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January 2, 2024

VIA E-MAIL AND FEDEX

Attorney Melanie Bachman
Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Docket No. 518 – New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC Application for a Certificate of Environmental Compatibility and Public Need for the Construction, Maintenance and Operation of a Telecommunications Facility Located at 99 Dart Hill Road, South Windsor, Connecticut

New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC's Post-Hearing Brief

Dear Attorney Bachman:

On behalf of the applicants, New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC, I have enclosed an original and fifteen (15) copies of the Post-Hearing Brief.

Thank you.

Very truly yours,



David A. Ball

Enclosures

cc: Service List

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

NEW CINGULAR WIRELESS PCS, LLC
D/B/A AT&T AND TARPON TOWERS III,
LLC APPLICATION FOR A CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED FOR THE
CONSTRUCTION, MAINTENANCE AND
OPERATION OF A
TELECOMMUNICATIONS FACILITY
LOCATED AT 99 DART HILL ROAD,
SOUTH WINDSOR, CONNECTICUT

DOCKET NO. 518

January 2, 2024

**NEW CINGULAR WIRELESS PCS, LLC D/B/A AT&T
AND TARPON TOWERS III, LLC
POST-HEARING BRIEF**

Applicants New Cingular Wireless PCS, LLC d/b/a AT&T (“AT&T”) and Tarpon Towers III, LLC (“Tarpon”) (AT&T and Tarpon are collectively referred to as the “Applicants”) respectfully submit this Post-Hearing Brief in support of the above-referenced Application.

I. INTRODUCTION / EXECUTIVE SUMMARY

On August 22, 2023, AT&T and Tarpon 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 3.57-acre parcel of property zoned as “RR” (Rural Residential), located at 99 Dart Hill Road, South Windsor, Connecticut (the “Property” or “Site”). 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. As the Applicants demonstrated, there is a need to address significant coverage deficiencies in the AT&T existing wireless communications network in this area of South Windsor (the "Town"). Moreover, the Town supports this application as evidenced by its May 8, 2023 application to co-locate on the proposed tower, and there is virtually no opposition to this application.

Need for the Facility:

AT&T has identified significant coverage deficiencies in its existing wireless communications network in this area of South Windsor. The proposed Facility will provide necessary in-building residential and in-vehicle coverage if AT&T is permitted to locate at a centerline height of 155'. AT&T's location at the 155' height will provide much-needed wireless services in the area within the proposed coverage footprint. Moreover, Town antennas are proposed to be mounted at the 165' level and not to exceed 183' in height, to provide needed service to South Windsor. 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.

The Applicants introduced into the record 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. *See, Exhibit E to Application.* These propagation plots demonstrate AT&T's need for a tower 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.

Facility Description:

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 access and utility easement originating off Dart Hill Road would provide the Site with 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 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.

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 have an impact on 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

AT&T and Tarpon filed the Application with the Council on August 22, 2023, proposing to construct a 165-foot monopole tower with AT&T and Town equipment and antennas. The tower would also accommodate the antenna arrays of three future wireless carriers. *Application at p. 20.* The Town has submitted an application 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 to the Application*, and *Exhibit 66 in Applicants' Responses to Connecticut Siting Council Pre-Hearing Interrogatories, no. 66.*

Notice of the Applicants' intent to file the Application was mailed to all abutting property owners on August 17, 2023, and the legal notice was published in the Manchester Journal Inquirer on August 17, 2023 and August 18, 2023. *Exhibits C and D to Application; Applicants' Responses to Connecticut Siting Council Pre-Hearing Interrogatories, no. 1; Applicants' Exhibit 2.* On November 24, 2023, the Applicants posted a Public Notice Sign at the Site providing notice to the public of the application and hearing date and location. *Applicants' Exhibit 4.*

On December 14, 2023, the Council conducted a remote evidentiary hearing and an evening public hearing via Zoom on the Application (the “Hearing”). The Hearing was closed on December 14, 2023 after all parties were given a full and fair opportunity to present evidence and cross-examine witnesses. Other than the Applicants, there were no other parties or intervenors who participated in this docket, and no-one from the public spoke at the evening public hearing.

Pursuant to Council direction and Section 16-50j-31 of the Regulations of the Connecticut State Agencies, the Applicants file 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.

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. *Application at p. 19.* 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. *Id.* 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. *Id.*

The map of existing facilities within a four-mile radius with a table dated November 15, 2022, 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 proposed Site. As explained in *Exhibit F* to the Application and at the Hearing, AT&T and Tarpon determined that of the six (6) sites within their search area, 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*.

B. Consultation with Town of South Windsor Officials.

On March 23, 2023, the Applicants submitted a technical report to Mayor Liz Pendleton and to Michael Maniscalco, Town Manager, regarding the Facility. 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. On May 18, 2023, the Applicants notified the Town that in order to ensure adequate distance between the AT&T and Town equipment, the tower would be proposed at a height of 165 feet. See *Exhibit M to Application*.

This project has been collaborative with the Town. Moreover, there has been no opposition to this project from any potential parties or intervenors.

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 Tarpon and AT&T at the Hearing, and the Applicants' 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 seek 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 to enhance community broadband infrastructure, upgrade or construct public computer centers, and increase broadband access in areas that traditionally underutilized broadband services; and (3) developing a National Broadband Plan outlining strategic initiatives to maximize 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 the 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 ages 12-17 years own cell phones.³ As a result of this widespread subscription increase, wireless data traffic increased by 69% from 2011 to 2012.⁴

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

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.

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 South Windsor.

The Docket contains extensive written evidence and testimony regarding the need for improved wireless services in this area of South Windsor. The Applicants have demonstrated that the new Facility at 99 Dart Hill Road will provide needed coverage and will improve upon existing wireless service deficiencies.

AT&T determined that significant gaps in coverage exist in and around sections of the Town of South Windsor. See *Exhibit E to Application*. 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.

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).

In the RF Report commissioned by AT&T dated February 6, 2023, the analysis of propagation modeling concluded that AT&T has a significant gap in reliable coverage and wireless services in South Windsor. *See Exhibit E to Application.* As such, high speed data service/capacity are not available in this area of South Windsor. *Id.*

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* show the deficient areas of 700 MHz coverage are defined by the unshaded or “white” areas. As shown in these plots, 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.

The RF Report concludes:

AT&T has identified an area of deficient coverage affecting a significant portion of South Windsor CT, including key traffic corridors through the residential and business/retail areas of the Town. The proposed extension to the existing South Windsor facility will bring the needed fill-in coverage to significant portions of State Hwy 74, Avery Street, Dart Hill Road and Miller Road as well as other roads in the area and to the vicinity of the proposed location.

No other existing structures were identified and available that would be able to satisfy the coverage requirements needed for this area.

Exhibit E at p. 6.

AT&T's evidence and expert testimony in this proceeding clearly establish that no other alternative technologies, such as distributed antenna systems ("DAS") or small cells, would reliably address the coverage needs in this area of South Windsor given the identified coverage gap, and that these alternative technologies would only provide service to limited, specifically defined areas leaving major holes in network services. *Applicants' Responses to Connecticut Siting Council Pre-Hearing Interrogatories, no. 14.*

The new 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 South Windsor. *Id.*

There is no dispute as to the benefits of the proposed Facility to meet the carrier's wireless service objectives. AT&T provided coverage analyses, data and expert testimony that clearly demonstrate the need for a new tower facility to provide reliable wireless services in this area of South Windsor to homes, business uses, public safety agencies and the traveling public.

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

The Docket contains written evidence and testimony demonstrating that the property at 99 Dart Hill Road is the best site to meet the carrier's needs, and the only available site to be leased.

Tarpon conducted a search for tower sites, which included an investigation of six (6) different sites in South Windsor. *Exhibit F to Application.* As detailed in *Exhibit F* to the Application, the Applicants determined that of the 6 sites within their search area, only the proposed Site was feasible because the other sites investigated were not viable for

RF reasons or because property owners were not willing to make their properties available for telecommunications development. *Exhibit F*. Existing wireless sites do not provide sufficient coverage to portions of South Windsor, mainly due to the distances between existing sites, terrain characteristics, intervening topography, and the volume of user traffic in the area. *See Exhibit E*. In response to a question regarding an existing tower located at 2990 Ellington Road, AT&T's expert RF witness testified that coverage from this location would replicate coverage from an existing AT&T site in one direction and be blocked by the existing ridge in the other direction. Thus, this location is not a viable alternative for providing reliable service to the target area. *See 12/14/23 CSC evidentiary hearing recording 43:14-44:11*.

The record in this proceeding contains uncontroverted evidence in the form of expert analyses, data and testimony, that the proposed Site at 99 Dart Hill Road is the only viable option to meet the carrier's wireless coverage and service needs in this area of South Windsor.

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 the Applicants unequivocally satisfies these statutory criteria, thereby warranting the issuance of 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.

The Applicants' visibility analyses and 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.

As presented in the viewshed maps attached to the Virtual Site Simulations, LLC ("VSS") 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. *See Exhibit H.*

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. *Application at p. 22, and see Exhibit Q to Application.*

The Applicants' 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. To ensure compliance with applicable Radio Frequency emissions 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. See *Exhibit J to Application*. 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. See *Application at p. 25; Exhibit J, Calculated Radio Frequency Exposure Report dated July 20, 2023 at p. 7*.

Moreover, the proposed Facility will be monitored and secure. An eight (8) foot security fence with a locked gate will secure the equipment housed within the compound area. *Applicants' Responses to Connecticut Siting Council Pre-Hearing Interrogatories, no. 48*. The equipment located at the Facility will be monitored 24 hours a day, 7 days a week from a remote location. *Application at p. 25*. 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.

The Applicants have 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 pp. 23-24; Exhibit I to the Application, FCC NEPA Environmental Checklist Report dated May 6, 2023 at pp. 1-3.*

Tarpon engaged Heritage Consultants, LLC (“Heritage”) 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 State Historic Preservation Office (“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 Exhibit I to the Application, Phase 1B Cultural Resources Reconnaissance Survey prepared by Heritage Consultants, LLC dated March 2023.*

On March 21, 2023, SHPO issued a letter stating 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 to the Application as Exhibit I.

b. Protected Land and Designated Environments.

Tarpon retained Environmental Corporation of America (“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 to the Application as *Exhibit I*.

In the NEPA Report, ECA concludes:

- 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*. (See also, *Exhibit L to Application* in which Davison Environmental concluded that no wetlands or watercourses were identified or delineated within 100-feet of the Site and the access to the Site.)

- 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 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.

c. Wildlife and Wilderness.

In the NEPA Report, ECA further concludes:

- The proposed Facility will not be located in an area designated as a wilderness area or a wildlife preserve.
- 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 to Application as Exhibit K*.

As a result, the Facility is categorically excluded from any requirement for further environmental review by the FCC in accordance with the NEPA, and no permit is required by the FCC prior to construction of the proposed Facility. See 47 C.F.R. §§ 1.1306(b) and 1.1307(a).

d. Absence of Noise Impacts.

At the Council's request, the Applicants commissioned and introduced into the record an Environmental Sound Assessment prepared by Modeling Specialties dated November 6, 2023. See *Applicants' Responses to Connecticut Siting Council Pre-Hearing Interrogatories, no. 52; Exhibits 52a and 52b*. Besides the backup power source, which is exempt from the Department of Energy and Environmental Protection noise standards, the only other facility equipment generating noise is the air cooler on the door of the proposed walk-in-cabinet. This cooler is activated only when the outdoor air temperature is very high. Modeling Specialties concluded that the noise from this cooler will comply with the Department of Energy and Environmental Protection noise control standards at the Property boundaries.

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 the Application. Any limited impacts associated with the Application are outweighed by its substantial public benefits, thereby warranting Council approval.

The Applicants' voluminous evidence demonstrates that there are no alternatives to the proposed Facility at 99 Dart Hill Road to remedy long-standing gaps in wireless

coverage and to provide reliable wireless services to the public. Accordingly, the 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, the Applicants have established that there is a demonstrated need for the Facility and that the limited environmental impacts associated with the Facility are outweighed by the public need and benefits. The Applicants therefore respectfully request that a Certificate issue for the proposed Facility.

RESPECTFULLY SUBMITTED,

TARPON TOWERS III, LLC

NEW CINGULAR WIRELESS PCS, LLC

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CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was sent via electronic mail on this 2nd day of January, 2024, to the following:

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David A. Ball