains, New York 10601
(914) 761-1300

PRELIMINARY STATEMENT

New Cingular Wireless PCS, LLC (“AT&T”), by its attorneys, Cuddy & Feder, LLP, respectfully submits this post hearing brief in support of the Application for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for a tower facility in Docket No. 411. AT&T’s Application addresses the public need for a new tower facility to provide service to central and southern Old Saybrook. The tower facility is needed so that AT&T may extend coverage to residents of nearby homes within the Saybrook Manor area of Town, local businesses, Old Saybrook Senior High School, travelers of US Route 1, local roads and also to travelers of Amtrak Railroad. Throughout the proceedings in this Docket, AT&T provided data, testimony and otherwise responded to interrogatories to give the Council a full and complete picture of the public need for reliable service in this part of Old Saybrook, the review of possible siting alternatives, and the potential environmental effects associated with the proposed AT&T tower facility. The process has revealed that a tower facility is needed to provide service in this area of the State. Further, that the location and height as proposed by AT&T do not present significant, aesthetic, or environmental impacts to this part of the State. As such, AT&T is requesting a Certificate for a new tower facility to meet the public need for wireless services in this part of Old Saybrook.

STATEMENT OF FACTS

I. AT&T's Need & Comprehensive Site Search

AT&T's radiofrequency ("RF") engineers establish site search areas where new wireless facilities are needed to address the public's inability to access its wireless network. In this case, coverage gaps for reliable in-building service exist in the central and southern parts of Old Saybrook. AT&T's RF engineers generated a search area in order to address this need. Ex. 1, pg. 2.

AT&T began its initial search for sites in 2008. AT&T Ex. 1, Tab 2, pgs. 1-3. To aid in the site search, AT&T's real estate consultants reviewed the existing AT&T and other telecommunications site locations in the area and as identified on the list of neighboring sites included in the Application. AT&T Ex. 1, Tab 1, Pg 1-3. There are no existing towers or structures within four (4) miles of the targeted search area that would sufficiently address AT&T's need for reliable in-building coverage in this area. AT&T Ex. 1, Tab 1.

Once it was determined that a new tower facility was needed to provide coverage in this part of Old Saybrook, AT&T investigated numerous properties within the site search areas. AT&T Ex. 1, Tab 2. As part of this investigation, AT&T corresponded with Town officials of Old Saybrook to as part of the mandatory technical consultation and offered space on also the telecommunications facility for placement of municipal antennas, emergency service antennas, as well as, ground space for any associated equipment. AT&T Ex. 1, Tab 7.

AT&T's search produced fifteen initial candidates for the search area. AT&T Ex. 1, Tab 2; AT&T Bulk Filing Technical Report. The other sites investigated were either rejected by AT&T or not made available by the property owner. AT&T Ex. 1, Tab 2.

II. AT&T's Technical Consultation with the Town of Old Saybrook

AT&T filed a technical report with the Town of Old Saybrook on July 16, 2010, which included specifics about the proposed site for 1363 Boston Post Road. The technical report included detailed information on the public need for a tower facility in this part of the State, explained the site selection process and the environmental effects of the proposed facilities including visual reports. AT&T Ex. 1, Tab 4; AT&T Bulk Filing, Technical Report.

III. AT&T's Certificate Application & Pre-Hearing Filings

On November 1, 2010, AT&T submitted its application to the Siting Council for a Certificate to construct, maintain and operate a cellular telecommunications facility located at 1363 Boston Post Road, Old Saybrook, Connecticut. The project was subsequently identified by the Siting Council as Docket No. 411.

As set forth in the Application, the site of the proposed facility is located at 1363 Boston Post Road, Old Saybrook, Connecticut and includes a 100' x 100' lease area situated in the center-rear of the property. AT&T Ex. 1, Tab 3. The facility would consist of a new 100' tall monopole (with extension possibilities up to 120' AGL), twelve (12) panel antennas at the 97-foot centerline height of the tower together with the tower compound, associated unmanned equipment at grade. AT&T Ex. 1, Tab 3, page 1.

On January 11, 2011, AT&T submitted responses to Siting Council pre-hearing interrogatories. A public hearing was scheduled by the Siting Council in the Town of Old Saybrook for February 15, 2011.

IV. Public Hearing and AT&T Supplemental Submission

On February 15, 2011, AT&T raised a balloon at the proposed site and the Siting Council conducted an official site visit touring the proposed location of the tower, proposed equipment

compound area and viewed the surrounding properties. At that day's public evidentiary hearing, the Siting Council heard comprehensive testimony from AT&T's panel of witnesses on the need for a proposed facility, the investigation of alternative sites and any environmental effects associated with construction of a tower at the proposed site. The public hearing was closed on February 15, 2011. Tr. 2/15/11 7:05 PM p. 7. AT&T subsequently provided a supplemental submission ("Supp. Submission 3/7/11) as requested at the February 15, 2011 hearing on March 7, 2011 which provided information regarding the date of underlying topography map included in the visual analysis included in Exhibit 1, Tab 4, the date of the balloon float conducted for the State Historic Preservation Officer, a Migratory Bird Impact Evaluation, a Coastal Consistency Analysis and a color copy of the FEMA flood map for the area of the proposed site. All interested persons have been given a full and fair opportunity to present their comments to the Council as part of the hearing and Application process.

POINT I

A PUBLIC NEED CLEARLY EXISTS FOR A NEW TOWER FACILITY IN OLD SAYBROOK

Pursuant to Connecticut General Statutes ("CGS") Section 16-50p, the Council is required to find and determine as part of any Certificate application, "a public need for the proposed facility and the basis for that need". CGS § 16-50p(a)(1). In this Docket, AT&T provided coverage analyses and expert testimony that clearly demonstrates the need for a new tower facility to provide reliable wireless services to residents and the traveling public in central and southern parts of Old Saybrook. AT&T Ex. 1., page 1. As noted at the hearing, while there is coverage "bleed-in" from other existing AT&T sites into this area, these sites do not provide adequate and reliable coverage as evidenced by drive tests and other data. Tr. 2/15/11 3:05 pm pgs. 89-91. The proposed facility would fill in the gaps in reliable in-building service and become the

“dominant server” for the area which will improve coverage in the target area and eliminate issues related to other sites which are “stressing” to cover areas beyond their intended coverage area. Tr. 2/15/11 3:05 PM pgs. 90-91.

POINT II

THERE ARE NO EXISTING STRUCTURES OR OTHER MORE VIABLE ALTERNATIVE PROPERTIES FOR SITING THE PROPOSED TOWER FACILITY

AT&T submitted significant evidence demonstrating its comprehensive search for sites. AT&T Ex. 1, Tab 2, pg. 1-3. AT&T identified and investigated all existing tower structures within four miles of the search area. AT&T Ex. 1, Tab 2, pg. 1-3. Of note, AT&T is currently using most of the existing tower sites to provide coverage to other areas of the State. AT&T Ex.1, Tab 1. Of those sites AT&T is not using, all are too remote from the intended areas of new coverage as to be used within AT&T's network. Additionally, there are no other "tall" structures in this area of the State which would be suitable to provide the needed service. AT&T Exhibit 1, Tabs 1 and 2. Prior to submission of its technical report to the Town, AT&T did identify and investigate a total of fifteen (15) properties for the location of a tower facility AT&T Ex 1, Tab 2. AT&T Bulk Filing, Technical Report. The record in this proceeding demonstrates that there are no existing towers, structures or other more viable alternative properties for the site of the proposed facility in this Docket.

POINT III

AT&T'S PROPOSED TOWER FACILITY PRESENTS NO SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS

Pursuant to CGS Section 16-50p, the Council is required to find and determine as part of a Certificate application any probable environmental impact of a facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational

values, forest and parks, air and water purity and fish and wildlife. AT&T respectfully submits that the facility as proposed in this Docket will have no significant adverse environmental effects on the resources listed in Section 16-50p of the General Statutes. Further, that any localized impacts are not significant and can be managed through appropriate engineering controls and site modifications.

1. Potential Visual Effects

The record in this Docket demonstrates that the proposed Boston Post Road tower facility in Old Saybrook, will have no adverse visual impact on any scenic, historic or recreational resources that are specifically listed or identified as of significant State, regional or local importance. AT&T Ex. 1, Tab 5. The immediate surrounding area is commercial in nature. AT&T Exhibit 1, Tab 3.

The State Historic Preservation Officer ("SHPO") determined that the proposed facility, at 100' AGL, will not have any visual impact on historic resources. AT&T Ex. 1, Tab 8. The parcel on which the facility is located and immediate surrounding areas exhibit no scenic, natural, historic, or recreational characteristics which are unique. AT&T Ex. 1, Tab 6, page 5.

The year round visual impact is limited to approximately 11.2% or 905.5 acres of the total study area. AT&T Ex. 1, Tab 4. The potential visibility was assessed within an approximate (2) two mile radius, using a complex computer –based, predictive view shed model and in-field analysis and some visibility is predicted along select portions of Cottage Avenue, Bel Aire Manor, Bliss Street, Chandler Street, Cranton Avenue, Interstate I-95, Boston Post Road, School House Road, Gilbert Road, and Ingham Road AT&T. Ex. 1, Tab 4. Year- round visibility would be limited to these areas due to the topography and vegetative cover in the area. The facility will be primarily visible from the south, for certain areas beyond the coastline. As noted at the

hearing, a number of other tower facilities in the area are significantly higher than the proposed 100' facility. Tr. 2/15/11 3:05 pm pgs. 68-71. These include a 198' tower, 180' self supported lattice tower, a 157.5' tower, and a 127' water tank. AT&T Exhibit 1, Tab 1; Tr. 2/15/11 3:05 PM pgs. 48, 68-71. Visual evaluation and photos documenting the visible conditions of the proposed facility have been included in photosimulations and a viewshed map. AT&T Ex. 1, Tab 4.

2. Potential Impacts to the Natural Environment

As clearly demonstrated in this Docket, impacts to the natural environment from AT&T's proposed facility is not significant and can be addressed through proper construction techniques and facility modifications overseen by the Siting Council.

i. Wetlands and Watercourses

Localized wetland/watercourses were delineated in the vicinity of the proposed Facility. The proposed tower development project is not anticipated to cause an adverse impact on the delineated wetlands. Utilizing appropriate soil erosion and sedimentation controls will reduce, if not eliminate, any risk of impact to the wetlands during construction. AT&T Ex. 1, tab 5, pages 1-6.

The specific location of the tower utilizes to the maximum extent practicable existing access roads which support the commercial/light industrial area. AT&T Ex. 1, tab 3. The proposed site is near but outside of a 100-year flood zone and while no impacts are anticipated the equipment shelter can be constructed to provide an extra foot or two of elevation above grade. Tr. 2/15/11 3:05 pm pgs 59-61; Supp. Submission 3/7/11 Tab 5.

ii. Wildlife

DEP Natural Diversity Database maps were reviewed for the proposed site and it is not located within or near areas identified as Listed Species or Natural Communities. A Migratory Bird Impact Evaluation was included as Attachment 1 to AT&T's March 7, 2011 Supplemental Submission. As noted therein, the proposed site complies with the United States Fish and Wildlife Service guidelines for minimizing potential impacts to birds and further that no migratory bird species would be impacted by the proposed Facility. Supp. Submission 3/7/11 Tab 1. As noted at the hearing, AT&T's expert witness Mr. Libertine concluded that there was no danger to the Piping Plover or any birds in the area. Tr. 2/15/11 3:05 pm pgs 42-43. Some bird species, particularly Ospreys, have a tendency to use some telecommunications facilities for nesting. Tr. 2/15/11 3:05 pm pg. 45. However, Ospreys are less likely to nest on T-arm mounted antennas, which can be used at the proposed facility, as compared to full platforms. Tr. 2/15/11 3:05 pm pgs 42-43.

No other wildlife issues have been identified in the course of AT&T investigations and as such, AT&T respectfully submits that the proposed facility will not significantly impact wildlife or any ecological balance in this area of Old Saybrook. AT&T Ex. 1, Tab 6, pages 1-3.

iii. Clearing and Grading

The proposed facility will require some grading. Approximately 7 trees with a diameter at breast height of six inches or larger will be removed. AT&T Ex. 1, Tab 3. The location of the facility is sited to minimize all impacts by utilizing an existing curb cut and access drive and previously disturbed area. AT&T Exhibit 1, Tab 3. The removal of an invasive species, Japanese Knotweed, would be part of the clearing process to the limits of AT&T's 100' x 100' lease area. Tr. 2/15/11 3:05 pm pgs 31-34. It is respectfully submitted that the location of the

tower site is optimized to provide needed service while minimizing impacts including grading and clearing.

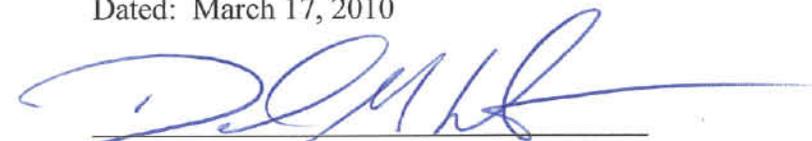
CONCLUSION

AT&T has demonstrated a public need for and lack of any significant adverse environmental effects associated with its proposed tower facility. The evidentiary record contains no evidence challenging the public need for the tower to provide reliable wireless services in and around this part of the State. Moreover, the record demonstrates that the proposed facility will not have any significant adverse environmental effects on documented resources in this part of the State. Indeed, any environmental effects have been minimized through careful siting and on-site engineering controls to further reduce any potential impacts. For the reasons set forth in this legal brief and as more fully evidenced by the record in this Docket, a Certificate should be issued for the proposed facility.

CERTIFICATE OF SERVICE

I hereby certify that on this day, an original and fifteen copies of the foregoing was served on the Connecticut Siting Council electronically and by first class mail

Dated: March 17, 2010



Daniel M. Laub, Esq.

cc: Michele Briggs, AT&T
David Vivian, SAI
Anthony Wells, C Squared
Peter Perkins, CHA
Michael Libertine, VHB