

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

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**APPLICATION OF NEW CINGULAR WIRELESS PCS, LLC AND  
TARPON TOWERS III, LLC**



**99 DART HILL ROAD  
SOUTH WINDSOR, CT 06074**

**Docket No. \_\_\_\_\_**

**AUGUST 22, 2023**

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## EXECUTIVE SUMMARY

Applicants New Cingular Wireless PCS, LLC (“AT&T”) and Tarpon Towers III, LLC (“Tarpon”) (AT&T and Tarpon are collectively referred to as the “Applicants”) submit an application and supporting documentation (collectively “Application”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, maintenance, and operation of a wireless telecommunications facility (“Facility”) at 99 Dart Hill Road, South Windsor, Connecticut (the “Property” or the “Site”). The Facility will allow AT&T to provide enhanced reliable wireless communications as well as improved 911 service and FirstNet service in this area of South Windsor (the “Town”).

The Facility would consist of a 165-foot monopole structure (not to exceed 183’ with antennas) within a 60’ x 60’ fenced equipment compound (within a 75’ by 75’ leased area). The tower would accommodate the antenna arrays of AT&T, the Town, and three future wireless carriers. The antennas initially affixed to the monopole will consist of AT&T panel antennas, mounted in three sectors, at a centerline height of 155’, and Town antennas mounted at 165’ and not to exceed 183’ in height.

The Property is an approximately 3.57-acre parcel zoned as “RR” (Rural Residential). The Property is presently vacant and undeveloped. The Site is situated approximately 1.83 miles northwest of Interstate 84 and is located within a rural and residential area. The proposed Facility location is along the southern edge of the Property, adjacent to existing overhead power lines and an open space area. The Site is accessed from Dart Hill Road immediately north of an Eversource transmission line right of way. The access road travels east, then south through the right of way to the Site.

Tarpon 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. Tarpon only pursues a site search for a new tower when it is clear that a new tower facility will be required, and all other options have been evaluated and/or exhausted. When conducting a site search, Tarpon, in consultation with the appropriate wireless carrier radio frequency engineers, identifies search areas central to the necessary geographical coverage area. In this case, AT&T identified a need for wireless coverage and capacity relief in this area of South Windsor and is serving as a co-applicant with Tarpon to support the construction of a new facility in this location to provide the required fill in coverage and capacity relief.

The Applicants filed a Technical Report with the Town of South Windsor on March 23, 2023. On April 10, 2023, the Applicants met with Town officials during the municipal consultation process to answer questions. On May 8, 2023, the Town submitted to Tarpon a Co-Location Application indicating the Town's desire to locate on the proposed tower. While the tower was initially proposed to be 155' in the Technical Report, once the Town indicated its interest in locating on the tower, the Applicants revised the proposal to show a tower height of 165' (not to exceed 183' with the Town's antennas) which would ensure adequate separation between the AT&T antennas and those dedicated to the Town. The site plans attached to this Application reflect this height and depict the proposed antennas for AT&T, municipal emergency communications equipment at no cost to the Town, and three additional future carriers.

This Application includes reports, site plans, a visibility analysis, and other information detailing the proposed Facility. These reports and supporting documentation

contain the relevant site-specific information required by statute and the Council's regulations. This Application also includes a copy of the Council's Community Antenna Television and Telecommunication Facilities Application Guide with references to this Application, attached as Exhibit A.

## List of Attachments

- A. Council's Community Antenna Television and Telecommunication Facilities Application Guide
- B. Certificate of Service of Application on Government Officials; and List of Officials Served
- C. Legal Notice published in *The Journal Inquirer*
- D. Notice to Landowners; List of Abutting Landowners; Certificate of Service
- E. Radio Frequency Engineering Report with Propagation Plots Attached
- F. Site Search Summary, Map of Rejected Sites, and 4-Mile Tower Map with Table
- G. Project Plans
- H. Visibility Assessment
- I. National Environmental Policy Act (NEPA) Report
- J. Power Density Report
- K. Avian Resources Evaluation
- L. Wetlands Report
- M. Correspondence with the Town of South Windsor
- N. Federal Aviation Administration Report
- O. Redacted Lease
- P. Aerial Photograph
- Q. Schools and Daycares Map
- R. Balloon Float Affidavit
- S. South Windsor Site Location Map U.S.G.S.

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY TARPON TOWERS III, LLC  
AND NEW CINGULAR WIRELESS PCS, LLC  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED  
FOR A TELECOMMUNICATIONS FACILITY  
AT 99 DART HILL ROAD IN THE TOWN OF  
SOUTH WINDSOR, CONNECTICUT

DOCKET NO. \_\_\_\_\_

Date: AUGUST 22, 2023

**APPLICATION FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

**I. INTRODUCTION**

**A. Authority and Purpose**

Pursuant to Connecticut General Statutes §§ 16-50g, *et seq.* and §§ 16-50j-1, *et seq.* of the Regulations of Connecticut State Agencies, Applicants New Cingular Wireless PCS, LLC (“AT&T”) and Tarpon Towers III, LLC (“Tarpon”) (AT&T and Tarpon are collectively referred to as the “Applicants”) submit an application and supporting documentation (collectively “Application”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, maintenance and operation of a wireless telecommunications facility (“Facility”) at 99 Dart Hill Road in the Town of South Windsor (the “Property” or the “Site”).

**B. The Applicants**

AT&T is a Delaware limited liability company with an office at 84 Deerfield Lane, Meriden, Connecticut 06450. Tarpon is a Delaware limited liability company with an office at 8916 77<sup>th</sup> Terrace East, Suite 103, Lakewood Ranch, Florida 3402. AT&T and Tarpon will be the Certificate Holders and will construct and maintain the Facility accordingly.



Communications regarding the Application should be to the attorneys for AT&T:

Cuddy & Feder LLP  
445 Hamilton Avenue, 14<sup>th</sup> Floor  
White Plains, NY 10601  
(914) 761-1300

Attention: Lucia Chiocchio, Esq.  
Daniel Patrick, Esq.

and to the attorneys for Tarpon:

Cohen and Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604  
(203) 368-0211

Attention: David A. Ball, Esq.  
Philip C. Pires, Esq.

**C. Application Fee**

The estimated construction cost for the Facility is \$325,000.00. Therefore, pursuant to § 16-50v-1a(b) of the Regulations of Connecticut State Agencies, a check made payable to the Council in the amount of \$1,250 accompanies this Application.

**D. Compliance with Connecticut General Statutes § 16-50/ (c)**

The Applicants are not engaged in generating electric power in the State of Connecticut; thus, the proposed Facility is not subject to Connecticut General Statutes § 16-50r. The proposed Facility has not been identified in any annual forecast reports and, therefore, is not subject to Connecticut General Statutes § 16-50/ (c).

**II. SERVICE AND NOTICE REQUIRED BY CONNECTICUT GENERAL STATUTES § 16-50/ (b)**

Pursuant to Connecticut General Statutes § 16-50/ (b), copies of this Application have been sent to municipal, regional, state, and federal officials. A certificate of service, along with a list of the parties served with a copy of the Application, is attached hereto as Exhibit B. Pursuant to §16-50/ (b), notice of the Applicants' intent to file this Application was published on two occasions in *The Journal Inquirer* (on August 17, 2023 and August 18, 2023), which is the newspaper in which Town of South Windsor Planning and Zoning Commission notices are published. A copy of the legal notice is attached hereto as Exhibit C. Finally, pursuant to § 16-50/ (b), notices were sent to each person appearing of record as the owner of real property abutting the Property. Certification of such notice, a sample notice letter, and the list of property owners to whom the notice was mailed are included in Exhibit D.

**III. PROPOSED FACILITY**

**A. Facility Design**

This section will provide an overview and general description of the proposed Facility.

The Site is an approximately 3.57+/- acre parcel zoned as "RR" (Rural Residential). The Property is presently vacant and undeveloped. The Site is situated approximately 1.83 miles northwest of Interstate 84 and is located within a rural and residential area. The proposed Facility location is along the southern edge of the Property, adjacent to existing overhead power lines and an open space area. The Site is accessed from Dart

Hill Road immediately north of an Eversource transmission line right of way. The access road travels east, then south through the right of way to the Site.

The Applicants are proposing to construct a telecommunications facility consisting of a 165'-tall monopole with AT&T and Town equipment and antennas, situated within a 60' x 60' fenced equipment compound within a 5,625 square foot leased area. A 20'-wide easement originating off Dart Hill Road is proposed for underground utilities and vehicular access. The vehicular access would be over a 12' wide gravel driveway within the 20' wide 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 155' and Town antennas mounted at 165' and not to exceed 183' in height.

#### **B. Coverage to be Achieved**

AT&T has identified significant coverage deficiencies in their existing wireless communications network along State Hwy 74, Avery Street, Dart Hill Road and Miller Road as well as other roads in the area and in the vicinity of the Site. The proposed Facility will provide necessary in-building residential and in-vehicle coverage if AT&T is permitted to locate at the 155' level. AT&T's location at the 155' level will provide much-needed coverage in the area within the proposed coverage footprint. In addition, the Town has indicated a desire to co-locate on the tower. Accordingly, with the development of the proposed Facility, residential customers would have reliable in-vehicle and in-building coverage for their voice and data needs as well as reliable coverage for E-911 services.

Exhibit E of this Application includes an RF Report commissioned by AT&T containing AT&T propagation plots that depict (1) coverage from existing and approved

surrounding sites, and (2) coverage from the proposed Site in conjunction with existing and approved sites. Together, these propagation plots demonstrate AT&T's need for a site in the area of the proposed Facility, and the effectiveness of the proposed Facility in meeting the need for wireless service in this area of South Windsor. Additional statistics regarding the overall area, population and roadway miles of expanded coverage in the community are included in AT&T's report.

#### **IV. STATEMENT OF NEED AND BENEFIT**

##### **A. Statement of Need**

##### **1. United States Policy & Law**

The laws and policies of the United States aim to maximize nationwide wireless access and foster wireless network growth. The United States Congress first set forth a regulatory structure for wireless telecommunications in the Telecommunications Act of 1996 (the "Telecommunications Act"). Aimed at increasing market competition amongst service providers, the Telecommunications Act encouraged "the rapid deployment of new telecommunications technologies."<sup>1</sup> 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. Thus, the Telecommunications Act accelerated the process of making wireless services available nationwide for nearly all individuals.

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<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

Following the regulatory changes under the Telecommunications Act, Congress passed the Wireless Communications and Public Safety Act of 1999 (the “Public Safety Act”), designating 9-1-1 as the universal emergency assistance number for both landline and wireless telephone service.<sup>2</sup> The express findings of Congress as stated in the Public Safety Act emphasize the nexus between access to wireless communication and public safety:

Emerging technologies can be a critical component of the end-to-end communications infrastructure connecting the public with emergency medical service providers and emergency dispatch providers, public safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities, to reduce emergency response times and provide appropriate care.<sup>3</sup>

The emphasis on accessibility found in the Telecommunications Act coupled with the promotion of wireless use to enhance public safety reflects the United States government’s ongoing commitment to maximizing the vast potential of wireless services.

Continuing its efforts to utilize wireless services as a means of enhancing public safety, Congress subsequently passed the New and Emerging Technologies 911 Improvement Act of 2008 (the “NET 911 Act”). The NET 911 Act sought to accelerate a country-wide transition to a national IP-enabled emergency network and improve existing emergency services for individuals with disabilities.<sup>4</sup> Thus, Congressional implementation of the Public Safety Act and the NET 911 Act represent the federal government’s growing awareness of how wireless telecommunications not only support economic growth but also create safer municipalities.

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<sup>2</sup> Wireless Communications and Public Safety Act, Pub. L. No. 106-81, §2(a)(3), 113 Stat. 1286-87 (1999).

<sup>3</sup> *Id.* at 1287.

<sup>4</sup> New and Emerging Technologies 911 Improvement Act of 2008, 47 U.S.C. §615(a)-1.

The United States has continued to acknowledge the importance of maximizing access to wireless services. The American Recovery and Reinvestment Act of 2009 (the “Recovery Act”) provided \$7.2 billion to increase broadband access throughout the United States.<sup>5</sup> The Recovery Act also established the Broadband Technology Opportunities Program, awarding grants to enhance community broadband infrastructure, upgrade or construct public computer centers, and increase broadband access in areas that traditionally underutilized broadband services.<sup>6</sup> In 2010, the Federal Communications Commission developed a National Broadband Plan (the “NBP,” or the “Plan”) under the direction of Congress, setting forth strategic initiatives for maximizing broadband access for every American. The Executive Summary of the NBP states the express goal of the Plan:

[M]aximizing use of broadband to advance consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes. [Internal quotation marks omitted].<sup>7</sup>

The NBP establishes policies for innovation, investment, and the utilization of broadband in specific areas such as health care, education, energy, and public safety. By addressing these various needs, the comprehensive framework of the NBP recognizes that “the development of electricity, telephone, radio and television transformed the United States and, in turn, helped us transform the world [...] [b]roadband will be just as

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<sup>5</sup> National Telecommunications and Information Administration, United States Dept. of Commerce. *Broadband Technology Opportunities Program (BTOP): About*, <http://www2.ntia.doc.gov/about> (last visited July 30, 2013).

<sup>6</sup> *Id.*

<sup>7</sup> Federal Communications Commission, *National Broadband Plan*, ix (July 20, 2013), <http://download.broadband.gov/plan/national-broadband-plan-executive-summary.pdf>

transformative.”<sup>8</sup> To implement the proposals contained in the NBP, the FCC established the Broadband Acceleration Initiative (the “Initiative”), to “work inside the FCC, with its partners in state and local governments, and in the private sector to reduce barriers to broadband deployment.”<sup>9</sup> Through the Initiative, the FCC committed to voting on a Notice of Inquiry to collect information on existing barriers to broadband access.<sup>10</sup> Following through on the agenda set forth in the Initiative, the FCC published a Notice of Inquiry in April 2011 to better understand how the FCC and local municipalities should work together to achieve uniform, nationwide, broadband access for all:

This Notice is intended to update our understanding of current rights of way and wireless facilities siting policies, assess the extent and impact of challenges related to these matters, and develop a record on potential solutions to these challenges.<sup>11</sup>

Echoing the charge of the FCC found in the Telecommunications Act, FCC Chairman Julius Genachowski’s concluding statements in the Notice of Inquiry stressed the ongoing duty of the FCC under the Telecommunications Act to make available broadband services for all individuals, and that “[t]he Broadband Acceleration Initiative, and our actions today, are central to carrying out that duty.”<sup>12</sup>

In June 2012, President Obama signed an executive order aimed at accelerating the deployment of broadband on federal lands and reiterating the importance of uniform access to broadband and other wireless services, recognizing the need for improved broadband access across the United States:

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<sup>8</sup> Id. at 21.

<sup>9</sup> Federal Communications Commission: *The FCC’s Broadband Acceleration Initiative*, (Feb. 9, 2011), [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-304571A2.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-304571A2.doc)

<sup>10</sup> Id.

<sup>11</sup> Federal Communications Commission: Notice of Inquiry 11-51, WC Docket No. 11-59 (Apr. 7, 2011), 5.

<sup>12</sup> Id. at 21.

Broadband access is essential to the Nation's global competitiveness in the 21st century, driving job creation, promoting innovation, and expanding markets for American businesses. Broadband access also affords public safety agencies the opportunity for greater levels of effectiveness and interoperability.<sup>13</sup>

Despite these efforts from the White House and Congress, the FCC's 14th Broadband Progress Report (the "Report") confirms that the FCC must continue its efforts to close the "digital divide" and extend the reach of broadband deployment to all Americans. The Report states that "Section 706(a) mandates that we continue to promote deployment of advanced telecommunications capacity to all Americans, and even though 'current data continue to demonstrate significant ongoing progress, it remains the case that rural and Tribal areas continue to lag behind in broadband deployment."<sup>14</sup>

The FCC's Declaratory Ruling interpreting §332(c)(7)(b) of the Telecommunications Act established specific time limits for decisions on land use and zoning permit applications, which supports the public need for timely deployment of wireless development.<sup>15</sup> The Middle Class Tax Relief and Job Creation Act of 2012 (Section 6409(a)) emphasized the critical nature of the timely deployment of wireless infrastructure to public safety and the economy by preempting a discretionary review process for eligible modifications of existing wireless towers of existing base stations.<sup>16</sup>

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<sup>13</sup> Exec. Order 13616, 77 Fed. Reg 36,903 (Jun. 20, 2012).

<sup>14</sup> Federal Communications Commission, FCC 21-18A1, Fourteenth Broadband Progress Report, at 4. (2012).

<sup>15</sup> WT Docket No. 08-165-Declaratory Ruling on Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring at Variance ("Declaratory Ruling").

<sup>16</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 (2012), available at <http://gpo.gov/fdsys/pkg/BILLS-112hr3630enr/pdf/BILLS-112hr3630enr.pdf>; see also H.R. Rep. No. 112-399 at 132-33 (2012)(Conf. Rep.), available at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt399/pdf/CRPT-112hrt399.pdf>.



In 2018, the FCC adopted two separate orders incorporating several declaratory rulings and a set of new regulations to specifically address various areas of state and municipal oversight of wireless facility siting including towers and small cells.<sup>17</sup> The first order prohibits any actual or de facto moratoria on the siting of wireless facilities. The second, intended to streamline the siting of 4G LTE and future 5G wireless infrastructure, addressed numerous provisions of the Telecommunications Act and focused on any state or local siting requirements that might materially inhibit the deployment of wireless facilities including small cells. The Trump administration further developed a national strategy for the United States to win the 5G global race and continue American leadership in wireless technology.<sup>18</sup>

## 2. United States Wireless Usage Statistics

Over the past thirty years, wireless communications have revolutionized the way Americans live, work and play. The ability to connect with each other in a mobile environment has proven essential to the public's health, safety, and welfare. According to the CTIA's Annual Survey, Americans used a record 15.7 trillion megabytes of mobile data in 2017, nearly quadrupling since 2014 and representing 40 times the volume used in 2010<sup>19</sup>. An estimated 400.2 million individuals in the United States subscribed to a wireless provider, up from 128.3 million subscribers as of December 2011<sup>20</sup>. The reported increase in annual wireless data traffic grew forty (40) times from 2010 to 2017,<sup>21</sup> and

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<sup>17</sup> WT Docket No. 17-79 – Declaratory Ruling and Third Report and Order, Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment.

<sup>18</sup> See <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-developing-sustainable-spectrum-strategy-americas-future/> and <https://www.whitehouse.gov/articles/america-will-win-global-race-5g/>

<sup>19</sup> CTIA Annual "The State of Wireless 2018" available at <https://www.ctia.org/news/the-state-of-wireless-2018>; see also [https://api.ctia.org/wp-content/uploads/2018/07/CTIA\\_ToplineWirelessIndustrySurvey.pdf](https://api.ctia.org/wp-content/uploads/2018/07/CTIA_ToplineWirelessIndustrySurvey.pdf).

<sup>20</sup> Id.

<sup>21</sup> Id.

data-only only devices increased by 147% from 2013 to 2017.<sup>22</sup> Emphasizing the need to meet the heightened demand for wireless services, in 2017 the number of cell sites in operation in the United States exceeded 320,000, representing a 52% increase over the last decade.<sup>23</sup> In addition to the vast number of individual wireless subscribers, United States households are increasingly dependent on wireless service, with 52.5% of households exclusively wireless.

The number of wireless users is exponentially increasing among the country's teenager and elderly populations as well. In a February 5, 2018 report, Pew Research Center found that 95% of all Americans own a cellphone, with 77% of Americans owning smartphones, compared to just 35% owning smartphones in 2011<sup>24</sup>. The percentage of adults ages 65 and older who reported owning a cellphone of any kind as of November 2016 was 80%, with smartphone ownership increasing by 24% since 2013.<sup>25</sup> By comparison, nearly 95% of American teenagers own a smartphone.<sup>26</sup> Clearly, statistics suggest that the number of mobile phone users is growing across demographic lines.

Wireless services not only enhance the efficiency of personal and business communications but also play a key role in enhancing public safety. Up to 80% of all 9-1-1 calls made each year come from a wireless device.<sup>27</sup> Beginning May 15, 2015, wireless carriers in the United States voluntarily supported Text-to-911, a program that

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<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> See <https://www.pewinternet.org/fact-sheet/mobile/>

<sup>25</sup> Monica Anderson and Andrew Perrin, *Report: Tech Adoption Climbs among Older Adults* (May 17, 2017), See <https://www.pewinternet.org/2017/05/17/technology-use-among-seniors/>

<sup>26</sup> Monica Anderson and JingJing Jiang, *Teens, Social Media and Technology*, May 31, 2018 (Pew Research Center Internet & Technology) (2018); See <https://www.pewinternet.org/2018/05/31/teens-social-media-technology-2018/>

<sup>27</sup> 911 Wireless Service Guide, available at <https://transition.fcc.gov/cgb/consumerfacts/wireless911srv.pdf>

allows users to send text messages to emergency services as an alternative to placing a phone call.<sup>28</sup> A June 2013 study of mobile phone activity by the Pew Research Center indicates that over 30 days, 19% of individuals used their mobile device to get help in an emergency.<sup>29</sup> Therefore, maximizing broadband and wireless access not only promotes convenient and efficient personal communication but enhances public safety as well.

Further, wireless services serve an important function in assisting local police, fire, and first responders. The Federal Communications Commission (FCC) and the Federal Emergency Management Agency (FEMA) established the Wireless Emergency Alerts (WEA) system, a national emergency system used for disseminating location-aware emergency text message alerts.<sup>30</sup> The messages distributed through the WEA system include Imminent Threat Alerts, such as notification of man-made or natural disasters, and Amber Alerts, which assist law enforcement in the search and identification of missing children.<sup>31</sup> Reaching nearly 97% of wireless subscribers, the WEA program reflects how wireless technology can be utilized to save lives and promote municipal safety.

### 3. Site Specific Public Need

The Facility proposed in this Application would be an integral component of AT&T's network in its FCC-licensed areas throughout the state.

To expand and enhance its wireless services throughout New England, AT&T must fill in existing coverage gaps and address capacity, interference, and high-speed

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<sup>28</sup> See *Text-to-911: What you need to know*, available at <https://www.fcc.gov/consumers/guides/what-you-need-to-know-about-text-911>. See also, *Text-to-911 is now available in Connecticut*, available at <https://www.text911ct.org>

<sup>29</sup> 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 July 30, 2013).

<sup>30</sup> For more on the WEA program, see CTIA: *Wireless Emergency Alerts on Your Mobile Device* <https://www.ctia.org/consumer-resources/wireless-emergency-alerts> (last visited June 26, 2019).

<sup>31</sup> *Id.*

broadband issues. As part of this effort, AT&T has determined that significant gaps in service exist in and around sections of the Town of South Windsor, as more fully set forth in Exhibit E and herein. AT&T currently operates wireless facilities similar to the proposed Facility within South Windsor and the surrounding municipalities. Due in large part to the distances between the existing sites, the intervening topography, and volume of user traffic in the area, these existing facilities do not provide sufficient coverage to portions of South Windsor. Specifically, AT&T determined that large areas of South Windsor suffer from a lack of reliable service, including, but not limited to, along State Hwy 74, Avery Street, Dart Hill Road and Miller Road, as well as roads, businesses, and neighborhoods in the proximity of the proposed Facility and the above-mentioned roads.

The plots included as attachments to Exhibit E show coverage based on the minimum required signal strength needed to support reliable 4G LTE service in this area. All other areas (depicted in white) fall within coverage areas characterized by poor voice and data quality, slow data speeds, latency, and the substantial likelihood of unreliable service. The plots included in Exhibit E shows the deficient areas of 700 MHz coverage are defined by the unshaded or "white" areas. As shown in this plot, the surrounding AT&T sites are unable to provide adequate coverage to South Windsor. Additional residents within the surrounding area at the 700 MHz frequency will receive improved coverage, along with improvements to the surrounding roads, neighborhoods, and business areas within the proximity of the proposed Site and the above-mentioned roadways. Without the installation of the proposed site, AT&T will be unable to improve and expand its existing 4G LTE wireless communication services in this area of South Windsor. See Exhibit E at p. 6.

AT&T will also deploy FirstNet services from this Facility. FirstNet is a federal agency with a mandate to create a nationwide, interoperable public safety broadband network for first responders. First responders across the country currently rely on more than 10,000 separate radio networks which oftentimes do not interoperate with one another. By deploying a nationwide broadband public safety network built specifically to meet the communications needs of first responders, the FirstNet network will provide a solution to the decades-long interoperability and communications challenges first responders have experienced.

FirstNet selected AT&T to build, manage and operate the National Public Safety Broadband Network ("NPSBN") using FirstNet's Band 14 spectrum (Call Sign WQQE234, 20 MHz of the 700 MHz spectrum), together with AT&T's own wireless network. Using a combination of new and existing wireless facilities, AT&T provides prioritized, preemptive wireless services for first responders across Connecticut, New England, and nationwide, while also improving 4G LTE coverage for AT&T customers.

#### **B. Technological Alternatives**

The FCC license granted to AT&T authorizes it to provide wireless services in this area of the state through the deployment of a network of wireless transmitting sites. Repeaters, microcell transmitters, distributed antenna systems (DAS), and other types of transmitting technologies are not a practicable or feasible means to providing service within the service area for this site. These technologies are better suited for specifically defined areas, such as commercial buildings, shopping malls, and tunnels, or to address capacity. Ensuring reliable wireless services in this area of South Windsor requires a tower site that can provide reliable service in this critical location. There are no equally

effective technological alternatives to the construction of the proposed Facility for AT&T to provide reliable personal wireless services in this area of Connecticut.

## **V. SITE SELECTION AND TOWER SHARING**

### **A. Site Selection**

Tarpon 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. It is only when it is clear that a new tower facility will be required to provide coverage and reliable service that Tarpon pursues a site search for a new tower. In performing its site search, Tarpon 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. In this case, AT&T identified a need for wireless coverage in this area of South Windsor and agreed to support an application by Tarpon to construct a new facility in this location to provide the coverage required, with AT&T serving as a co-applicant with Tarpon.

Only after determining that no existing suitable facilities or structures could be used to provide reliable coverage in this area, a search for tower sites was conducted. In this area of South Windsor, there are no known existing structures suitable for co-location and the provision of reliable service to the public.

The map of existing facilities within a four-mile radius with table, along with the site selection narrative and map of rejected sites contained in Exhibit F, provide a thorough explanation of the Applicants' methodology for conducting site searches, the actual

search for potential sites in the area, the locations reviewed during the Applicants' search, and the reasons for elimination from consideration of all but the Property.

**B. Tower Sharing**

To promote the sharing of wireless facilities in the Town, the Applicants propose to construct a facility that can accommodate AT&T, municipal emergency communications equipment at no cost to the Town, and three future wireless carriers. Since the submission of the Technical Report, the Town has indicated a desire to co-locate on the tower, and the Applicants' site plans include Town antennas mounted at 165' and not to exceed 183' in height. Details of the design are contained in Exhibit G.

**VI. ENVIRONMENTAL COMPATIBILITY**

Pursuant to Connecticut General Statutes § 16-50p, the Council is required to find and determine as part of the Application process any probable environmental impact of the Facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forest and parks, air and water purity and fish and wildlife. As demonstrated in this Application and the accompanying attachments and documentation, the Facility would not have a significant adverse environmental impact, and/or any such effects are unavoidable in this part of the State to provide reliable service to the public.

## **A. Visual Assessment**

The visual impact of the Facility would vary from different locations around the Facility depending upon factors such as vegetation, topography, distance from the Facility, and the location of structures around the Facility.

Tarpon retained visibility experts, Virtual Site Simulations, LLC (“VSS”), to prepare the Visual Assessment & Photo-Simulations for the Facility. See Exhibit H, *Visual & Photo-Simulations prepared in June 2023 by Virtual Site Simulations, LLC*. The Visual Assessment includes a computer-based, predictive viewshed model, which has proven to depict accurately the potential impact of the Facility from within a two-mile radius (the “Study Area”).

VSS used a combination of a predictive computer model, in-field analysis, and a review of various data sources to evaluate the visibility associated with the Facility on both a quantitative and qualitative basis. The predictive model provides a measurable assessment of visibility throughout the entire Study Area, including private properties and other areas inaccessible for direct observations.

The in-field analyses consisted of a balloon test completed on November 15, 2023 and field reconnaissance of the area to record existing conditions, verify results of the predictive model, inventory seasonal and year-round view locations, and provide photographic documentation from publicly accessible areas. The balloon test consisted of raising a brightly-colored, approximately three-foot diameter, helium-filled balloon tethered to a string at a height of  $\pm 155$  feet AGL at the location of the proposed Facility. VSS conducted a study area reconnaissance by driving along local and State roads and traveling along other publicly accessible locations to document and inventory where the



balloon could be seen above and through the tree canopy and other visual obstructions. Visual observations from the reconnaissance were also used to evaluate the results of the preliminary visibility mapping and to identify any discrepancies in the initial modeling. As a result of the Town's Co-Location application for the Facility, the height of the tower was increased to 165' in order to accommodate the Town's equipment and antennas (with the height of the Town's antennas not to exceed 183'). As a result, VSS performed an additional visual analysis contained in Exhibit H for a 165' tower.

As presented in the viewshed maps attached to the Visibility Analysis, year-round views of the Facility would be primarily limited to the immediate area and the cleared rectangular path of the existing Eversource transmission line. See Exhibit H, Leaf-ON Viewshed Mapping Package, pp. 2-3, Leaf-Off Viewshed Mapping Package, pp. 2-3.

The predicted leaf-on visibility of the proposed Facility is estimated to include approximately 58 acres or approximately 2.89% of the study area. The predicted leaf-off visibility of the proposed Facility is estimated to include approximately 88.3 acres or 4.39% of the study area.

No schools or commercial daycare centers are located within 250 feet of the Facility. Philip R. Smith Elementary School is located approximately 0.5 miles to the southeast of the Site on Avery Street in South Windsor. The closest commercial childcare center, the Academy of Art & Learning Child Care Center, is approximately 1.67 miles to the east-southeast.

Weather permitting, and if allowed under COVID-19 protocols, the Applicants may be asked to raise a balloon with a diameter of at least three (3) feet at the Facility on the

day of the Council's hearing on this Application, or at a time otherwise specified by the Council. In lieu of the balloon float, the Applicants may perform a virtual site visit.

**B. Solicitation of State and Federal Agency Comments**

On behalf of Tarpon, Environmental Corporation of America ("ECA") submitted a request for review and comment for the Facility to the State Historic Preservation Office (the "SHPO"). Included in that submission to the SHPO were project details, copies of consultant correspondence to date, and the results of ECA's evaluation of the potential effects of the project on historic and archaeological resources. ECA also obtained the maps from the database of the Connecticut Department of Energy & Environmental Protection ("CT DEEP").

Tarpon engaged Heritage Consultants, LLC ("Heritage") to conduct a Preliminary Archaeological Assessment based on an examination of data obtained from the SHPO as well as GIS data. Heritage recommended that the project should be subjected to a Phase 1B cultural resources reconnaissance survey prior to construction. See *Preliminary Archaeological Assessment prepared by Heritage Consultants, LLC dated December 1, 2022.*

Heritage then proceeded to conduct a Phase 1B Cultural Resources Reconnaissance Survey consisting of an analysis of readily available maps and aerial imagery; an examination of the pertinent 1996 USGS 7.5' series topographic quadrangles; and a review of all known archaeological sites and National/State Register of Historic Places property maintained by the Connecticut SHPO, as well as digital records archived by Heritage. Based on its research, Heritage concluded that "no impacts to significant cultural resources are anticipated by the proposed construction and no

additional archaeological investigation of the telecommunications facility area is recommended.” See *attached Phase 1B Cultural Resources Reconnaissance Survey prepared by Heritage Consultants, LLC dated March 2023*.

In a letter dated March 21, 2023, SHPO stated that it concurred with Heritage that the archaeological deposits identified were not eligible for the National Register of Historic Places and that no additional investigations are warranted. SHPO concluded that the proposed project would have no effect on any historic properties. See Letter from SHPO dated March 21, 2023 contained in NEPA Report as Appendix D, and attached hereto as Exhibit I.

On behalf of Tarpon, ECA also consulted with the United States Fish and Wildlife Service (“USFW”) to determine if rare, threatened, or endangered species or designated critical habitat may be present in the project area. Based on its review, ECA identified one federally-listed species (i.e., listed under the Endangered Species Act) that is known to occur in the vicinity of the Site: the Northern long-eared bat (*Myotis septentrionalis*). ECA noted that approximately 0.6 acres of tree clearing would be required to complete the proposed project, which would be considered insignificant and/or discountable. Accordingly, ECA concluded that “the proposed undertaking may affect, but is not likely to adversely affect the northern long-eared bat.” (Emphasis added.) Further, ECA concluded that the proposed undertaking would have no effect on any other federally threatened or endangered species, and the proposed project would not jeopardize the continued existence of any other federally proposed threatened or endangered species and would not result in the destruction or adverse modification of proposed critical habitat. See, Exhibit I at Appendix C.

### **C. MPE Limits/Power Density Analysis**

In August 1996, the FCC adopted a standard for exposure to Radio Frequency ("RF") emissions from telecommunications facilities like the Facility proposed in this Application. To ensure compliance with applicable standards, AT&T retained C Squared Systems, LLC to perform maximum power density calculations for the Facility assuming that AT&T and Town antennas are operating at 100% capacity and power and that all antenna channels are transmitting simultaneously.

The resulting power density for AT&T's operations and the operations of the Town's antennas would be approximately 3.55% percent of the applicable Maximum Permissible Exposure (MPE) standards. A copy of the power density calculation report for the Facility is attached hereto as Exhibit J. This calculation does not take into account obstructions, such as trees and buildings, that would normally attenuate the signal. The calculations assume even terrain in the area of study and do not consider actual terrain elevations which also could attenuate the signal. As a result, the predicted signal levels reported by C Squared Systems, LLC are much higher than the actual signal levels of the Facility will be.

### **D. Other Environmental Factors**

The Facility would be unmanned, requiring infrequent monthly maintenance visits by AT&T that would last approximately one hour. The equipment located at the Facility would be monitored 24 hours a day, 7 days a week from a remote location. The Facility would not require a water supply or wastewater utilities. No outdoor storage or solid waste receptacles would be needed, and the Facility would not create or emit any smoke, gas, dust, or other air contaminants, noise, odors, or vibrations other than the installed

heating and ventilation equipment. Temporary power outages could require the limited use of emergency generators on site and provisions have been made for a permanent, self-contained, on-site diesel back-up generator. The construction and operation of the proposed Facility would have no significant impact on air, water, or noise quality.

Tarpon retained ECA to evaluate the Facility under the FCC's regulations implementing the National Environmental Policy Act of 1969 ("NEPA"). A copy of the NEPA Report dated May 6, 2023, is attached hereto as Exhibit I. In addition to the SHPO and USFW comments described above, in the NEPA Report, ECA concludes:

- The proposed Facility will not be located in an area designated as a wilderness area or a wildlife preserve.
- The Facility will not affect districts, sites, buildings, structures, or objects of significant American history, architecture, archaeology, engineering, or culture, that are listed, or eligible for listing, in the National Register of Historic Places.
- The Facility will not affect an Indian religious site. ECA consulted with seven Native American Indian tribes – the Sac & Fox Nation in Oklahoma, Mashantucket Pequot Tribe, Mohegan Indian Tribe, Bad River Band of Lake Superior Chippewa Indians, Red Cliff Band of Superior Chippewa Indians of Wisconsin, Lac du Flambeau Band of Lake Superior Chippewa Indians, and Narragansett Indian Tribe. Each tribe received initial notification from the FCC by December 9, 2022. In response, the tribes either concurred with the project or expressed no further interest. See Appendix E to Exhibit I.
- The Facility will not be located in 100-year floodplains.

- The construction and operation of the Facility will not cause a substantial change in the character of surface features or the land use (e.g., wetlands fill, water diversion, or deforestation). Specifically, ECA concluded that it does not appear that jurisdictional waters or wetlands would be impacted. See Appendix G to Exhibit I.
- The Facility will not utilize high-intensity white lights. In addition, the height would be below 200 feet, would not include guy wires, and would not require lighting.
- In its Avian Resources Evaluation, ECA found no evidence that any migratory bird species potentially occurring within the area of the Facility would be impacted by the proposed Facility. Additionally, the proposed Facility would not affect any designated critical habitat and would not result in the destruction or adverse modification of proposed critical habitat. The proposed Facility also will not be located in any Important Bird Areas or Waterfowl or Landbird NAWCA Priority Areas, and is not anticipated to adversely impact any migratory birds, nesting habitats, or critical, habitats. See Avian Resources/Migratory Bird Impact Analysis dated July 19, 2023 attached hereto as Exhibit K.

In conclusion, ECA found no evidence that adverse environmental impacts or effects would result from the proposed project, as defined in FCC Rules contained in 47 CFR Sections 1.1301 through 1.1320.

## **VII. CONSISTENCY WITH THE SOUTH WINDSOR LAND USE REGULATIONS**

The Council Application Guide for Community Antenna Television and Telecommunications Facilities, as amended in July 2012, requires the inclusion of a narrative summary of the project's consistency with the Town's Plan of Conservation and Development (the "Plan"), Zoning Regulations, and Wetlands Regulations as well as a description of planned and existing uses of the site location and surrounding properties.

### **A. Planned and Existing Land Uses**

The Property is an approximately 3.57-acre parcel with a designated land use as "RR" (Rural Residential). The Property is presently vacant and undeveloped. The Applicants are not aware of any confirmed future development plans regarding the Property. The Site is situated approximately 1.83 miles northwest of Interstate 84 and is located within a rural and residential area. The proposed Facility location is along the southern edge of the Property, adjacent to existing overhead power lines and an open space area.

### **B. South Windsor Plan of Conservation and Development**

The South Windsor Plan of Conservation and Development ("Plan"), a copy of which is included in the bulk filing, was effective as of August 18, 2013 (and amended as of September 21, 2014). The Plan emphasizes that "the Town should continue to work with communication providers to ensure that South Windsor's communications infrastructure can meet modern needs." Plan at p. 96. The construction of the proposed Facility is consistent with the Plan because it will result in modernizing and improving the Town's wireless communications infrastructure.

### **C. South Windsor Zoning Regulations**

The Property is zoned "RR" (Rural Residential) under the South Windsor Zoning Regulations (the "Regulations"). See Bulk Filing, Zoning Regulations; Zoning Map.

Section 7.18 of the Regulations governs the location of telecommunications facilities in the Town. Section 7.18.1(C) provides that a facility may be approved in connection with a special exception application based on the following factors: 1) whether alternate sites are exhausted; 2) what lies within the fall zone of a tower; 3) existence of endangered species; 4) whether other development is being proposed or considered at or near the site; 5) historical, architectural, and archaeological sites listed on the National Register or the State Register of Historic Places, or eligible for listing on them; 6) effect on bird habitats and migration; 7) length of access road; 8) psychological injury that could result if a major natural area were intruded upon; and 9) public health and safety. The Application is considered with each of these factors because:

- 1) The Applicants have considered and rejected alternative sites. See Exhibit F.
- 2) There are no structures within the fall zone of the tower. See Exhibit G.
- 3) There are no endangered species that will be impacted by the facility. See Exhibit I.
- 4) The Property is currently vacant, and there is no proposed development at or near the Site. See Exhibit G.
- 5) There are no historical, architectural, and archaeological sites listed on the National Register or the State Register of Historic Places, or eligible for listing on them, that will be affected by the Facility. See Exhibit I.
- 6) There will be no impact on bird habitats and migration. See Exhibit K.



- 7) The Applicants will primarily utilize an existing gravel drive to access the Site up to the Eversource right of way with a modest 250-foot extension of the gravel access road to the Site. In addition, much of this area is already disturbed by the Eversource electrical transmission lines. See Exhibit G.
- 8) There will be no “psychological injury” because there is no “major natural area” that will be intruded upon. See Exhibit G, Exhibit H, Exhibit I, Exhibit K.
- 9) There are no public safety concerns. See Exhibit J.

Accordingly, the Application is consistent with the factors that would be considered in connection with a special exception application.

#### **D. South Windsor Inland Wetlands and Watercourses Regulations**

The South Windsor Inland Wetlands and Watercourses Regulations (“Wetlands Regulations”) regulate certain activities conducted in or adjacent to wetlands or watercourses as defined therein. See Bulk Filing, Wetlands Regulations, revised February 1, 2023.

No wetlands or watercourses were identified or delineated within 100-feet of the Site and the access to the Site. See Exhibit L. Accordingly, the Application does not contemplate any regulated activity within the meaning of the Wetlands Regulations, and therefore, no wetlands permit would be required if the proposed Facility was subject to the jurisdiction of the Town’s Inland Wetlands and Watercourses Commission. Accordingly, the Application is consistent with the Wetlands Regulations.

## **VIII. CONSULTATIONS WITH LOCAL, STATE, AND FEDERAL OFFICIALS**

### **A. Local Consultations**

Connecticut General Statutes § 16-50f (e) requires an applicant to consult with the local municipality in which a proposed facility may be located and with any adjoining municipality having a boundary of 2,500 feet from the proposed facility concerning the proposed and alternate sites of the facility. On March 23, 2023, the Applicants submitted a technical report to Mayor Liz Pendelton and Town Manager Michael Maniscalco regarding the Facility. The technical report, a copy of which is being bulk filed with this Application, included specifics about the Property, the Facility, the site selection process, and the environmental effects, if any, of the proposed Facility. A copy of the cover letter to Mayor Pendelton and Town Manager Maniscalco submitted with the technical report is included in Exhibit M.

On April 10, 2023, the Applicants met with Town officials during the municipal consultation process to answer questions. On May 8, 2023, the Town submitted to Tarpon a Co-Location Application indicating the Town's desire to locate on the proposed tower. While the tower was initially proposed to be 155' in the Technical Report, once the Town indicated its interest in locating on the tower, the Applicants revised the proposal to show a tower height of 165' (not to exceed 183' with the Town's antennas) which would ensure adequate separation between the AT&T antennas and those dedicated to the Town. The site plans attached to this Application as Exhibit G reflect this height and depict the proposed antennas for AT&T, municipal emergency communications equipment at no cost to the Town, and three additional future carriers.

## **B. Consultations with State Officials**

As noted in Section VII.B of this Application, Tarpon consulted with the SHPO and obtained CTDEEP mapping from the CTDEEP's database in the course of its NEPA survey. As indicated in Section VII.B, the SHPO found no adverse impact. Copies of the correspondence with SHPO are included in the NEPA Report attached hereto as Exhibit I.

## **C. Consultation with Federal Agencies**

Tarpon received a report from the Federal Aviation Administration ("FAA") for the Facility, which is attached hereto as Exhibit N. By letter dated March 23, 2023, the FAA concluded that the Facility does not exceed obstruction standards and would not be a hazard to air navigation. Therefore, no FAA lighting or marking would be required for the Facility proposed in this Application.

Tarpon evaluated the project to determine whether it fell within any of the "listed" categories requiring review under NEPA. The "listed" categories, included in 47 C.F.R § 1.1307, are activities that may affect wilderness areas; wilderness preserves; endangered or threatened species; critical habitats; National Register historic districts, sites, buildings, structures, or objects; Indian religious sites; flood plains; and wetlands. The resulting report, included in the NEPA Report attached hereto as Exhibit I, confirms that the Property does not fall under any of the NEPA "listed" categories of 47 C.F.R. §1.1307. Therefore, the proposed Facility does not require review by the FCC pursuant to NEPA.

## **IX. ESTIMATED COST AND SCHEDULE**

### **A. Overall Estimated Cost**

The total estimated cost of construction for the Facility is \$325,000.00. This estimate includes:

- (1) Tower (cost of the tower) and foundation costs (including installation) of approximately \$135,000.00;
- (2) Site development costs of approximately \$160,000.00; and
- (3) Utility installation costs of approximately \$30,000.00.

### **B. Overall Scheduling**

Site preparation and engineering would commence immediately following Council approval of the Applicants' Development and Management ("D&M") Plan and is expected to be completed within four to five weeks. Installation of the monopole structure, antennas, and associated equipment is expected to take an additional eight weeks. The duration of the total construction schedule is approximately 15 weeks. Facility integration and system testing are expected to require an additional two weeks after the construction is completed.

**X. CONCLUSION**

This Application and the accompanying materials and documentation demonstrate that a significant public need exists in the Town for improved wireless services and that the Facility would not have any substantial adverse environmental effects. The Applicants, therefore, respectfully submit that the public need for the Facility far outweighs any potential environmental effects resulting from the construction of the Facility.

The Applicants therefore respectfully request the Council grant a Certificate of Environmental Compatibility and Public Need for the Facility.

RESPECTFULLY SUBMITTED,

**TARPON TOWERS III, LLC**

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