



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051
Phone: (860) 827-2935 Fax: (860) 827-2950
E-Mail: siting.council@ct.gov
Web Site: portal.ct.gov/csc

Hearing Program
Docket No. 510
Thursday, September 22, 2022
2:00 p.m.
Zoom Remote Public Hearing

I. Opening by Council

- A. Statement read by Presiding Officer.
- B. Motions
- 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 March 2021, *available at* <https://www.fws.gov/sites/default/files/documents/usfws-communication-tower-guidance.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 2020*, Division of Health Interview Statistics, National Center for Health Statistics, U.S. Center of Disease Control, August 2021, *available at* <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202108-508.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

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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>
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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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33. **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

Department of Energy and Environmental Protection

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39. 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.

40. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, BUREAU OF NATURAL RESOURCES, Connecticut's Endangered, Threatened and Special Concern Species 2015, August 2015, available at https://portal.ct.gov/-/media/DEEP/wildlife/pdf_files/nongame/ETS15pdf.pdf
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Department of Transportation

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ENVIRONMENTAL

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MAPS

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 76. NATIONAL AUDUBON SOCIETY, *Connecticut Important Bird Areas*, available at <http://netapp.audubon.org/iba/state/US-CT>
 77. Mail-A-Map Street Map, Westport, available at <http://mailamap.com/street-maps>
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II. Appearance by Applicants

Applicants:	Tarpon Towers II, LLC (TT)
Representatives:	David A. Ball, Esq. & Philip C. Pires, Esq. Cohen and Wolf PC
and	New Cingular Wireless PCS, LLC (ATT)
Representatives:	Lucia Chiocchio, Esq. & Kristen Motel, Esq. Cuddy & Feder, LLP

A. Administrative Notice.

1. **DOCKET NO. 488** - Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility

located at one of two sites: Kent Tax Assessor ID #M10, Block 22, Lot 38 Bald Hill Road or 93 Richards Road, Kent, Connecticut. Record *available at* https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/Docket-No-488-Homeland-ATT-Kent

B. Exhibits for Identification.

1. Application for a Certificate of Environmental Compatibility and Public Need filed by New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers II, LLC, received May 26, 2022, and attachments and bulk file exhibits including:

Bulk file exhibits:

- a. Technical Report, dated August 30, 2021
 - b. Town of Westport Zoning Regulations
 - c. Town of Westport Zoning Map
 - d. Town of Westport 2017 Plan of Conservation and Development
 - e. Town of Westport Wetlands and Watercourses Regulations
2. Applicants' Affidavit of Publication, dated June 2, 2022
 3. Applicants' Sign Posting Affidavit, dated July 27, 2022
 4. Applicants' Responses to Council Interrogatories, Set One, with attachments, dated August 1, 2022
 5. Applicants' Responses to Town of Westport Interrogatories, Set One, Nos. 1-2, 4, 6-9, with attachments, dated August 1, 2022
 6. Pre-Filed Testimony of Keith Coppins, submitted August 2, 2022
 7. Applicants' Responses to Town of Westport Interrogatories, Set One, Nos. 3 and 5, dated August 3, 2022
 8. Applicants' Updated Response to Town of Westport Interrogatories, Set One, No. 6, Attachment 3, dated August 8, 2022
 9. Applicants' Signed Protective Order related to unredacted lease agreement, dated August 9, 2022
 10. Applicants' Supplemental Pre-Filed Testimony of Keith Coppins and Douglas Roberts, dated September 13, 2022
 11. Applicants' Pre-Filed Testimony of Martin Lavin, dated September 14, 2022
 12. Applicants' Pre-Filed Testimony of Rachelle Lewis, dated September 14, 2022
 13. Applicants' Responses to Donald Bergmann's Interrogatories, dated September 15, 2022
 14. Applicants' Late-Filed Exhibits with attachments, dated September 15, 2022
 15. Applicants' Corrected Late-Filed Exhibits, dated September 15, 2022
 16. Applicants' Witness Resumes for Eric Reuter and Rachelle Lewis, dated September 15, 2022

C. Swear Witnesses

1. Keith Coppins, Tarpon Towers II, LLC
2. Douglas Roberts, Tarpon Towers II, LLC
3. Harry Carey, Director, External Affairs, AT&T
4. David Walsh, Program Manager, Smart Link Group
5. Dean Gustafson, Senior Wetland Scientist, All Points Technology Corporation P.C.
6. Brian Gaudet, Project Manager, All Points Technology Corporation P.C.
7. Martin Lavin, Radio Frequency Engineer, C² Systems

8. Eric Reuter, Reuter Associates, LLC
9. Rachele Lewis, Area Manager, Construction & Engineering, AT&T

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

E. Cross Examination.

1. Council
2. Verizon Wireless
3. Town of Westport
4. Donald Bergmann

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

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

A. Administrative Notice.

- 1.

B. Exhibits for Identification.

1. Verizon's Request for Intervenor Status, dated June 7, 2022
2. Verizon's Responses to Council Interrogatories, Set One, with attachments, dated July 28, 2022
3. Verizon's Response to Council Interrogatories, Set One, No. 24, Attachment 1 - Generator Specification Sheet, submitted August 2, 2022
4. Verizon's Responses to Town of Westport Interrogatories, with attachments, dated August 2, 2022
5. Verizon's Responses to Donald Bergmann Interrogatories, dated September 14, 2022

C. Swear Witnesses

1. Shiva Gadasu, Radio Frequency Engineer, Verizon Wireless
2. Timothy Parks, Real Estate/Regulatory Specialist, Verizon Wireless

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

E. Cross Examination.

1. Council
2. Applicants
3. Town of Westport
4. Donald Bergmann

IV. Appearance by Party: Town of Westport

Representatives: Ira W. Bloom, Esq. & Nicholas Bamonte, Esq.
Berchem & Moses, PC

A. Administrative Notice.

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B. Exhibits for Identification.

1. Town of Westport Request for Party Status, dated June 21, 2022
2. Town of Westport Locational Preferences, pursuant to CGS §16-50gg, dated June 21, 2022
3. Town of Westport Pre-Filed Testimony of Alicia Mozian, Conservation Director, with attachments, dated August 8, 2022
4. Town of Westport Additional Pre-Filed Testimony of Alicia Mozian, Conservation Director, with attachments, dated August 29, 2022
5. Town of Westport Pre-Filed Testimony of David Maxson, dated September 9, 2022
6. Town of Westport Pre-Filed Testimony of First Selectwoman Jennifer Tooker, dated September 15, 2022

C. Swear Witnesses

1. Alicia Mozian, Town of Westport Conservation Director
2. David Maxson, Isotrope, LLC
3. Jennifer Tooker, Town of Westport First Selectwoman

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

E. Cross Examination.

1. Council
2. Applicants
3. Verizon Wireless
4. Donald Bergmann

V. Appearance by Intervenor: Donald Bergmann

A. Administrative Notice.

1. Town of Westport Conservation Department Memorandum to First Selectman Marpe and Town Attorney Bloom, dated June 23, 2021
2. Town of Westport Historic District Commission Section 106 National Historic Preservation Act correspondence, dated June 24, 2021.

B. Exhibits for Identification.

1. Donald Bergmann Pre-Filed Testimony, dated June 22, 2022 **(Items (2) and (8) were stricken by the Council on July 21, 2022)**
2. Donald Bergmann, Request for Intervenor Status, dated June 30, 2022 **(Items (ii) and (iv) were stricken by the Council on July 21, 2022)**

3. Donald Bergmann Pre-Filed Testimony, dated August 1, 2022
4. Donald Bergmann Comments on Applicants' Interrogatory Responses, dated August 4, 2022

C. Swear Witnesses

1. Donald Bergmann

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

E. Cross Examination.

1. Council
2. Applicants
3. Verizon Wireless
4. Town of Westport

VI. Closing by Connecticut Siting Council.