



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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Hearing Program

Docket No. 500

Tuesday, July 27, 2021

2:00 p.m.

Zoom Remote Hearing

I. Opening by Council

A. Statement read by Presiding Officer.

B. Motion

1. Applicant's Motion for Protective Order, dated July 14, 2021

C. Administrative Notice taken by Council

FEDERAL

1. FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF ENGINEERING AND TECHNOLOGY, *Questions and Answers About Biological Effects and Potential Hazards of Radiofrequency Electromagnetic Fields, OET Bulletin No. 56, August 1999, available at https://transition.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet56/oet56e4.pdf*
2. FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF ENGINEERING AND TECHNOLOGY, *Evaluating Compliance with FCC-Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, OET Bulletin No. 65, August 1997, available at https://transition.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet65/oet65.pdf*
3. FEDERAL COMMUNICATIONS COMMISSION, *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation Report and Order, August 1, 1996, available at https://transition.fcc.gov/Bureaus/Engineering_Technology/Orders/1996/fcc96326.pdf*
4. Telecommunications Act of 1996, as amended, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C), *available at <https://transition.fcc.gov/Reports/tcom1996.pdf>*
5. FEDERAL COMMUNICATIONS COMMISSION, *Warning, Alert and Response Network Act, Pub. L. No. 109-437, 120 Stat. 1936 (2006), (codified at 47 U.S.C. §332(d)(1)) (2006), available at <https://transition.fcc.gov/pshs/docs/emergency-information/emas-warn-act.pdf>*
6. Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 615-615b, as amended, *available at <https://www.congress.gov/bill/106th-congress/house-bill/438/text/ih>.*

7. Enhance 911 Act of 2004, as amended, 47 U.S.C. § 942, as amended, *available at* <https://www.gpo.gov/fdsys/pkg/PLAW-108publ494/pdf/PLAW-108publ494.pdf>
8. Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 Wireless Facilities Deployment 2012, *available at* <https://www.gpo.gov/fdsys/pkg/PLAW-112publ96/pdf/PLAW-112publ96.pdf>
9. Actions That May Have a Significant Environmental Effect, for Which Environmental Assessments (EAs) Must be Prepared, 47 C.F.R. § 1.1307, as amended, *available at* <https://www.gpo.gov/fdsys/pkg/CFR-2013-title47-vol1/pdf/CFR-2013-title47-vol1-sec1-1307.pdf>
10. Radiofrequency Radiation Exposure Limits, 47 C.F.R. § 1.1310, as amended, *available at* <https://www.gpo.gov/fdsys/pkg/CFR-2002-title47-vol1/pdf/CFR-2002-title47-vol1-sec1-1310.pdf>
11. Presidential Proclamation No. 8460, 74 Fed. Reg. 234 (December 8, 2009), *available at* <http://www.presidency.ucsb.edu/ws/index.php?pid=86954>
12. Presidential Order No. 13616, Accelerating Broadband Infrastructure Development, 77 Fed. Reg. 119 (June 14, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-15183.pdf>
13. Presidential Policy Directive No. 21, Critical Infrastructure Security and Resilience, February 12, 2013, *available at* <https://obamawhitehouse.archives.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil>
14. DIVISION OF MIGRATORY BIRD MANAGEMENT, UNITED STATES FISH & WILDLIFE SERVICE, UNITED STATES DEPARTMENT OF THE INTERIOR, *Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance and Decommissioning*, last updated August 2016, *available at* <https://www.fws.gov/migratorybirds/pdf/management/usfwscommtowerguidance.pdf>
15. National Park Service, United States Department of the Interior, *National Register of Historic Places* *available at* <https://www.nps.gov/subjects/nationalregister/index.htm>
16. FEDERAL AVIATION ADMINISTRATION, *Obstruction Marking and Lighting, Advisory Circular AC No. 70/7460-1L*, December 4, 2015, *available at* https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_70_7460-1L_.pdf
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18. FEDERAL COMMUNICATIONS COMMISSION, *Opportunities to Reduce Bird Collisions with Communications Towers While Reducing Tower Lighting Costs*, January 6, 2017, *available at* <https://www.fws.gov/migratorybirds/pdf/management/fccopportunitiestoreducebirdcollisions.pdf>

19. Stephen J. Blumberg, et al, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July – December 2017*, Division of Health Interview Statistics, National Center for Health Statistics, U.S. Center of Disease Control, June 2018, available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201806.pdf>
20. FEDERAL COMMUNICATIONS COMMISSION, *Public Notice – Wireless Telecommunications Bureau Offers Guidance on Interpretation of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012*, DA 12-2407, January 25, 2013, available at https://apps.fcc.gov/edocs_public/attachmatch/DA-12-2047A1.pdf
21. FEDERAL COMMUNICATIONS COMMISSION, *Connecting America: The National Broadband Plan*, 2010, available at <http://www.broadband.gov/plan/>
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24. FEDERAL COMMUNICATIONS COMMISSION, *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, *Second Report and Order*, FCC 18-30, March 30, 2018, available at <https://docs.fcc.gov/public/attachments/FCC-18-30A1.pdf>
25. FEDERAL COMMUNICATIONS COMMISSION, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment/Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, *Third Report and Order and Declaratory Ruling*, FCC 18-111, August 3, 2018, available at <https://docs.fcc.gov/public/attachments/FCC-18-111A1.pdf>
26. FEDERAL COMMUNICATIONS COMMISSION, *FCC Fact Sheet: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, *Third Report and Order*, FCC 18-133, September 27, 2018, available at <https://docs.fcc.gov/public/attachments/DOC-353962A1.pdf>
27. FEDERAL COMMUNICATIONS COMMISSION, *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, *Declaratory Ruling and Notice of Proposed Rulemaking*, FCC 20-75, June 10, 2020, available at <https://ecfsapi.fcc.gov/file/0610971105336/FCC-20-75A1.pdf>
28. FEDERAL COMMUNICATIONS COMMISSION, *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, *Report and Order*, FCC 20-153, November 3, 2020, available at <https://docs.fcc.gov/public/attachments/FCC-20-153A1.pdf>

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32. STATE OF CONNECTICUT SITING COUNCIL, *Statewide Telecommunications Coverage Database*, *available at* <https://portal.ct.gov/CSC/Common-Elements/Common-Elements/Connecticut-Siting-Council---Disclaimer>
33. **DOCKET NO. 410** - American Towers, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 234 Melba Street, Milford, Connecticut, *available at* https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/DO-410-VerizonMilford
34. **DOCKET NO. 432** – Feasibility study of back-up power requirements for telecommunications towers and antennas pursuant to Public Act 12-148, *available at* https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/Docket-No-432
35. **PETITION NO. 635T** - Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc. Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed modifications to existing Connecticut Light and Power Company electric transmission line support structure located on the east side of Route 121 (North Street), Milford, Connecticut. Record.
36. **PETITION NO. 680** - Cellco Partnership d/b/a Verizon Wireless Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required to install a 40-foot stealth flagpole telecommunications tower on the roof of the existing Howard Johnson Hotel at 1052 Boston Post Road, Milford, Connecticut. Record.
37. **PETITION NO. 804** – Sprint Nextel Corporation Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed modifications to an existing telecommunications facility, located at 234 Melba Street, Milford, Connecticut. Record.
38. **PETITION NO. 981** - New Cingular Wireless PCS, LLC Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed

modifications to an existing Connecticut Light and Power electric transmission line support structure facility located at 945 North Street, Milford, Connecticut. Record.

39. **PETITION NO. 1245** - T-Mobile Northeast LLC Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for the installation of an additional rooftop wireless telecommunications facility located at the Connecticut Post Mall, 1201 Boston Post Road, Milford, Connecticut, *available at* https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-1240-1250/PE-1245---T-Mobile-Milford
40. **PETITION NO. 1357** - Cellco Partnership d/b/a Verizon Wireless Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed modifications to an existing wireless telecommunications facility located at 1052 Boston Post Road, Milford, Connecticut, *available at* https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-1351-1360/Petition-No-1357-VerizonMilford
41. **PETITION NO. 1363** – T-Mobile Northeast, LLC Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed modification of an existing rooftop wireless telecommunications facility and associated equipment located at the Connecticut Post Mall, 1201 Boston Post Road, Milford, Connecticut, *available at* https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-1361-1370/Petition-No-1363-TMobileMilford
42. **PETITION NO. 1375**– Cellco Partnership d/b/a Verizon Wireless, T-Mobile Northeast, LLC and New Cingular Wireless PCS, LLC joint Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed installation of a temporary telecommunications facility and associated equipment located at 1052 Boston Post Road, Milford, Connecticut, *available at* https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-1371-1380/Petition-No-1375--VerizonTMobileNew-Cingular--Milford

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43. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, CONNECTICUT COUNCIL ON SOIL AND WATER CONSERVATION, *Connecticut Guidelines for Soil Erosion and Sediment Control, DEP Bulletin 34*, last revised November 2007, *available at* <https://portal.ct.gov/DEEP/Water/Soil-Erosion-and-Sediment-Control-Guidelines/Guidelines-for-Soil-Erosion-and-Sediment-Control>
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45. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, BUREAU OF WATER PROTECTION AND LAND REUSE, PLANNING AND STANDARDS DIVISION, *Water Quality Standards*, Effective October 10, 2013, *available at* <http://www.ct.gov/deep/lib/deep/regulations/22a/22a-426-1through9.pdf>

46. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Connecticut Air Quality Standards*, Effective April 15, 2014, Regulations of Connecticut State Agencies §§ 22a-174-24, et seq.
47. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Connecticut Noise Control Regulations*, Effective June 15, 1978, Regulations of Connecticut State Agencies §§22a-69-1, et seq.
48. STATE OF CONNECTICUT, DEPT. OF PUBLIC UTILITY CONTROL, Docket No. 08-06-19, DPUC Investigation into the Deployment of Distributed Antenna System (DAS) in the Public Rights of Way, September 29, 2010.
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Department of Transportation

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Other State Agencies

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64. *Manor Development Corp. v. Conservation Comm. of Simsbury*, 180 Conn. 692, 701 (1980).
65. *Grimes v. Conservation Comm. of Litchfield*, 243 Conn. 266, 278 (1997).
66. *Connecticut Energy Marketers Association v. Dept. of Energy and Environmental Protection*, 324 Conn. 362 (2016).

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ENVIRONMENTAL

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MAPS

81. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Natural Diversity Database Map for the City of Milford* (last updated December 2020), *available at* <http://www.depdata.ct.gov/naturalresources/endangeredspecies/nddbpdfs.asp>
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86. NATIONAL AUDUBON SOCIETY, *Connecticut Important Bird Areas*, *available at* <http://netapp.audubon.org/iba/state/US-CT>
87. Mail-A-Map Street Map, Milford, *available at* <http://mailamap.com/street-maps>

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C. State Agency comments

1. Department of Transportation Comments, dated May 25, 2021

D. Public Official comments

1. Milford Legislative Delegation Comments, dated May 4, 2021

E. Municipal Comments

1. City of Milford's Memorandum Regarding Location Preferences and Siting Criteria with attachments, dated April 28, 2021

F. Telecommunications Carrier Comments

1. T-Mobile Comments, dated May 12, 2021

II. Appearance by Applicant

Applicant: ARX Wireless Infrastructure LLC (ARX)

Representatives: David A. Ball, Esq.
Philip C. Pires, Esq.
Cohen & Wolf, P.C.

A. Administrative Notice.

- 1.

B. Exhibits for Identification.

1. Application for a Certificate of Environmental Compatibility and Public Need filed by Arx Wireless Infrastructure, LLC, received March 30, 2021, and attachments and bulk file exhibits including:

Bulk file exhibits:

- a. City of Milford Zoning Regulations, dated March 22, 2019
 - b. City of Milford Zoning Regulations – Amendment
 - c. City of Milford Plan of Conservation and Development, dated December 2012
 - d. City of Milford Inland Wetlands and Watercourses Regulations, dated April 1989 and amended to June 2001
 - e. Technical Report, dated August 26, 2020
2. Applicant's Affidavit of Publication, dated April 21, 2021

3. Applicant's Reply to the City of Milford's Memorandum Regarding Location Preferences and Siting Criteria, dated May 4, 2021
4. Applicant's Supplement to Section VII(C) of the Application Narrative, dated May 5, 2021
5. Applicant's Sign Posting Affidavit, dated June 7, 2021
6. Applicant's Revised Exhibit G to the Application, dated June 7, 2021
7. Applicant's Pre-Filed Testimony of Keith Coppins, dated June 8, 2021
8. Applicant's Pre-Filed Testimony of Douglas Roberts, dated June 8, 2021
9. Applicant's Pre-Filed Testimony of Michael Libertine and Brian Gaudet, dated June 8, 2021
10. Applicant's Responses to Council's Interrogatories, Set One, dated June 8, 2021
11. Applicant's Responses to City of Milford's Interrogatories, Set One, dated June 8, 2021
12. Applicant's Responses to Council Interrogatories, Set Two, dated July 15, 2021
13. Applicant's Responses to City of Milford's Supplemental Interrogatories, dated July 19, 2021
14. Applicant's Supplemental Pre-Filed Testimony of Keith Coppins, Douglas Roberts and Brian Gaudet, dated July 20, 2021
15. Applicant's Supplemental Responses to City of Milford's Supplemental Interrogatories, dated July 20, 2021
16. Applicant's Second Supplemental Responses to City of Milford's Supplemental Interrogatories, dated July 27, 2021
17. Protective Order related to unredacted lease agreement, signed July 27, 2021

C. Swear Witnesses

1. Keith Coppins, Managing Director, ARX Wireless Infrastructure, LLC
2. Douglas Roberts, Senior Architect, AECOM
3. Michael Libertine, LEP, Director of Siting and Permitting, All-Points Technology Corporation
4. Brian Gaudet, Project Manager, All-Points Technology Corporation

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Verizon
3. AT&T
4. City of Milford

III. Appearance by Intervenor: Cellco Partnership d/b/a Verizon (VER)

Representative: Kenneth C. Baldwin, Esq.
Robinson + Cole LLP

A. Administrative Notice.

- 1.

B. Exhibits for Identification.

1. Verizon's Request to Intervene, dated April 1, 2021
2. Verizon's Response to Council Interrogatories, Set One, dated June 8, 2021
3. Verizon's Responses to the City of Milford's Interrogatories, Set One, dated June 8, 2021
4. Verizon's Supplemental Response to City of Milford's Interrogatory No. 4, dated June 9, 2021
5. Verizon's Responses to Council Interrogatories, Set Two, dated July 15, 2021
6. Verizon's Responses to City of Milford's Supplemental Interrogatories, dated July 19, 2021

C. Swear Witnesses

1. Ziad Cheiban, Radio Frequency Engineer, Verizon Wireless
2. Anthony Befera, Principal Engineer – Real Estate/Regulatory, Verizon Wireless

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicant
3. AT&T
4. City of Milford

IV. Appearance by Intervenor: New Cingular Wireless PCS, LLC (AT&T)
Representative: Kristen Motel, Esq.
Lucia Chiochio, Esq.
Cuddy & Feder LLP

A. Administrative Notice.

- 1.

B. Exhibits for Identification.

1. AT&T's Request to Intervene, dated April 7, 2021
2. AT&T's Responses to Council Interrogatories, Set One, dated June 7, 2021
3. AT&T's Responses to the City of Milford's Interrogatories, Set One, dated June 7, 2021
4. AT&T's Responses to Council Interrogatories, Set Two, dated July 12, 2021
5. AT&T's Responses to City of Milford's Supplemental Interrogatories, dated July 19, 2021

C. Swear Witnesses

1. Martin Lavin, Senior RF Engineer, C Squared Systems, LLC
2. Mark Roberts, Site Acquisition Consultant, QC Development

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicant
3. Verizon
4. City of Milford

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- V. Appearance by Party: City of Milford (City)
- Representative: John W. Knuff, Esq.
Jeffrey P. Nichols, Esq.
Hurwitz, Sagarin, Slossberg & Knuff, LLC
- A. Administrative Notice.
- 1.
- B. Exhibits for Identification.
1. City of Milford's Notice of Intent to be a Party, dated April 28, 2021
- C. Swear Witnesses
- 1.
- D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.
- E. Cross Examination.
1. Council
 2. Applicant
 3. Verizon
 4. AT&T

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- VI. Closing by Connecticut Siting Council.