

ATTACHMENT 1

DOCKET NO. 383 – New Cingular Wireless PCS, LLC } Connecticut
application for a Certificate of Environmental Compatibility and }
Public Need for the construction, management, and maintenance } Siting
of a telecommunications facility located at 316 Perkins Road, }
Southbury, Connecticut. } Council

July 15, 2010

Findings of Fact

Introduction

1. Pursuant to Chapter 277a, Sections 16-50g et seq. of the Connecticut General Statutes (CGS), as amended, and Section 16-50j-1 et. seq. of the Regulations of Connecticut State Agencies (RCSA), New Cingular Wireless PCS, LLC (AT&T) applied to the Connecticut Siting Council (Council) on July 24, 2009 for the construction, management, and maintenance of a telecommunications facility that would include a 150-foot steel monopole tower. The facility would be located at 316 Perkins Road in the Town of Southbury, Connecticut. (See Figures 1 and 2) (AT&T 1, p. 1)
2. AT&T is a Delaware limited liability company with an office at 500 Enterprise Drive, Rocky Hill, Connecticut. The company's member corporation is licensed by the Federal Communications Commission (FCC) to construct and operate a personal wireless services system, which has been interpreted as a "cellular system." The company does not conduct any other business in the State of Connecticut other than the provision of wireless services under FCC rules and regulations. (AT&T 1, p. 2)
3. The party in this proceeding is the applicant. (Transcript, November 24, 2009, 3:00 p.m. [Tr. 1], p. 5)
4. The purpose of the proposed facility is to provide service in northern Southbury and parts of southern Roxbury. (AT&T 1, p. 1)
5. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on November 24, 2009, beginning at 3:00 p.m. and continuing at 7:00 p.m. in the Southbury Town Hall, 501 Main Street South in Southbury, Connecticut. (Tr. 1, p. 2 ff.)
6. The Council and its staff conducted an inspection of the proposed site on November 24, 2009, beginning at 2:00 p.m. On the day of the field inspection, the applicant flew a balloon beginning at approximately 6:50 a.m. until approximately 4:00 p.m. Conditions for the balloon flight were good throughout most of the morning when winds were light. Winds increased in the afternoon. Weather conditions were generally fair, and visibility was over one mile. (Tr. 1, pp. 15-16)
7. The public hearing of November 24, 2009 was closed at 8:35 p.m. (Transcript, November 24, 2009, 7:05 p.m. [Tr. 2], p. 73)

8. Pursuant to CGS § 16-50l (b), AT&T published public notice of its application in Voices, on June 3 and 10, 2009. (AT&T 1, p. 3, Attachment 9)
9. In accordance with CGS § 16-50l(b), AT&T sent notices of its intent to file an application with the Council to each person appearing of record as owner of property abutting the property on which the proposed facility is located. (AT&T 1, p. 4, Attachment 9)
10. AT&T did not receive return receipts from four of the abutters to whom it sent notice. Follow up letters, along with the original notice, were sent by first class mail to three of the four abutters. AT&T did obtain confirmation of receipt by the fourth abutter—R&M Associates Realty— through the Postal Service website. (AT&T 2, Response 1)
11. Pursuant to CGS § 16-50l (b), AT&T provided notice to all federal, state, regional, and local officials and agencies listed therein. (AT&T 1, p. 3, Attachment 8)
12. On November 12, 2009, AT&T posted a sign near the host property at the intersection of Perkins Road and Garnet Road. The sign indicated that an application for a telecommunications facility on the host property was pending before the Council. It also announced that a balloon float, a site visit, and a public hearing would occur on November 24, 2009. (AT&T 5: Pre-filed testimony of Kevin Dey, 5.Q.A.)
13. At a meeting held on January 7, 2010, the Council took a straw poll and voted to deny this application without prejudice. (Siting Council Meeting Minutes of January 7, 2010, p. 2)
14. On January 29, 2010, AT&T submitted a motion to re-open the public hearing in order to develop supplemental information about the proposed site and possible alternatives. The Council granted this motion on February 11, 2010. (Transcript, April 27, 2010, 1:05 p.m. [Tr. 3], p. 10)
15. The re-opened public hearing was held on April 27, 2010, beginning at 1:05 p.m. in Hearing Room One of the Council's offices at Ten Franklin Square in New Britain. (Tr. 3, p. 2 ff.)

State Agency Comments

16. Pursuant to CGS § 16-50l, on September 22, 2009 and November 30, 2009, the Council solicited comments on AT&T's application from the following state agencies: Department of Agriculture, Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, and the Department of Transportation. (CSC Hearing Package dated September 22, 2009; Letter to State Department Heads dated November 30, 2009)
17. The Council did not receive any comments from state agencies regarding this application. (Record)

Municipal Consultation

18. On April 6, 2009, AT&T filed a technical report with the Towns of Southbury and Roxbury (the proposed site is within 2,500 feet of the Roxbury town boundary). AT&T representatives subsequently spoke with the First Selectmen of both towns, together with the respective zoning and land use officials. (AT&T 1, pp. 16-17)
19. AT&T would provide space on its proposed tower for the Town of Southbury's emergency services antennas for no charge. (AT&T 2, Response 3; Tr. 1, p. 18)

Federal Designation for Public Need

20. The United States Congress, through adoption of the Telecommunications Act of 1996 (Act), recognized the important public need for high quality telecommunication services throughout the United States. The purpose of this Act was to "provide for a competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans." (AT&T 1, p. 4)
21. The Act prohibits local and state bodies from discriminating among providers of functionally equivalent services. (Council Administrative Notice No. 7)
22. The Act prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects, which include human health effects, of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice No. 7)
23. In an effort to ensure the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999 (the 911 Act). The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (AT&T 1, pp. 5-6)
24. AT&T would provide Enhanced 911 services from the proposed site as required by the 911 Act. (AT&T 1, p. 5)
25. AT&T's proposed facility would be an integral component of its FCC-licensed network and would provide service within a coverage gap that exists in the area of South Street, Lower River Road, Brown Brook Road, West Purchase Road and surrounding areas in the Town of Southbury and the adjoining town of Roxbury. (AT&T 1, p. 4)

Existing and Proposed Wireless Coverage

26. AT&T is licensed by the FCC to operate on the “B” band at cellular frequencies and on the “A3” band at PCS frequencies. (AT&T 2, Response 16; Tr. 1, pp. 18-19)
27. There are approximately 14 miles of local roads without existing adequate service within AT&T’s proposed service area. (AT&T 2, Response 21)
28. From its proposed facility, AT&T would cover approximately 13 of the 14 miles of roads currently without adequate coverage. (AT&T 2, Response 22)
29. The proposed facility would hand off signals to an AT&T site at 24 Dinglebrook Lane in Newtown (which was approved in Docket 376) and to a site under development in Roxbury. (AT&T 2, Response 24)
30. The 24 Dinglebrook Lane site in Newtown is approximately 3.2 miles southeast of the proposed facility. The site in Roxbury is approximately 2.5 miles northeast of the proposed facility. (AT&T 3, Response 2; AT&T 1, Attachment 1, Current Coverage Propagation Map)
31. AT&T designs its system for a signal strength of -82 dBm for in-vehicle coverage and -74 dBm for in-building coverage. (AT&T 2, Response 17)
32. AT&T’s existing signal strength in the proposed service area varies from -82 dBm to less than -105 dBm. (AT&T 2, Response 18)
33. With its antennas at 150 feet, AT&T would cover 4.1 square miles from the proposed facility at cellular frequencies at a best signal level of -74 dBm. It would cover 8.7 square miles at cellular frequencies at a best signal level of -82 dBm and 23.2 square miles at cellular frequencies at a best signal level of -92 dBm. (AT&T 2, Response 20; Tr. 1, p. 19)

Site Selection

34. AT&T Radio Frequency engineers initiated a request for a site in the vicinity of the proposed facility in February 2006. AT&T representatives began a search for a site in this area in March 2008. (AT&T 2, Response 4)
35. The center of AT&T’s original search ring was located near the intersection of Scatacook Lane and Sachem Road at 41° 29’ 15” north latitude and 73° 18’ 59” west longitude. The search ring’s radius was approximately 3,000 feet. (AT&T 1, p. 7; Attachment 2)
36. AT&T revised its search ring because sites within the original search ring that were investigated did not meet radiofrequency (RF) propagation needs. The center of the new search ring was near the town line between Southbury and Roxbury where Perkins Road in Southbury becomes Garnet Road in Roxbury. The coordinates for the center of this new search ring were 41° 30’ 24” north latitude and 73° 18’ 8” west longitude. Its east-west radius was approximately 5,000 feet. (AT&T 1, p. 7; Attachment 2)

37. In its site search, AT&T considered locating its antennas on the 180-foot, self-supporting lattice telecommunications tower owned by the Department of Public Safety (DPS) and located on the grounds of the Southbury Training School. This tower is approximately one mile east of AT&T's proposed site. AT&T tested antennas at heights of 130 feet, 150 feet, and 190 feet on the DPS tower. AT&T's antennas would not provide adequate service to the majority of its coverage objective and would not hand off signals with adjacent AT&T facilities at any of the heights tested. (AT&T 1, p. 7; Tr. 1, pp. 20, 24-25, 27, 58-59)
38. The tower at the Training School would be difficult to extend because it is built with round member legs, which are harder to reinforce to bear the additional structural stress of an extension than angle iron legs. (Tr. 1, p. 25)
39. In addition to the proposed site at 316 Perkins Road and the DPS tower mentioned above, AT&T investigated 18 other locations in Southbury as possible sites for its facility. These sites are listed below.
 - a. Wolf #1 – This was a site on property at 1012 West Purchase Road. This site was rejected due to topography constraints, distance to the proposed service area, and difficulty in developing a site at this location.
 - b. Wolf #2 – This was another location on the property at 1012 West Purchase Road. This site was rejected due to topography constraints, distance to the proposed service area, and difficulty in developing a site at this location.
 - c. Weinstein #1 – This was a property at the end of Scatacook Lane. This site was rejected due to topography constraints, distance to the proposed service area, and difficulty in developing a site at this location.
 - d. Weinstein #2 – 562 Tepi Drive. This site was rejected due to topography constraints, distance to the proposed service area, and difficulty in developing a site at this location.
 - e. Hardy Farms Graham #1 – This was one of two locations investigated at 327 West Purchase Road. This site was rejected due to topography constraints, distance to the proposed service area, and difficulty in developing a site at this location.
 - f. Hardy Farms Graham #2 – This was the second location investigated at 327 West Purchase Road. This site was rejected due to topography constraints, distance to the proposed service area, and difficulty in developing a site at this location.
 - g. Agate – 206 West Purchase Road. This site was rejected due to topography constraints, distance to the proposed service area, and difficulty in developing a site at this location.
 - h. Fire House on Stillson Road. The firehouse tower is approximately 1.65 miles to the southeast of the proposed tower and would not provide adequate service to AT&T's coverage objective.

- i. Breen - 84 Perkins Road. AT&T sent a query letter to this property owner but received no response. Development of this property would encounter challenging access issues and require greater land disturbance than the proposed site.
- j. Oster – 331 Perkins Road. AT&T sent a query letter to this property’s owners who replied that they were not interested.
- k. Houldin – 84 Garnet Road. AT&T sent a query letter to this property owner but received no response. Development of this property would encounter challenging access issues and require greater land disturbance than the proposed site.
- l. Childs – 78 Garnet Road. AT&T sent a query letter to this property owner but received no response. Development of this property would encounter challenging access issues and require greater land disturbance than the proposed site.
- m. Ludorf - (Block 90, Lot 5,7 and Block 87, Lot 14). This property was unavailable for development as it is encumbered by a conservation easement obtained by the Southbury Land Trust in conjunction with the Southbury Historical Society.
- n. R&M Associates – 67 Garnet Road. AT&T sent a query letter to this property owner who was interested. However, the terrain of this property is characterized by deep craters and old garnet mines that make it unsuitable for development as a wireless facility.
- o. Southbury Land Trust (Block 87, Lot 9). This property is reserved open space and is unavailable for development.
- p. Open Space (Block 87, Lot 8A). This property is part of the Southbury Land Trust’s Paradise Hill Preserve. It is reserved as open space and is unavailable for development.
- q. Southbury Land Trust. Southbury Land Trust owns several additional properties within the site search area. Most of these properties are deed restricted, and the Trust is not interested in leasing its properties for commercial purposes.

(AT&T 1, Attachment 2; AT&T 2, Responses 5, 6, 7, 8, 9, 10 [and Attachment 3 to AT&T Responses], 11)

- 40. AT&T investigated the feasibility of a location on the western portion of the Southbury Training School property that was suggested by Robert Woodside during the November 24 public hearing. AT&T’s investigation concluded that a facility at this location could not provide sufficient coverage to the north and west on Lower River Road, South Street/River Road, and portions of Roxbury that would be targeted to be served by the proposed facility. (AT&T Post Hearing Supplemental Submission of Information Requested by the Siting Council, dated December 23, 2009)

41. Repeaters, microcell transmitters, distributed antenna systems and other types of transmitting technologies would not be practicable or feasible means of providing service within the area AT&T seeks to cover from the proposed facility. There are no equally effective and feasible technological alternatives to the construction of the proposed tower. (AT&T 1, p. 6)

Re-Opening – Site Selection

42. AT&T investigated the feasibility of five locations in or near to the western portion of the Southbury Training School property (see Figure 7). A 350-foot tall tower in this area could largely provide the coverage AT&T is seeking to achieve from its proposed facility. Even a tower of this height at any of the locations investigated, however, could not extend coverage along South Street due to topography constraints and, consequently, could not provide coverage equivalent to that possible from the proposed site at 316 Perkins Street. (AT&T 7, A2; Tr. 3, pp. 12-13)
43. AT&T made two calls, on December 1 and on December 18, 2009, to the Southbury Training School to explore the feasibility of leasing a portion of its property for a new tower site. After AT&T's RF engineers determined that no tower of a reasonable height was feasible on this property, it did not pursue the lease possibility any further. No one from the training school ever returned AT&T's initial calls. (AT&T 7, A5)
44. At the Council's request, AT&T investigated whether a lower tower at the proposed Perkins Street site could provide the desired coverage in conjunction with a tower at a similar height at one of the sites rejected during the site search process. A 120-foot tower at the proposed site at 316 Perkins Road could not provide the desired coverage in conjunction with another 120-foot tower at any of the sites identified in AT&T's application as Wolf #1 or #2, Weinstein #1 or #2, Hardy Farms Graham #1 or #2, or Agate-206 West Purchase Road (aka the Agape Outreach Camp) due to the topography of the surrounding vicinity and the location of on-air and potential future sites that are currently in the development stage. (AT&T 7, A6; Tr. 3, p. 17)
45. In its responses to interrogatories issued prior to the re-opened hearing, AT&T identified two additional tower sites currently under development that were not identified during the original hearing. One of the sites is located in the Town of Bridgewater, approximately 2.6 miles west of the Perkins Road site. The tower at this location (identified by AT&T as S2039) would be 150 feet or 160 feet high and would be owned by SBA, which is preparing a package describing this proposed facility to submit to the town. The other site is also located in Bridgewater and is approximately 4.7 miles to the northwest of the Perkins Road site. The site is located on state-owned property, and AT&T is negotiating the lease with the state. The tower at this location would be approximately 140 feet high. This site is identified by AT&T as S1252. (AT&T 7, Propagation Maps in Attachment 2; Tr. 3, pp. 13-14)

46. A 120-foot tower at the Perkins Road site would adequately cover the area of AT&T's coverage objective in conjunction with towers at the future S2039 and S1252 sites. However, AT&T would prefer to place its antennas at a centerline height of at least 140 feet at the Perkins Road site because at this height it would be able to achieve better coverage at the northern and southern edges of the site's coverage area. (Tr. 3, pp. 16, 62)
47. If AT&T were to build a 120-foot tower at the proposed site, it would be likely that other carriers, particularly those using PCS (1900 MHz) and AWS (2000 MHz) frequencies, would seek to extend the tower in order to be able to use it effectively due to the difficult terrain in the area and the extensive tree cover. (Tr. 3, pp. 20-21)
48. If AT&T were to install flush-mounted antennas on the proposed tower, it would need three different levels on the tower to accommodate the different frequencies on which it operates. The lowest level at which any of its antennas would be effective would be 120 feet above ground level. Requiring flush-mounted antennas on the proposed tower could mean that other carriers would also need multiple levels for their antenna systems that may operate at different frequencies. (Tr. 3, pp. 34-36)

Facility Description

49. The proposed facility is located on a 9.87-acre parcel at 316 Perkins Road. The property is owned by Elizabeth A. Archibald and used as a residence. It is located in the northwesterly section of Southbury, and its northern property line coincides with the boundary of the Town of Roxbury. Perkins Road is approximately 400 feet to the east of the property's easterly boundary. The westerly property line abuts Brown Brook Road. (AT&T 1, p. 8; Attachment 3 – Drawing S-1)
50. The Archibald property is zoned R-80, a residential zoning district that requires a minimum lot size of 80,000 square feet. Wireless telecommunications towers are permitted in R-80 zoning districts by Special Exception. The Town of Southbury's zoning regulations list six possible locations for wireless towers in order of preference. New towers in residential districts are the least preferred location. (AT&T 1, pp. 9, 13; AT&T Bulk Filing – Town of Southbury Zoning Regulations)
51. The Town of Southbury's zoning regulations require the proposed tower to be set back at least 170 feet from all property lines. The tower's proposed location is 145 feet from the Archibald property's northern property line and 160 feet from its southern property line. (AT&T 1, p. 14; AT&T 1, Attachment 3, Drawing S-3)
52. The town's zoning regulations stipulate that towers be designed to accommodate six carriers. The proposed tower would be designed to accommodate four carriers. (AT&T 1, p. 14)
53. At the proposed site, AT&T would develop a 75-foot by 75-foot compound within a 100-foot by 100-foot lease area. The compound would include a 150-foot monopole tower and a 12-foot by 20-foot equipment shelter for AT&T's ground equipment. The compound would be enclosed by an eight-foot high chain link fence. (See Figure 3) (AT&T 1, p. 8; Attachment 3)

54. The proposed tower would be located at 41° 30' 22.27" north latitude and 73° 18' 10.36" west longitude. Its ground elevation would be 597.5 feet above mean sea level. (AT&T 1, Attachment 3 – Site Evaluation Report; Tr. 1, pp. 9-10)
55. The proposed tower would be designed in accordance with the 2005 Connecticut State Building Code, the 2003 International Building Code, and the Electronic Industries Association Standard EIA/TIA-222-F, "Structural Standards for Steel Antenna Towers and Antenna Support Structures." It would be capable of supporting four levels of antennas. The base of the tower would be approximately four and a half feet in diameter. The top of the tower would be approximately two feet in diameter. (AT&T 1, Attachment 3 – Facilities and Equipment Specification)
56. AT&T would initially install up to six Powerwave 7770.0, or equivalent, antennas on a low profile platform at a centerline height of 147 feet above ground level (agl). (AT&T 1, p. 8; Attachment 3 – Facilities and Equipment Specification)
57. AT&T would rely primarily on a diesel generator for backup power, but it would also have battery backup power to prevent a "re-boot" condition during the generator start-up delay period. The total run time of the backup generator would be approximately 114 hours. The generator's fuel tank would be a steel containment chamber lined with a bladder to contain fuel in the event of a fuel spill. (AT&T 2, Response 15)
58. Development of the proposed facility would require approximately 135 cubic yards of cut and approximately 436 cubic yards of fill. (AT&T 2, Response 13)
59. Vehicular access to the site would extend northerly from Perkins Road over the property owner's existing driveway and then over a new 12-foot wide gravel drive that would be approximately 87 feet long. (AT&T 1, pp. 8-9)
60. AT&T would adjust the location of its access road to preserve two cedar trees and two oak trees that would help shield the view of the compound from the nearest neighbors to the east. (Tr. 1, pp. 61-63)
61. Utilities would be extended above ground approximately 280 feet using existing utility poles on the host property that provide utility service to the Archibald residence. From the last existing pole, the utility service would be installed underground for a distance of approximately 190 feet to the facility compound. The underground utilities would generally follow the access drive. (AT&T 1, p. 9; Attachment 3 – Sheet S-3; Tr. 1, pp. 17-18)
62. It is possible that rock could be encountered in the development of the proposed facility. It is likely that any rock encountered can be removed using mechanical methods. (AT&T 2, Response 14)
63. The proposed tower's setback radius would extend approximately five feet onto the adjacent property to the north, which is in the Town of Roxbury. (AT&T 1, Attachment 3 – Overall Site Plan, Drawing S-3)

64. AT&T would design a yield point into the tower at a point selected to keep the setback radius contained on the host property, even if the tower were to be extended. (Tr. 1, pp. 16 ff.)
65. There are 13 residences within 1,000 feet of the proposed tower's location. (AT&T 1, Attachment 3 – Site Development Information)
66. The nearest residence to the proposed tower's location belongs to the property owner and is approximately 210 feet to the east. (AT&T 1, Attachment 3 – Site Development Information)
67. The nearest occupied residence off of the Archibald property is located approximately 430 feet to the east. It is owned by Robert and Jurintha Fallow. (AT&T 1, Attachment 3 – Site Development Information & Drawings S-1 and S-2)
68. There is a structure to the southeast of the proposed facility location that appears to be an unoccupied residence. This structure is located approximately 330 feet from the proposed tower's location. (Tr. 1, p. 11)
69. Land use in the general vicinity of the proposed facility consists primarily of low density residential development and undeveloped woodlands. (AT&T 1, Attachment 4, p. 1)
70. The estimated cost of the facility, excluding leasehold costs, is:

Tower and foundation costs	\$ 200,000
Site development costs	70,000
Utility installation costs	50,000
<u>Costs of antennas and related equipment</u>	<u>300,000</u>
Total estimated costs	\$ 620,000

(AT&T 1, p. 17; AT&T 2, Response 27)

Environmental Considerations

71. AT&T's proposed facility would have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (AT&T 1, Attachment 7 – Letter from SHPO, dated December 11, 2008)
72. The Eastern Box Turtle, a state species of special concern, occurs in the vicinity of the proposed facility. (Letter from DEP Franklin Wildlife Management Area — NDDB 17789, dated June 14, 2010)

73. If construction activities take place between April 1 and November 1—the period when Eastern Box Turtles are active—DEP recommends taking the following actions to protect the turtles:
- a. the construction crew should be apprised of the species description and possible presence and the construction area should be searched for turtles each day prior to construction activities;
 - b. any turtles encountered during construction should be moved to a location outside of the construction area;
 - c. precautions should be taken to avoid degradation to wetland habitats, including any wet meadows and seasonal pools;
 - d. any work conducted in these habitats during the early morning and evening hours should be undertaken with special care not to harm basking or foraging individuals;
 - e. no heavy machinery or vehicles should be parked in any turtle habitat.

(Letter from DEP Franklin Wildlife Management Area — NDDDB 17789, dated June 14, 2010)

74. The nearest eagle observation areas to the proposed facility are located approximately 4.2 miles to the northwest on Route 133 and approximately 4 miles to the south-southeast at the Shepaug Dam. (Letter from Cuddy & Feder, dated June 21, 2010; Avian Resources Map prepared by Vanasse Hangen Brustlin)
75. The vegetation in the vicinity of the proposed facility is characterized as early successional forest and abandoned agricultural land currently dominated by small diameter trees and brush. (AT&T 2, Response 28; AT&T 2, Attachment 9)
76. AT&T would remove 43 trees with diameters of six inches or greater at breast height for the proposed facility. (AT&T 1, Attachment 3 – Site Development Information)
77. The nearest wetland to the proposed facility is located approximately 240 feet to the northwest on an adjacent property in the Town of Roxbury. (AT&T 1, p. 16; Attachment 3 – Drawings S-2 and S-3)
78. AT&T would establish and maintain soil erosion control measures and other best management practices throughout the construction of the proposed facility. These measures would be designed and employed in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended, established by the Connecticut Council for Soil and Water Conservation, in cooperation with the DEP. (AT&T 1, p. 16)
79. AT&T utilized the FCC's TOWAIR program to determine if its proposed site would require registration with the Federal Aviation Administration. The results of this program indicated that no registration would be required and that the tower would not need any air navigation lighting or marking. (AT&T 1, pp. 11-12)

80. The cumulative worst-case maximum power density from the radio frequency emissions of AT&T's proposed antennas on the proposed 150-foot tower is calculated to be 0.0406 mW/cm² or 6.0% of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (AT&T 1, Attachment 3 – Power Density Calculation for Proposed AT&T Antennas)

Visibility

81. The visibility of the proposed tower, at 150 feet, from different vantage points in the surrounding vicinity is summarized in the following table. (See Figure 8)

Location	Visible Site	Approx. Portion of (150') Tower Visible (ft.)	Approx. Distance and Direction from Tower Site
1. – 205 Perkins Road	Yes	50	1,400 feet; SE
2. – 225 Perkins Road	Yes	60	1,270 feet; E
3. – Town Line Road	Yes	20	8,900 feet; NW
4. – Berry Road, south of Minor Bridge Road	Yes	20	8,300 feet; NW
5. – Town Line Road	Yes	20	9,600 feet; NW
6. – Town Line Road, north of Minor Bridge Road	Yes	20	8,800 feet; NW
7. – 64 Minor Bridge Road	Yes	50	5,600 feet; NW
8. – 129 Turrill Brook Road	Yes	40	1,600 feet; SW

(AT&T 1, Attachment 4)

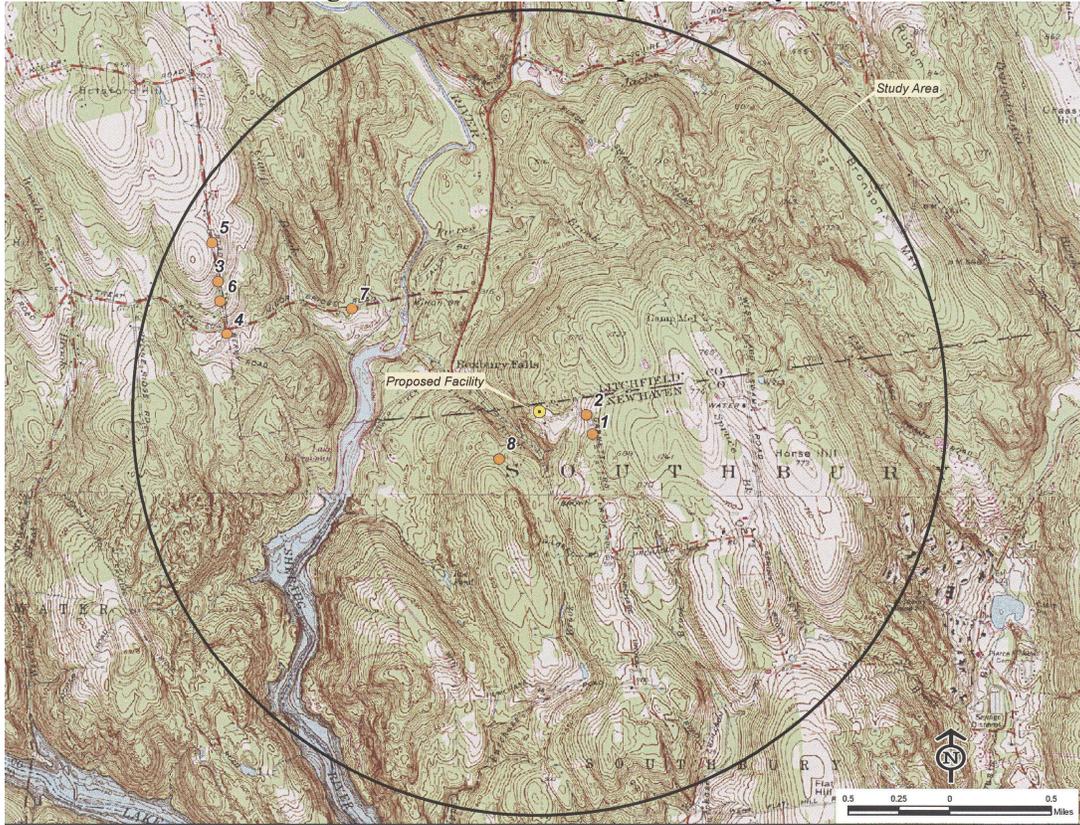
82. The proposed 150-foot tower would be visible year-round from approximately 72 acres within a two-mile radius of the site. (See Figure 8) (AT&T 1, Attachment 4, p. 4)
83. The majority of the area from which the tower would be visible year-round is undeveloped agricultural land located approximately 1.8 miles west of the proposed site. (AT&T 1, Attachment 4, p. 4)
84. The tower would be visible year-round from portions of Perkins Road, Berry Road, Minor Bridge Road, and Turrill Brook Road. (AT&T 1, Attachment 4, p. 4)
85. The tower would be visible year-round from at least portions of 11 residential properties. Five of these properties are located along Perkins Road; two properties are located along Town Line Road; two properties are located along Turrill Brook Road; and two residences are located along Minor Bridge Road. (AT&T 1, Attachment 4, pp. 4-5)

86. The tower would be seasonally visible from approximately an additional 56 acres in the area within a two-mile radius of the site. (AT&T 1, Attachment 4, p. 5)
87. Areas of seasonal visibility include portions of Garnet Road, Perkins Road, Turrill Brook Road, Brown Brook Road, and Minor Bridge Road. (AT&T 1, Attachment 4, p. 5)
88. Approximately eight additional residential properties would have seasonal views of the tower. Four of these properties are located along Garnet Road; two properties are located along Turrill Brook Road; and two properties are located along Brown Brook Road. (See Chart in Finding No. 63) (AT&T 1, Attachment 4, p. 5; AT&T 2, Response 29)
89. Garnet Road is a locally-designated scenic roadway within the Town of Roxbury. It is possible that there would be limited seasonal views of the proposed tower from Garnet Road within the general vicinity of the Southbury/Roxbury town line, located approximately 600 feet to the northeast of the proposed facility. Such views would be mostly screened by existing vegetation, even during winter months. (AT&T 2, Response 30)

Re-Opening - Visibility

90. A 120-foot tower at the proposed site would have essentially the same total footprint area from which it would be visible as the proposed 150-foot tower. There would, however, be fewer outlying views of the lower tower, particularly to the west of the proposed site. (Tr. 3, pp. 18-19)
91. A 120-foot tower at the proposed site would mean a significant reduction in the near views of the tower, as it would bring the tower closer to the top of the tree line from the perspective of the nearest residences at 205 and 225 Perkins Road that would have views. (Tr. 3, pp. 19-20)
92. A monopine could mitigate the visual impact of the proposed tower because it would not appear very far above the tree line from most of the locations with views and would seem more natural than a plain tower. (Tr. 3, pp. 67-69)
93. A monopine would have an overall height of approximately seven feet higher than the top of the proposed monopole in order to accommodate a natural taper of the pine branches. (Tr. 3, p. 69)

Figure 1: Location of Proposed Facility



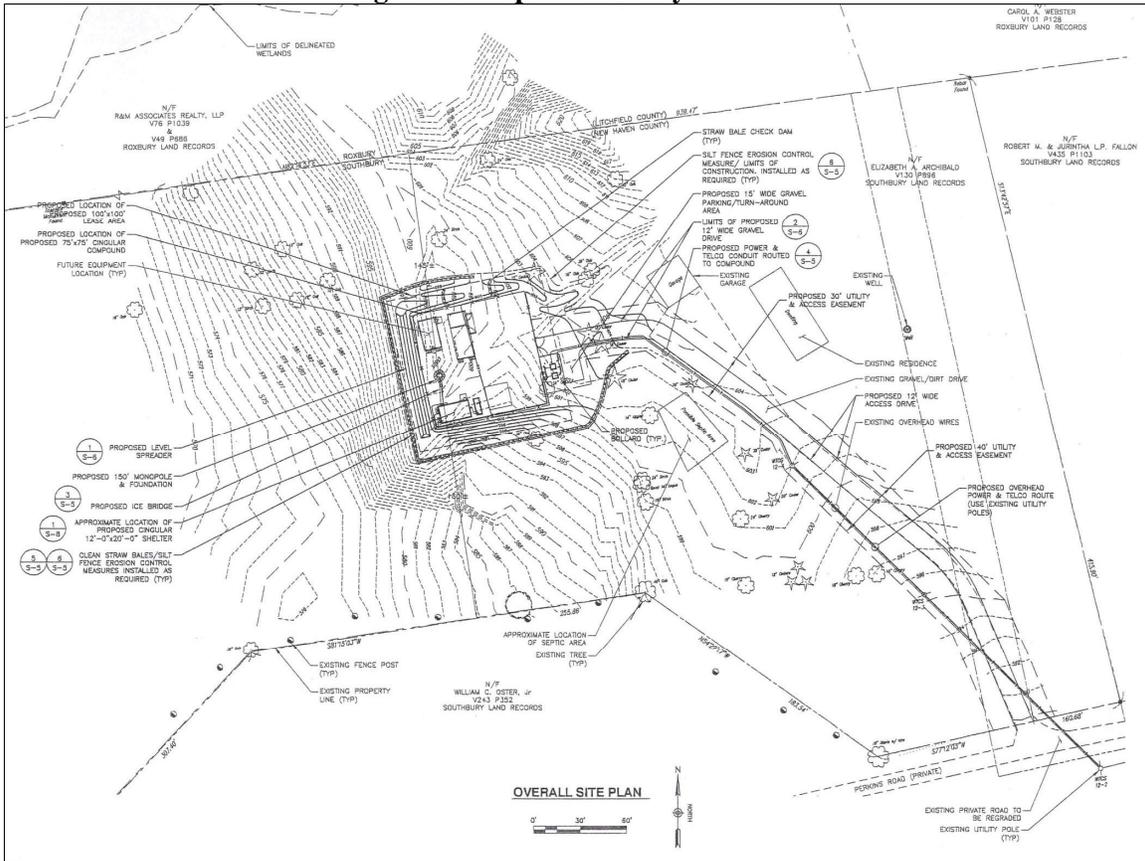
(AT&T 1, Attachment 4)

Figure 2: Aerial Photograph of Host Property



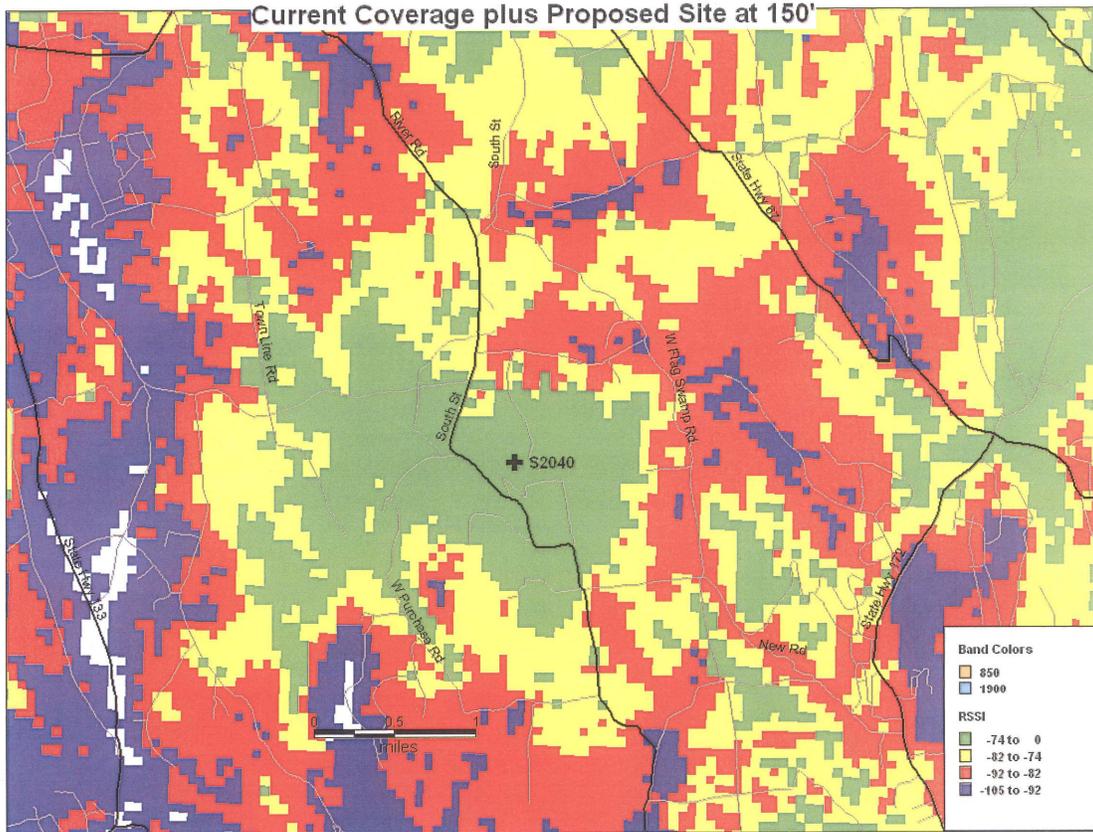
(AT&T 1, Attachment 3)

Figure 3: Proposed Facility Site Plan



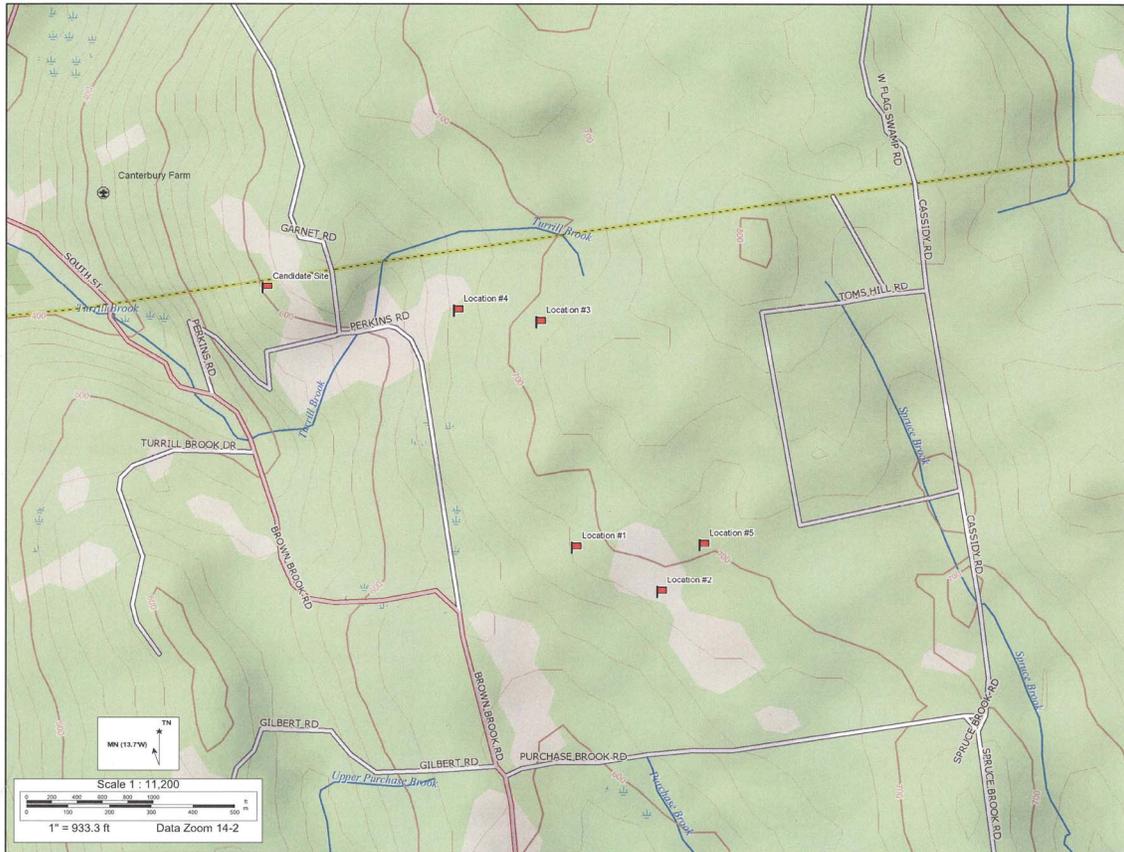
(AT&T 1, Attachment 3)

Figure 6: Cellular Coverage with Proposed Site



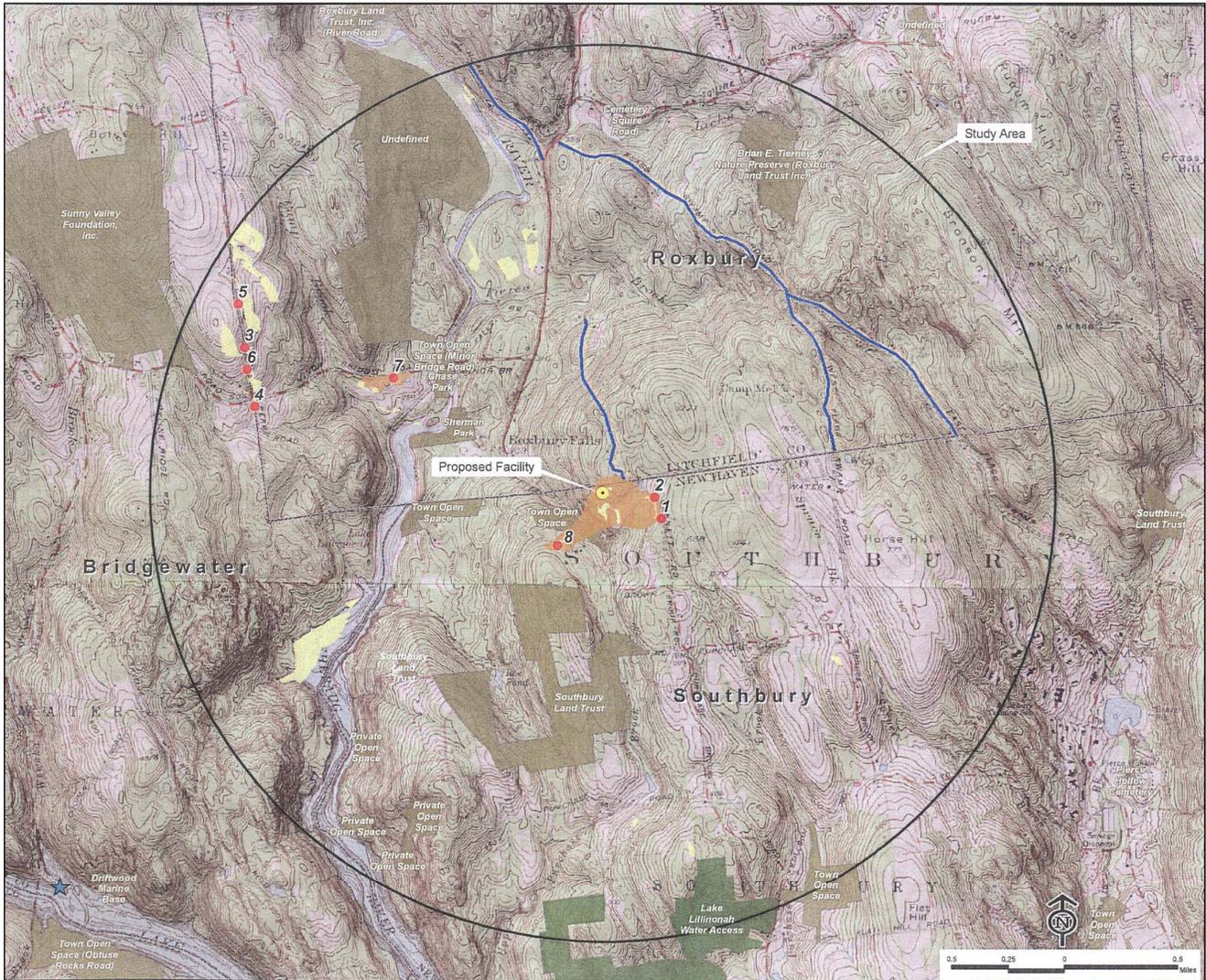
(AT&T 1, Attachment 1)

Figure 7: Sites Investigated on and near Southbury Training School Property



(AT&T 7, Attachment 1: Southbury Training School Alternate Site Map)

Figure 8: Visual Analysis Map (150-foot Tower)



Legend	
Tower Location (Includes select areas of visibility approximately 500 feet around facility)	CT DEP Protected Properties (2007)
Photographs - November 10, 2008	State Forest
Approximate Year-Round Visibility (Approximately 72 acres)	State Park
Approximate Seasonal Visibility (Approximately 56 acres)	DEP Owned Waterbody
Protected Municipal and Private Open Space Properties (1997)	State Park Scenic Reserve
Cemetery	Historic Preserve
Preservation	Natural Area Preserve
Existing Preserved Open Space	Fish Hatchery
Recreation	Flood Control
General Recreation	Other
School	State Park Trail
Uncategorized	Water Access
	Wildlife Area
	Wildlife Sanctuary
	Federal Protected Properties (1997)
	CT DEP Boat Launches (1994)
	Scenic Road (State and Local)
	Town Line

(AT&T 1, Attachment 4 – Visual Resource Evaluation Report)

DOCKET NO. 383 – New Cingular Wireless PCS, LLC } Connecticut
application for a Certificate of Environmental Compatibility and }
Public Need for the construction, management, and maintenance } Siting
of a telecommunications facility located at 316 Perkins Road, }
Southbury, Connecticut. } Council

July 15, 2010

Opinion

On July 24, 2009, New Cingular Wireless PCS, LLC (AT&T) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and management of a wireless telecommunications facility to be located in the Town of Southbury, Connecticut. AT&T is seeking to develop this facility on a 9.87-acre parcel that is owned by a private individual who uses it as a residence. AT&T's objective in locating a facility here is to provide service in northern Southbury and parts of southern Roxbury, where it is experiencing significant gaps in its service.

AT&T proposes to construct a 150-foot monopole within a 75-foot by 75-foot compound. AT&T's ground equipment would be housed within a 12-foot by 20-foot equipment shelter. The tower and compound would be located in the central portion of the host property, which falls away steeply to the west from what would be western edge of the compound. No landscaping is proposed for the compound as there is enough mature vegetation in the area to screen it from the nearest neighbors. The location of the access road to the compound would be adjusted to preserve two cedar trees and two oak trees that would help shield the compound from the nearest residence to the east of the host property.

The tower would be designed to accommodate four levels of antenna installations. The setback radius of the proposed 150-foot tower would extend approximately five feet onto the adjacent property to the north, which is in the Town of Roxbury. In order to keep the tower from falling onto the adjacent property, AT&T would design the tower to include a yield point.

The proposed 150-foot tower would be visible year-round from approximately 72 acres within the surrounding area. This acreage would mostly include undeveloped agricultural land to the west, but it would also include portions of Perkins Road, Berry Road, Minor Bridge Road, and Turrill Brook Road. Eleven residential properties would have year-round views of the proposed tower. From one of these properties, the tower would appear prominently above the tree line. For the other residences, the tower would appear closer to the tree line. The proposed 150-foot tower would be seasonally visible from approximately an additional 56 acres and from approximately eight additional residential properties. It is possible that there would be some limited seasonal views of the tower from Garnet Road, which is a locally-designated scenic road in the Town of Roxbury. The portion of Garnet Road from which the tower might be visible is located approximately 600 feet to the northeast of AT&T's proposed facility.

In order to develop this site, AT&T would remove approximately 43 trees with diameters of six inches or more at breast height. The nearest wetland to the proposed facility is approximately 240 feet to the northwest on an adjacent property. The establishment and maintenance of generally accepted soil erosion control measures would prevent development of the facility from affecting any wetlands or watercourses. The Eastern Box Turtle, a state species of special concern, occurs in the vicinity of the proposed facility. The Connecticut Department of Environmental Protection recommends a series of precautionary measures that should be taken to protect any turtles within the area disturbed by construction activities. No archaeological, architectural, or historic resources are present.

The Council recognizes that there is a need for coverage in this part of the state. It also recognizes the difficulty of providing coverage due to the hilly terrain and extensive tree cover in the surrounding vicinity. However, the Council is also concerned about the visual presence the proposed 150-foot tower would have in this rural area, especially for several of the residences along Perkins Road. During the re-opened hearing, AT&T testified that it could achieve its coverage objectives with a tower at a height lower than the originally proposed 150 feet, if two tower sites under development in the Town of Bridgewater were to become operational. With this in mind, the Council would like to minimize the height of AT&T's tower, while still allowing for the possibility of collocations in order to reduce the need for additional towers in this area. Thus, the Council will order that the proposed tower be built to a height of 120 feet. The Council acknowledges that future carriers on this tower may seek to increase its height or make some other adaptation. In such instances, the Council feels that a public hearing should be held on any proposed height increase or adaptation.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the combined radio frequency power density levels of the antennas proposed to be installed on a 120-foot high tower have been calculated to amount to 9.3% of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies. If federal or state standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower. The Telecommunications Act of 1996 prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, management, and maintenance of the telecommunications facility at the proposed site, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, management, and maintenance of a 120-foot monopole telecommunications facility at 316 Perkins Road, Southbury, Connecticut.

Docket 383: Southbury

Opinion

Page 3

DOCKET NO. 383 – New Cingular Wireless PCS, LLC } Connecticut
application for a Certificate of Environmental Compatibility and }
Public Need for the construction, management, and maintenance } Siting
of a telecommunications facility located at 316 Perkins Road, }
Southbury, Connecticut. } Council

July 15, 2010

Decision and Order

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, management, and maintenance of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes § 16-50k, be issued to New Cingular Wireless PCS, LLC, hereinafter referred to as the Certificate Holder, for a telecommunications facility at 316 Perkins Road in Southbury, Connecticut.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and subject to the following conditions:

1. The tower shall be constructed as a monopole, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of New Cingular Wireless PCS, LLC and other entities, both public and private, but such tower shall not exceed a height of one hundred and twenty (120) feet above ground level. Any future proposed increase in the height of the tower or other adaptation should be the subject of a public hearing.
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Towns of Southbury and Roxbury for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line, monitoring for Eastern Box Turtles, and landscaping; and
 - b) construction plans for site clearing, grading, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

3. Prior to the commencement of operation, the Certificate Holder shall provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities' antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.
4. Upon the establishment of any new State or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
5. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
6. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of Southbury public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
7. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed and providing wireless services within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline.
8. At least one wireless telecommunications carrier shall install their equipment and shall become operational not later than 120 days after the tower is erected. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
9. Any request for extension of the time period referred to in Condition 7 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of Southbury. Any proposed modifications to this Decision and Order shall likewise be so served.
10. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
11. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.

12. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in the Voices.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

Applicant

New Cingular Wireless PCS, LLC

Its Representative

Christopher B. Fisher, Esq.
Daniel M. Laub, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601