



Written Testimony of the Connecticut Siting Council

Submitted to the Energy and Technology Committee

**In Reference to Raised Bill No. 568
An Act Concerning Telecommunications Towers
February 19, 2015**

Good afternoon Senator Doyle, 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. 568, An Act Concerning Telecommunications Towers. The Connecticut Siting Council (Council) is the state agency with jurisdiction over the construction, operation and maintenance of telecommunications towers in the state subject to Federal Communications Commission (FCC) limitations of state authority under the provisions of the federal Telecommunications Act of 1996. Regrettably, scheduling conflicts prevent us from providing oral testimony at the public hearing.

First, this bill proposes to amend subsection (f) of Conn. Gen. Stat. §16-50l to require a public hearing for the siting of a new telecommunications facility. Existing provisions under the Public Utility Environmental Standards Act, specifically Conn. Gen. Stat. §§16-50k and 16-50m, as well as existing provisions under the Uniform Administrative Procedure Act, require a public hearing for the siting and certification of new telecommunications facilities in the state.

Second, this bill proposes to amend subsection (f) of Conn. Gen. Stat. §16-50l to require a public hearing for a “proposed change, improvement or replacement of an existing facility.” State and federal case law well establishes that the FCC preempts state and local review on matters within the exclusive jurisdiction of the FCC, including, but not limited to, public need, health effects and network operations, and state and local review is limited to the environmental impacts of a particular proposed site. Under new regulations adopted pursuant to a FCC Order, state and local agencies are required to approve proposed changes, improvements or replacements of existing facilities that meet FCC criteria as an “Eligible Facilities Request” within 60 days of receipt of the request. For existing facilities, the FCC Order includes, but is not limited to, non-discretionary approval of modifications of existing equipment, collocation of additional wireless carrier equipment and extension of the tower height by 10% or 20 feet, whichever is greater. A requirement for a public hearing for changes to existing tower facilities would be in direct conflict with federal law.

A requirement for a public hearing for a “proposed change, improvement or replacement of an existing facility” would also be in direct conflict with the State Tower Sharing Policy under Conn. Gen. Stat. §16-50aa wherein “the General Assembly finds that the sharing of towers for fair consideration whenever technically, legally, environmentally and economically feasible, and

whenever such sharing meets public safety concerns, will avoid the unnecessary proliferation of towers and is in the public interest.” The tower sharing policy applies to towers owned or operated for a commercial or public purpose by a person, firm, corporation or public agency that uses such tower pursuant to a FCC license. The proposed bill would therefore apply to requests to share towers submitted by non-wireless carriers and public entities including, but not limited to, emergency communications providers, municipalities and state agencies. A requirement for a public hearing for collocations on existing tower facilities would be in direct conflict with the State Tower Sharing Policy.

Notwithstanding federal preemption, pursuant to regulations adopted in 2012 to facilitate greater notice and public participation, the Council requires notice be provided to the host municipality and abutting property owners for proposed changes, improvements or replacement of an existing facility.¹

Finally, with regard to the requirement that the Council evaluate at least three alternative sites prior to granting an applicant’s Certificate of Environmental Compatibility and Public Need, pursuant to Public Act 12-165, subsection (f) of Conn. Gen. Stat. §16-50l was added to require applicants to provide the host municipality with a description of the proposed and any alternate sites under consideration and a listing of other sites or areas considered and rejected. Furthermore, that same subsection requires the host municipality to present applicants with proposed alternative sites and applicants are required to evaluate these alternate sites and present them to the Council in its application for formal consideration. There are often several more than three alternative sites considered in any application submitted to the Council.

In summary, the Council finds this proposed legislation duplicates existing statutory requirements and opposes the passage of Raised Bill No. 568 to the extent that it is in direct conflict with federal law and the State Tower Sharing Policy.

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 me at 860-827-2951 or Melanie.bachman@ct.gov.

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¹ See 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 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.”)