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September 16, 2021

Via e-mail and Fedex

Attorney Melanie Bachman
Executive Director
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Re: Docket No. 504 - ARX Wireless Infrastructure, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at Lot 4-N, Sequin Drive, Glastonbury, Connecticut – ARX Post-Hearing Brief

Dear Attorney Bachman:

On behalf of the applicant, ARX Wireless Infrastructure, LLC, I've enclosed an original and fifteen (15) copies of the Applicant's Post-Hearing Brief.

Thank you.

Very truly yours,



Philip C. Pires

Enclosures

cc: Service List

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**



APPLICATION OF ARX WIRELESS INFRASTRUCTURE, LLC

**Lot N-4, Sequin Drive
Glastonbury, CT 06033**

Docket No. 504

APPLICANT'S POST-HEARING BRIEF

September 16, 2021

Submitted by:

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**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:	:	
	:	DOCKET NO. 504
ARX WIRELESS INFRASTRUCTURE, LLC	:	
APPLICATION FOR A CERTIFICATE OF	:	
ENVIRONMENTAL COMPATIBILITY AND	:	
PUBLIC NEED FOR THE	:	
CONSTRUCTION, MAINTENANCE, AND	:	
OPERATION OF A WIRELESS	:	
TELECOMMUNICATIONS FACILITY	:	
LOCATED AT LOT 4-N, SEQUIN DRIVE,	:	SEPTEMBER 16, 2021
GLASTONBURY, CONNECTICUT	:	

**ARX WIRELESS INFRASTRUCTURE, LLC'S
POST-HEARING BRIEF**

Applicant ARX Wireless Infrastructure, LLC (“ARX”) respectfully submits this Post-Hearing Brief in support of the above-referenced Application.

I. INTRODUCTION / EXECUTIVE SUMMARY

On June 4, 2021, ARX filed an application (the “Application”) with the Connecticut Siting Council (the “Council”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, maintenance, and operation of a wireless telecommunications facility (“Facility”) on an approximately 11.24-acre parcel of property located at Lot 4-N, Sequin Drive, Glastonbury, Connecticut (the “Property” or “Site”). The Site is situated on the north side of Sequin Drive and Oakwood Drive to the south. The Property is presently developed as a storage facility for industrial/commercial equipment.

Need for the Facility:

New Cingular Wireless PCS, LLC (“AT&T”) has identified a significant coverage deficiency in the existing AT&T wireless communications network along East Main Street and the neighboring residential and business/retail areas of Glastonbury. The proposed Facility will bring the needed fill-in coverage to significant portions of East Main Street and the residential neighborhoods and business/retail areas in the vicinity of the proposed location. The proposed Facility will also allow AT&T to provide emergency services communications through FirstNet, a nationwide broadband public safety network dedicated to the needs of first responders, in this area of Glastonbury.

Facility Description:

ARX proposes to construct a 115-foot monopole tower (maximum height not to exceed 115’ with antennas) with AT&T antennas, within a 50’ x 50’ fenced equipment compound (within a 50’ x 50’ leased area). The compound will be enclosed by an eight-foot-tall galvanized 2” diamond wire mesh fence. There will be a locked access gate to restrict unauthorized access to the compound. The compound will contain equipment operated by AT&T, as well as future carriers. A 25’-wide access and utility easement originating off Sequin Drive would provide the Site with underground utilities and vehicular access. The vehicular access will be on a 12’ access driveway within the 25’-wide access and utility easement. The antennas affixed to the top of the monopole will consist of AT&T panel antennas, mounted in three sectors, at a centerline height of 111’. The tower would also host the equipment of three additional wireless carriers, as well as municipal emergency communications equipment at no cost to the Town.

Nature of Probable Impacts:

The Docket contains substantial evidence to support a finding by the Council that the Facility would not have a significant adverse impact on the environment as the location and development of the Site: (1) will neither affect historic nor archaeological resources in the area; (2) are not within the vicinity of national parks or forests; (3) are neither designated a wilderness area nor located in any areas identified as a wildlife area or preserve; (4) will neither affect public health nor safety; and (5) will not impact any wetlands.

Conclusion:

The evidence in the Docket clearly satisfies the criteria of Conn. Gen. Stat. § 16-50p(a)(3) because: (1) there is a need to maintain and improve upon wireless services in the area surrounding the proposed Facility; (2) the proposed Facility satisfies this need; (3) there are no other viable alternatives; and (4) the environmental impacts from the proposed Facility would be minimal when balanced against the well-established need.

II. PROCEDURAL BACKGROUND

ARX filed the Application with the Council on June 4, 2021, proposing to construct a 115-foot monopole tower (maximum height not to exceed 115' with antennas) with AT&T antennas, and the equipment of three additional wireless carriers as well as Town emergency services, if needed.

Notice of ARX's intent to file the Application was mailed to all abutting property owners on May 27, 2021, and the legal notice was published in the *Glastonbury Citizen* on May 27, 2021 and June 3, 201. *Exhibits C and D to the Application; Applicant's Exhibit 2.* On August 4, 2021, ARX posted a sign at the Site providing notice to the public of the application and hearing date and location. *Applicant's Exhibit 3.*

AT&T intervened in support of the Application. There are no other intervenors, and the Town did not seek party status.

On August 19, 2021, the Council conducted an evidentiary hearing and an evening public hearing on the Application (collectively hereinafter the "Hearing").

Pursuant to Council direction and Section 16-50j-31 of the Regulations of the Connecticut State Agencies, ARX files this post-hearing brief analyzing the criteria set forth in Conn. Gen. Stat. § 16-50p(a)(3) and addressing issues raised during this proceeding.

III. FACTUAL BACKGROUND

A. Site Selection Process.

ARX is a wireless infrastructure provider that uses its knowledge of the wireless carriers' networks and/or specific information from the individual carriers to develop new wireless facilities where a need has been demonstrated. *Applicant's Exhibit 1, Application ("Application") at p. 17.* When it is clear that a new tower facility will be required to provide coverage and reliable service, ARX pursues a site search for a new tower. *Id. at p. 17.* In performing its site search, ARX consults with wireless carrier radio frequency engineers to identify geographic areas where a new tower facility will be required for the provision of coverage and/or capacity in the carriers' networks. *Id.*

In this case, AT&T identified a need for wireless coverage in this area of Glastonbury and agreed to support an application by ARX to construct a new facility in this location to provide the coverage required. Due to terrain characteristics and the distance between the targeted coverage area and the existing sites, AT&T's options to provide services in this area are quite limited (maps of the terrain in this area and the distance to neighboring AT&T sites from the proposed Site are included as Attachments 1 & 2, respectively, to the RF Report, Exhibit E to the Application). In this area of Glastonbury, there are no known existing structures suitable for co-location and the provision of reliable service to the public. *Application at p. 18.*

As thoroughly explained in Exhibit F to the Application, ARX and AT&T evaluated a total of twelve (12) potential sites within their search area, and all but the proposed Site were not feasible for a variety of reasons, including but not limited to radio frequency capabilities which caused AT&T to determine that the site would not meet its coverage

objectives, and property owners' unwillingness to make their properties available for telecommunications development. *Exhibit F to the Application.*

B. Consultation with Town of Glastonbury Officials.

On January 26, 2021, ARX submitted a cover letter and technical report to Richard J. Johnson, the Town Manager of the Town of Glastonbury, proposing the Facility at the Site. *Exhibit M to the Application.* ARX also sent copies of the Technical Report to Thomas P. Gullotta, Chairman of the Glastonbury Town Council, the Glastonbury Planning and Zoning Commission, and the Glastonbury Conservation/Wetlands Commission. *Id.*

On March 2, 2021, ARX held a virtual Microsoft Teams meeting with Richard Johnson to discuss the Site. *Application at p. 30.* On April 27, 2021, the Glastonbury Town Council held a public informational hearing for the Site, at which ARX presented information about the Site to the Town Council, and the Town Council received any comments from residents. *Id.; Applicant's Exhibit 4, ARX's Responses to Council's Interrogatories, Sets One and Two, dated August 12, 2021, A4.*

Following ARX's submission of the Technical Report, the Town of Glastonbury issued a Request for Proposal ("RFP") for a potential telecommunications tower on Town property at 311 Oakwood Drive. *Application at p. 30.* Initially, ARX filed an application in response to the RFP as a potential developer. *Id.* However, subsequent to its response, ARX was advised by AT&T that the Town's proposed site at 311 Oakwood Drive was not acceptable from an RF standpoint. *Id. at 30-31.* Further, Verizon notified ARX that it had no interest in locating at the Town's site. *Id. at 31.* Accordingly, because the carriers

rejected the Town's proposed site at 311 Oakwood Drive, ARX withdrew its application in response to the RFP. *Id.*

C. The Proposed Facility.

ARX proposes to construct a 115-foot monopole tower (maximum height not to exceed 115' with antennas) with AT&T antennas, within a 50' x 50' fenced equipment compound (within a 50' x 50' leased area). The compound will be enclosed by an eight-foot tall galvanized 2" diamond wire mesh fence. There will be a locked access gate to restrict unauthorized access to the compound. The compound will contain equipment operated by AT&T, as well as future carriers. A 25'-wide access and utility easement originating off Sequin Drive would provide the Site with underground utilities and vehicular access. The vehicular access will be on a 12' access driveway within the 25'-wide access and utility easement. The antennas affixed to the top of the monopole will consist of AT&T panel antennas, mounted in three sectors, at a centerline height of 111'. The tower would also host the equipment of three additional wireless carriers, as well as municipal emergency communications equipment at no cost to the Town.

In its Interrogatories to the Applicant, the CSC asked the Applicant whether the compound could be shifted to the east to provide greater distance to the western property boundary. *Applicant's Exhibit 4, ARX's Responses to Council's Interrogatories, Sets One and Two, dated August 12, 2021, A9.* The Applicant confirmed that this option was possible and prepared an alternate site design which shifted the location of the tower ± 32 feet to the east. *Applicant's Exhibit 4, ARX's Responses to Council's Interrogatories, Sets One and Two, dated August 12, 2021, A9-A11, A25.* The alternate site would require approximately 25 cubic yards of additional material and gravel to develop the access road

and site. *Applicant's Exhibit 4, ARX's Responses to Council's Interrogatories, Sets One and Two, dated August 12, 2021, A11.* The alternate site would also require the removal of an additional 80 cubic yards of material. *Hearing Transcript at pp. 13-14, 56-57.* There would be no significant change to visibility between the prime and alternate site locations. *Hearing Transcript at p. 19.* There would be no impact on AT&T's proposed coverage between the prime site and the alternate site. *Hearing Transcript at p. 63.* There would be no difference between the prime and alternate sites in terms of the absence of any long term impact on the wetlands. *Hearing Transcript pp. 30-31.*

IV. ANALYSIS

To issue a certificate of environmental compatibility and public need (a “Certificate”), the Council must determine that: (1) there is a demonstrated need for the proposed facility; and (2) any probable environmental impacts are insufficient to preclude granting the application for the proposed facility. Conn. Gen. Stat. § 16-50p(a)(3). The testimony offered by ARX and AT&T, both pre-filed and at the Hearing, as well as ARX’s submissions filed in support of this Application, unequivocally satisfy these criteria, thereby warranting the issuance of a Certificate.

A. There is a Demonstrated Public Need for the proposed Facility, as Recognized by Federal Law and Established by the Evidence Offered at the Hearing.

1. Federal Law Seeks to Maximize Wireless Access.

Federal law and policy seeks to maximize nationwide wireless access and foster wireless network growth, as promulgated in six (6) federal acts and orders.

First, the Telecommunications Act of 1996 (the “Telecommunications Act”) substantially increased public access to wireless services by removing barriers to provider-competition, promoting universal service at affordable rates and in all areas of the United States, and enhancing the interconnectivity of users and vendors in light of the Telecommunications Act’s proposed changes.

Second, the Wireless Communications and Public Safety Act of 1999 (the “Public Safety Act”), which designated 9-1-1 as the universal emergency assistance number for both landline and wireless telephone service, emphasized the importance of wireless communication access to improve public safety and generally reflected the federal government’s ongoing commitment to maximizing the vast potential of wireless services.

Third, the New and Emerging Technologies 911 Improvement Act of 2008 (the “NET 911 Act”), which sought to accelerate a country-wide transition to a national IP-enabled emergency network and improve existing emergency services for individuals with disabilities, demonstrated the economic and safety benefits that the federal government anticipated from broadened wireless communications.

Fourth, the American Recovery and Reinvestment Act of 2009 (the “Recovery Act”) recognized the importance of maximizing access to wireless services by: (1) providing \$7.2 billion to increase broadband access throughout the United States; (2) establishing the Broadband Technology Opportunities Program, awarding grants for the purposes of enhancing community broadband infrastructure, upgrading or constructing public computer centers, and increasing broadband access in areas that traditionally underutilized broadband services; and (3) developing a National Broadband Plan outlining strategic initiatives for the purpose of maximizing broadband access for every American.

Fifth, in June 2012, President Obama signed an executive order recognizing the need for improved broadband access across the United States, as well as seeking to accelerate the deployment of broadband on federal lands and reiterating the importance of uniform access to broadband and other wireless services.

Sixth, Section 6409 of the Middle Class Tax Relief Act, issued in February 2012, recognized the importance of promoting enhanced wireless services by requiring any state or local government to approve replacement or collation of equipment on an existing tower, so long as the physical dimensions of that existing tower were not substantially changed. By report issued on October 17, 2014 to clarify Section 6409, the FCC took

“important steps...to promote the deployment of wireless infrastructure” by substantially reforming its rules to “make thousands of additional towers available for collocation, resulting in an enormous expansion in deployment opportunities for public safety operations and commercial wireless offerings.” FCC Wireless Infrastructure Report and Order issued October 17, 2014 at 2.

Collectively, this federal law and policy reflects a demonstrated need to maximize national wireless access and foster network growth – objectives furthered by the proposed Facility.

2. Wireless Usage Statistics Demonstrate a Public Need to Maximize Wireless Access.

As wireless subscribers have exponentially increased, wireless data traffic has similarly expanded, thereby heightening the public need for optimal wireless access.¹

For example, as of December 2012, an estimated 326.5 million individuals in the United States subscribed to a wireless provider, up from 315.9 million subscribers as of December 2011.² Teenage and elderly populations alike are drastically increasing wireless demands, as 69% of adults ages 65 and older own mobile phones (up from 57% in May 2010), and 78% of individuals aged 12-17 years own cell phones.³ As a result of this widespread subscription increase, wireless data traffic increased 69% from 2011 to 2012.⁴

¹ These statistics are summarized herein and discussed in detail in the Application at pp.14-16.

² CTIA, *CTIA's Semi-Annual Wireless Industry Survey Results, December 1985-December 2012*, http://www.ctia.org/media/industry_info/index.cfm/AID/10316 (last visited July 30, 2013).

³ Kathryn Zickuhr and Mary Madden, *Report: Seniors, Social Networking, Broadband: Older Adults and Internet Use* (June 6, 2012), <http://www.pewinternet.org/Reports/2012/Older-adults-and-internet-use.aspx> (last visited Aug. 6, 2013); Mary Madden et al., *Teens and Technology 2013 2* (Pew Research Center Internet & American Life Project) (2013).

⁴ *Id.*

Wireless services and data traffic have also drastically expanded in the public safety arena. For example, over 400,000 subscribers make E-911 or distress calls from their wireless device per day, up from 260,000 similar calls in 2007.⁵ Indeed, in a 30-day June 2013 Pew Study, 19% of individuals used their mobile devices to get help in an emergency.⁶ Therefore, nationwide statistics reveal a demonstrated need to maximize wireless access for personal and public safety purposes – objectives furthered by the proposed Facility.

3. The Proposed Facility Will Remedy Coverage Deficiencies and Provide Enhanced Wireless Services in Glastonbury.

The Docket contains extensive written evidence and testimony regarding the need for improved coverage in this area of Glastonbury.

ARX and AT&T have demonstrated that the new Facility at Lot 4-N, Sequin Drive will improve coverage in this area of Glastonbury while also providing emergency communications services for first responders. The RF Report commissioned by AT&T confirmed that AT&T has a gap in reliable service in Glastonbury and the Facility provides AT&T with coverage in that service gap. *See Exhibit E to Application at p. 1.* Specifically, there is a significant coverage deficiency in the exiting AT&T wireless communications network along East Main Street and the neighboring residential and business/retail areas in Glastonbury. *Id. at p. 2.* Due to terrain characteristics and the distance between the targeted coverage area and the existing sites, AT&T's options to provide services in this area are quite limited. *Id.* The RF Report confirms that there are no other suitable existing

⁵ *Id.*

⁶ Joanna Brenner, *Pew Internet: Mobile*, Pew Internet & American Life Project (June 6, 2013), <http://pewinternet.org/Commentary/2012/February/Pew-Internet-Mobile.aspx> (last visited Aug. 6, 2013).

structures that could address the coverage gaps in AT&T's wireless communications network. *Id. at pp. 1, 5.* The proposed Facility will bring the needed fill-in coverage to significant portions of East Main Street and the residential neighborhoods and business/retail areas in the vicinity of the proposed Site. *Id. at p. 5; AT&T's Exhibit 2, Responses of New Cingular Wireless PCS, LLC to Connecticut Siting Council Pre-Hearing Interrogatories, Set One, A8, Attachment 2.* In its responses to the Council's Interrogatories, AT&T confirmed that the need for this site was driven by the "significant gap" in coverage, although AT&T also noted that every new site enhances both coverage and capacity. *AT&T's Exhibit 2, Responses of New Cingular Wireless PCS, LLC to Connecticut Siting Council Pre-Hearing Interrogatories, Set One, A7.*

The RF Report includes propagation plots that depict coverage from AT&T's existing sites in the area and the anticipated coverage from the proposed Facility together with the existing and approved sites in the area. Table 1 on page 4 of the RF Report shows the incremental coverage achieved by the proposed Facility:

	Incremental Coverage from Proposed Site (700 MHz)	
Population: ²	(≥ -83 dBm)	1,517
	(≥ -93 dBm)	1,578
Business Pops: ³	(≥ -83 dBm)	2,721
	(≥ -93 dBm)	1,040
Area (mi ²):	(≥ -83 dBm)	1.16
	(≥ -93 dBm)	0.89
Roadway (mi):	Main (-93 dBm):	0.9
	Secondary (-93 dBm):	7.0
	Total (-93 dBm):	7.9

Table 1: Coverage Statistics

In addition to providing improved LTE services to AT&T's customers throughout the targeted areas of Glastonbury, the Facility would provide enhanced services for first responders through the implementation of FirstNet's National Public Safety Broadband Network. *Id. at p. 5; Hearing Transcript at pp. 75-76.*

There is no dispute as to the benefits of the proposed Facility to meet AT&T's wireless service objectives and provide emergency communications for first responders through FirstNet. The record as to the need for the Facility and the fact that it will allow AT&T to provide enhanced coverage is uncontroverted.

4. There Are No Viable Alternatives to the Proposed Facility.

There are no viable alternatives to the proposed Facility. ARX and AT&T analyzed all other potential options in the area, and none are viable either because the sites do not meet AT&T's coverage objectives or because of the lack of interest of the property owners.

While the Town of Glastonbury issued the RFP for a potential telecommunications tower on Town property at 311 Oakwood Drive, ARX withdrew its application in response to the RFP after it learned that AT&T and Verizon would not be interested in that site. *Application at p. 30-31; Hearing Transcript at pp. 31-33; 49-50; 68-69.* As explained by Martin Lavin testifying as part of AT&T's panel, AT&T completed a propagation modeling for 311 Oakwood Drive to evaluate the potential coverage of that site. *Hearing Transcript at pp. 68-69; AT&T's Exhibit 2, A15.* Mr. Lavin testified that 311 Oakwood Drive was rejected because the coverage was "mainly redundant of coverage we already have" and did not provide coverage to the northeast of the proposed Site. *Id.* Coverage from 311 Oakwood Drive would be limited by a hill with peak elevation approximately 170 feet above Oakwood Drive that blocks coverage in that direction. *Hearing Transcript at pp. 85-87; AT&T's Exhibit 2, A15.* As a result, 311 Oakwood Drive would provide approximately 0.5 miles less coverage to Hebron Avenue and 0.25 square miles less area coverage in the vicinity of Hebron Avenue. *Id.* Significantly, the Town chose not to participate as a party in this docket, nor did any party or intervenor introduce into the record any evidence suggesting that 311 Oakwood Drive could be a viable site.

Accordingly, based on the uncontroverted evidence in the record, 311 Oakwood Drive would not meet AT&T's coverage objectives. Therefore, it is not a viable alternative to the proposed Facility.

Similarly, multiple small cells in lieu of a tower are not a practical alternative because they could not replicate the coverage footprint achieved by the proposed Facility and as such, gaps in coverage would remain. *AT&T's Exhibit 2, A10*. Small cells also have the disadvantage of losing all coverage during weather emergencies because there is no power backup, which would impact FirstNet services to emergency responders. *AT&T's Exhibit 2, A10*. A combination of a shorter tower or rooftop with small cells is also not a possible alternative as this combination would not replicate the coverage footprint achieved by the proposed Facility. *AT&T's Exhibit 2, A10*.

B. The Proposed Facility Will Have No Significant Environmental Effects.

To issue a Certificate, the Council must determine that probable environmental impacts— including the natural environment, ecological balance, public health and safety, forests and parks, air and water purity, historic and recreational values, and fish, aquaculture, and wildlife— will have no significant environmental effects. Conn. Gen. Stat. § 16-50p(a)(3). The testimony offered by ARX unequivocally satisfies these statutory criteria, thereby warranting a Certificate.

1. The Facility Will Not Result in a Significant Adverse Visual Impact nor have a Substantial Effect on the Scenic Quality of the Surrounding Area.

ARX's visibility analyses, pre-filed testimony, and extensive expert testimony demonstrate that the visibility of the proposed Facility will neither result in a significant

adverse visual impact nor have a substantial adverse effect on the aesthetics or scenic quality of the area surrounding the proposed Facility.

The Facility would be located within a commercial/industrial area. *Applicant's Exhibit 5, Revised Exhibit H at p. 2.* The Property is zoned "Planned Commerce" and is currently used as a materials/equipment storage yard. *Application at p. 27; Applicant's Exhibit 5, Revised Exhibit H at p. 2.*

The predicted estimate of year-round views (summer, leaf-on condition) of the Facility are from approximately 24.5 acres or approximately 1.22% of the 1-mile radius, 2010.6-acre study area (the "Study Area"). *Applicant's Exhibit 5, Revised Exhibit H at p. 8.* The majority of those specific views (9.6 acres, 0.48% of the Study Area) are of the uppermost portion of the proposed tower. *Id.* The majority of the remaining views (7.7 acres, 0.39% of the Study Area) are predicted to be contained within the commercial/industrial area surrounding the Site. *Id.* Predicted seasonal views (winter, leaf-off condition) of the Facility are from an additional 4.4 acres (0.22% of the Study Area). Thus, the total predicted seasonal views are 28.9 acres, or approximately 1.44% of the Study Area. *Id.* The majority of the additional leaf-off views are scattered along the edges of predicted leaf-on visibility. *Id.* The largest area of predicted additional reasonable visibility is within an approximately 3.9-acre cultivated field located 0.51 miles directly to the north of the Facility. *Id.*

Dutton Place, the nearby residential complex, is predicted to have no year-round views of the Facility due to the existing forested area between the properties. *Id.* The other residences on Cavan Lane and Crestdale Road to the west of the Site are predicted

to have sporadic obscured year-round views. *Id.* Cavan Lane and Crestdale Road are predicted to have obstructed views of the tower through the existing tree canopy. *Id.*

No schools or commercial daycare centers are located within 250 feet of the Facility. *Id. at p. 2.* The nearest school, The Link Transition Academy, is located about 0.46 miles to the west of the Facility and no views are predicted from that school. *Id. at p. 8.* The nearest daycare center is located within the commercial area 0.27 miles to the west. *Id.* Specific views from this area are predicted to be of the upper 25-50% of the tower.

ARX's extensive testimony and expert analysis establish that the proposed Facility will not significantly affect the scenic quality of the surrounding area or have a significant adverse environmental impact.

2. The Facility Will Not Significantly Affect Public Health and Safety.

The Docket contains uncontested evidence that the proposed Facility will not significantly affect public health and safety. The worst-case potential exposure would be well below the established FCC standards – 13.66% of the applicable Maximum Permissible Exposure (MPE). *Exhibit J to the Application, Calculated Radio Frequency Exposure Report dated December 16, 2020 at p. 3.*

Moreover, the proposed Facility would be monitored and secure, as explained by Simon Brighenti, testifying as part of AT&T's panel. *Hearing Transcript at p.83.* An eight-foot-tall galvanized 2" diamond wire mesh fence would secure the equipment housed within the compound area. *Applicant's Exhibit 4, ARX's Responses to Council's Interrogatories, Sets One and Two, dated August 12, 2021, A16.* The Site would be monitored 24 hours a day, 7 days per week from a remote location. *Application at p. 24.*

These security measures unequivocally satisfy the public health and safety considerations established by Conn. Gen. Stat. § 16-50p(a)(3).

3. The Facility Will Not Significantly Affect the Natural Environment in the Area.

ARX has offered extensive evidence demonstrating that the proposed Facility will not significantly affect the natural environment factors described in Conn. Gen. Stat. § 16-50p(a)(3).

a. Historic Properties, Structures, and Buildings.

The proposed Facility will not impact historic properties, structures, buildings, or objects. *Application at 21-23; Exhibit I to the Application, NEPA Compliance Review dated October 8, 2020 at pp. i, 3-4 (“Exhibit I”).* On February 1, 2021, the State Historic Preservation Office (“SHPO”) issued a letter confirming that additional archaeological investigations are not warranted and that the proposed Facility will have “no adverse effects” to sites listed or eligible for listing on the National Register of Historic Places, with the following conditions: 1) The antennae, wires, mounts, and associated equipment will be designed, painted to match adjacent materials, and installed to be as non-visible as possible; and 2) if not in use for six consecutive months, the antennae, mounts, and equipment shall be removed by the telecommunications facility owner. This removal shall occur within 90 days of the end of such six-month period. *Application at p. 22; Exhibit I, Letter from SHPO.* ARX is prepared to fully comply with these conditions. *Application at p. 22.*

ARX also consulted with eight Native American Indian tribes: the Bad River Band of Lake Superior Tribe of Chippewa Indians, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Mohegan Indian Tribe, the Red Cliff Band of Lake Superior

Chippewa Indians of Wisconsin, Narragansett Indian Tribe, Mashantucket Pequot Tribe, the Lac du Flambeau Band of Lake Superior Chippewa Indians, and the Sac and Fox Nation. *Application at p. 25; Exhibit I to the Application.* ARX received no reply from the Bad River Band of Lake Superior Tribe of Chippewa Indians, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, Narragansett Indian Tribe, Mashantucket Pequot Tribe, the Lac du Flambeau Band of Lake Superior Chippewa Indians, or the Sac and Fox Nation. The Mohegan Indian Tribe replied and indicated that they did not believe that they have any interests that would be impacted by the Facility. They further indicated that they concurred with the conclusion in the Phase 1A Archaeological Report that no further archaeological investigation was warranted. *Id.*

b. Protected Land and Designated Environments.

There are no federally-protected lands located within the boundaries of, or within one mile of, the Facility. *Exhibit I at p. 15.* Furthermore, the proposed Facility will neither be located within a floodplain nor within wetland limits. *Application at p. 25; Exhibit I at pp. i, 5.*

The development of the Facility is not anticipated to impact wetlands and no significant changes to surface features are anticipated. *Exhibit I at p. 5; Exhibit L to Application at p. 1.* While a wetland area is located approximately 10 feet to the west of the proposed Facility (i.e., the prime site), it will not be directly impacted by the development of the proposed Facility. *Exhibit I at p. 5.* ARX will use best management practices during all construction-related activities to minimize any secondary or indirect

impacts. *Exhibit I at p. 5; Exhibit L to Application at p. 1; Applicant's Exhibit 4, ARX's Responses to Council's Interrogatories, Sets One and Two, dated August 12, 2021, A24.*

As noted by Commissioner Edelson, the existing building is approximately as close to the wetlands as the proposed access road for the Facility. *Hearing Transcript at pp. 28-29.* Given the existing development in the area, there is already disturbance of the wetlands on the site due to past grading work that has been done. *Hearing Transcript at pp. 29-30.* The wetland is a historically distributed wetland with phragmites and an abundance of invasive species. *Hearing Transcript at pp. 30.* There would be no difference between the prime and alternate sites in terms of the absence of long-term impact on the wetlands. *Hearing Transcript at pp. 30-31.*

c. Wildlife and Wilderness.

The Site is not designated as a wilderness area nor located in any area identified as a wildlife area, wildlife preserve, or in a USFW National Wildlife Refuge. *Application at 24; Exhibit I at p. 2.* The proposed Facility will not affect threatened or endangered species or designated critical habitats. *Id., Exhibit I at pp. 2-3.* The Facility is not anticipated to result in a significant adverse effect to species protected by the Migratory Bird Treaty Act. *Exhibit I at p. 3.*

C. The Benefits of the Proposed Facility Far Exceed Any Potential Impact, Thereby Warranting Application Approval.

Pursuant to Conn. Gen. Stat. § 16-50p(a)(3), the evidence in the Docket clearly establishes that any probable environmental impacts resulting from the proposed Facility are insufficient to deny ARX's Application. Any limited impacts associated with the Application are outweighed by its substantial public benefits, thereby warranting Council approval.

As demonstrated above, occasional and limited views in the immediate area are the primary potential adverse impacts resulting from the proposed Facility. See supra at pp. 16-18. There are also limited distant views. These limited aesthetic impacts are unquestionably outweighed by the public benefit derived from the Facility – specifically the coverage and capacity benefits. See supra at pp. 12-14. These views can be ameliorated by the design of the Facility, should the Council determine that this is an appropriate docket in which to order visual mitigation.

Accordingly, the potential benefits of the proposed Facility far exceed any potential aesthetic impact, thereby justifying the issuance of a Certificate.

V. CONCLUSION

Based on the overwhelming uncontroverted evidence in the record, ARX has established that there is a demonstrated need for the Facility and that the limited environmental impacts associated with the Application are outweighed by the public benefits. ARX therefore respectfully requests that a Certificate issue for the proposed Facility.

RESPECTFULLY SUBMITTED,

ARX WIRELESS INFRASTRUCTURE, LLC

By:  _____

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CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was sent via electronic mail on this 16th day of September, 2021, to the following:

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