



**Written Testimony of the Connecticut Siting Council
Submitted to the Energy and Technology Committee**

**In Reference to Raised Bill No. 536
An Act Concerning Establishing a State-wide Plan and Process for Siting Small Cell
Canister Antennas and Distributed Antenna Systems
February 7, 2017**

Good afternoon Senator Formica and Senator Winfield, Representative Reed, ranking and distinguished members of the Energy and Technology Committee. Thank you for the opportunity to provide testimony in connection with Raised Bill No. 536, An Act Concerning Establishing a Statewide Plan and Process for Siting Small Cell Canister Antennas and Distributed Antenna Systems (DAS).

The Connecticut Siting Council (Council) has jurisdiction over the construction, operation and maintenance of telecommunications towers in the state subject to Federal Communications Commission (FCC) limitations on state authority under the provisions of the federal Telecommunications Act (TCA), the purpose of which is to promote competition, reduce regulation, secure lower prices and higher quality services, and rapidly deploy new telecommunications technologies. In 2014, the FCC adopted rules to facilitate deployment of the infrastructure necessary to support the demand for wireless data capacity by urging the sharing of existing utility structures. The FCC concluded that these structures are, by their nature, designed to hold a variety of equipment and the addition of small cells or DAS to these structures is fully consistent with their existing use.¹ State regulations define tower as “a structure, whether free standing or attached to a building or another structure... **used principally to support one or more antennas...**”² Utility structures in public rights-of-way are used principally to support electric distribution lines over which the Public Utilities Regulatory Authority has jurisdiction. **The Council does not have jurisdiction over small cell and DAS attachments to utility poles in the public rights-of-way.**³

STATEWIDE TELECOMMUNICATIONS PLAN – C.G.S. §16-50ee: This bill proposes to require the Council to establish a statewide plan for siting small cells and DAS in the public rights-of-way. This is duplicative of an existing statutory reporting requirement. Pursuant to C.G.S. §16-50ee, the Council is required to develop and annually revise a plan for statewide telecommunications coverage (Plan) that is consistent with the federal TCA, telecommunications goals of the state and the state tower sharing policy. The Plan is posted on the Council’s website under “Publications.” The Council is currently revising its Plan, which includes, but is not limited to, discussion of recent FCC orders relative to siting small cells and DAS. The Council anticipates the revised plan to be completed by year end.

STATEWIDE SITING PROCESS – C.G.S. §4-176: This bill proposes to require the process for siting small cells and DAS to include participation by the municipality where such small cells and DAS are proposed to be sited. This is duplicative of an existing statutory notice requirement. Pursuant to C.G.S. §4-176, the process for siting small cells and DAS on structures used principally to support one or more antennas is by petition for a declaratory ruling. Through this process, the petitioner is required to submit a copy of the petition to the chief elected official of the host municipality and abutting property owners.⁴ Once a petition is submitted, the Council provides notice to the chief elected official that the

¹ Federal Communications Commission, Wireless Infrastructure Report and Order (October 21, 2014).

² Regulations of Connecticut State Agencies §16-50j-2a (30) (2012).

³ Public Utilities Regulatory Authority, Docket No. 16-06-38 (December 14, 2016) (currently on appeal).

⁴ Regulations of Connecticut State Agencies §16-50j-40 (2012) (“Prior to submitting a petition for a declaratory ruling to the Council, the petitioner shall, where applicable, provide notice to each person other than the petitioner

petition is under review and any comments from the host municipality, including a request to hold a public hearing, may be submitted to the Council within a 30 day period. Within the 30 day period, a publicly noticed site review may be scheduled. Attendance is open to the public. In 2007, the Council ruled on a petition for a declaratory ruling for a DAS along the Merritt Parkway traversing the towns of Greenwich, Norwalk, Stamford, New Canaan and Westport.⁵ It involved antenna attachments to existing structures non-jurisdictional to the Council, as well as to 5 new, free standing structures jurisdictional to the Council. A public hearing was held in the town of Westport. The Council has also more recently ruled on several petitions for declaratory rulings for small cell attachments to free standing structures, as well as for small cell attachments to structures on building rooftops, consistent with the regulatory definition of tower.

MORATORIUM: This bill proposes a moratorium on all jurisdictional matters relating to small cells and DAS until the plan and process are approved by the legislature. This is in direct contravention of the federal TCA. The FCC imposes substantive restrictions on state and local siting authority. Regulations shall not prohibit or have the effect of prohibiting the provision of personal wireless services.⁶ The FCC concluded that 90 days is a reasonable period of time for processing small cell and DAS applications and established a shot clock for state and local review noting that any moratorium that results in a delay of more than 90 days for shared use applications is presumptively unreasonable. The FCC Wireless Facility Siting Shot Clock makes no provision for moratoria and runs regardless of any moratoria.

Placement of a moratorium on all jurisdictional matters relating to small cells and DAS would also have deleterious effects on the provision of public safety communications. Presidential Executive Order 13616, Accelerating Broadband Infrastructure Deployment, recognized broadband access as essential to the nation's global competitiveness and affords public safety agencies the opportunity for greater levels of effectiveness and interoperability.⁷ The First Responder Network Authority (FirstNet) was created by Congress to ensure the deployment and operation of a nationwide, broadband network for public safety communications. Congress specifically directed FirstNet to encourage utilization of existing wireless infrastructure to speed deployment of the nationwide Public Safety Wireless Broadband Network (PSBN). A moratorium would impede the deployment of the PSBN.

In summary, the Council opposes the passage of Raised Bill No. 536 on the basis that the proposed bill duplicates an existing statutory reporting requirement, duplicates an existing statutory notice requirement, is in direct contravention of federal law by prohibiting or having the effect of prohibiting the provision of personal wireless services and would impede the deployment of the nationwide Public Safety Broadband Network.

Thank you again for the opportunity to provide testimony on this proposal. Should you have any questions or seek additional information, please feel free to contact Melanie Bachman at 860-827-2951 or Melanie.Bachman@ct.gov.

Robin Stein
Chairman
Connecticut Siting Council

appearing of record as an owner of property which abuts the proposed primary or alternative sites of the proposed facility, each person appearing of record as an owner of the property or properties on which the primary or alternative proposed facility is to be located and the appropriate municipal officials and government agencies.”)

⁵ Connecticut Siting Council, Petition No. 809, November 8, 2007.

⁶ Federal Communications Commission, Wireless Facility Siting Shot Clock Order, November 18, 2009.

⁷ Presidential Executive Order 13616, Accelerating Broadband Infrastructure Development, June 14, 2012.