DOCKET NO. 521 – Tarpon Towers III, LLC and Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility and associated equipment located at 1021-1041 South Main Street, Cheshire, Connecticut.	}	Connecticut Siting Council September 12, 2024

Opinion

On March 13, 2024, Tarpon Towers III, LLC (TT) and Cellco Partnership d/b/a Verizon Wireless (Cellco), collectively the Applicants, applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 94-foot wireless telecommunications facility at 1021-1041 South Main Street, Cheshire, Connecticut. The purpose of the proposed facility is to provide capacity relief to Cellco's existing Cheshire CT facility and provide reliable wireless communications services for Cellco customers in southeastern portions of Cheshire (Town).

The party to this proceeding is the Applicants. There are no Connecticut Environmental Protection Act (CEPA) Intervenors to this proceeding. In this Opinion, the Council incorporates its record disposition of all substantive and procedural motions that were raised by the Applicants during the course of the proceeding.

The United States Congress recognized a nationwide need for high quality wireless services through the adoption of the Federal Telecommunications Act of 1996 and directed the Federal Communications Commission (FCC) to establish a market structure for system development and develop technical standards for network operations. The FCC preempts state or local regulation on matters that are exclusively within the jurisdiction and authority of the FCC, including, but not limited to, network operations and radio frequency emissions. Preservation of state or local authority extends only to placement, construction and modifications of telecommunications facilities based on matters not directly regulated by the FCC, such as environmental impacts. The Council's statutory charge is to balance the need for development of proposed wireless telecommunications facilities with the need to protect the environment.

Under Connecticut General Statutes (CGS) §16-50p(b), there is a presumption of public need for personal wireless services and the Council is limited to consideration of a specific need for any proposed facility to be used to provide such services to the public.

TT owns and/or operates numerous tower facilities in the state. TT would construct, maintain and own the proposed facility and would be the Certificate Holder. Cellco is licensed by the FCC to provide personal wireless communications service throughout the state and would lease space on the proposed tower for their telecommunications equipment.

The total estimated cost of the proposed facility is $775,000, inclusive of costs associated with Cellco's equipment installations. Neither the project, nor any portion thereof, is proposed to be undertaken by state departments, institutions or agencies or to be funded in whole or in part by the state through any grant or contract. TT and Cellco are private entities.

Cellco maintains an existing facility (Cheshire CT) that is approximately 1.5 miles northwest of the proposed facility and provides most of its current wireless service within southeast Cheshire including portions of Route 10 and commercial and residential areas within the proposed service area. Cellco's

existing Cheshire CT facility is experiencing capacity exhaustion within its Beta sector low band antennas. The proposed facility would provide capacity relief to the existing Cheshire CT facility's Beta sector antennas by providing service within the proposed coverage area and allowing the antennas at the Cheshire CT facility to be down-tilted; thereby relieving the load.

Cellco would deploy 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 3500 MHz and 3700 MHz wireless services at the site, all of which transmit both voice and data services. Cellco's radio frequency engineers use an in-house coverage modeling program and data speed performance measurements to determine network performance and service needs.

Cellco's proposed installation at the 90-foot level of the tower would provide capacity relief for the Cheshire CT Beta sector antennas and provide reliable service to its customers in southeastern portions of Cheshire, specifically along portions of Route 10, Route 42, King Road, Sperry Road, and the surrounding commercial and residential areas.

Small cells or distributed antenna systems would not be a practicable or feasible means of addressing the existing coverage deficiency within the proposed service area. Small cells limit the number of frequencies that can be deployed, limit structure sharing with other carriers, and lack space for emergency backup power. To provide wireless service to the proposed service area would require a significant number of small cell deployments either on existing utility poles or on new utility poles along roadways or on private parcels throughout the proposed service area and would not be economically viable as a replacement for a single tower site. Therefore, the Council finds small cells are not a feasible alternative to the proposed facility.

Based on Cellco's capacity needs in southeastern Cheshire the Council finds a specific need for the facility.

Cellco initiated a site search in the Cheshire area in March of 2020. The search ring was centered around 1076 South Main Street and had a 0.75 mile radius. Cellco investigated several sites in the area and signed a lease with the property owner in September of 2023. The lease would be reassigned to TT if the Council approves the proposed facility.

There are no existing towers, buildings, utility poles or other structures within the search area that would meet coverage objectives for Cellco due to distances between existing sites, intervening topography, antenna height requirements and customer demand.

For any site to be considered a feasible and prudent alternative to a proposed facility site, it must be available to host the proposed facility. Of the eight sites examined, five of the property owners were not interested in a lease agreement for a wireless facility, one did not have enough ground space and one would not satisfy Cellco's wireless coverage objectives. The Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility nor shall the Council be limited in any way by the applicant having already acquired land or an interest therein for the purpose of siting a facility.

Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over telecommunications facilities throughout the state. It shall consider any location preferences provided by the host municipality under CGS §16-50gg as the Council shall deem appropriate.

The Applicants presented the Town with a technical report for the site on December 11, 2023.

On July 10, 2024, the Town submitted comments to the Council in opposition to the proposed facility citing its proximity to nearby residential properties. The Town recommended the installation of a stealth tree

monopole tower (monopine), annual monitoring of radio frequency emissions and reservation of space for collocation of municipal antennas and equipment as required conditions, if approved by the Council.

Pursuant to CGS §16-50p(b), the Council shall examine whether the proposed facility may be shared with any public or private entity that provides service to the public, provided such shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, and may impose reasonable conditions as it deems necessary to promote the immediate and shared use of telecommunications facilities and avoid the unnecessary proliferation of such facilities in the state. The proposed facility is designed to accommodate three wireless carriers, including Cellco, the Town and local emergency service providers. No other wireless carriers expressed an interest in collocating on the tower at this time.

The host parcel, located in southeast Cheshire, is 6.7-acres and zoned commercial (C-3). It is developed with a supermarket, a drive thru restaurant and associated paved parking areas. The property is accessed via an existing paved driveway from Route 10 (South Main Street) to the east of the parcel. Surrounding land use consists of a mix of commercial and residential.

The proposed facility consists of a 94-foot monopole within a 20-foot by 86-foot equipment compound located in the western portion of the property.

Cellco would install 16 panel antennas and 12 remote radio heads on a rectangular shaped antenna platform at a centerline height of 90 feet above ground level. Cellco would install a radio equipment cabinet, battery backup cabinet and a 50-kilowatt diesel-fueled emergency backup generator on a 10-foot by 20-foot concrete pad, covered with a steel canopy. The compound can support radio equipment of two other carriers and the Town. To deter unauthorized access to the compound, the compound would be enclosed by an eight-foot chain link fence, accessed through a locked, 12-foot-wide gate.

In the event of an outage of commercial power, Cellco would rely on its 50-kilowatt diesel-fueled generator that could provide approximately 53 hours of run time before refueling is necessary. Cellco would also have an 8-hour battery backup power source to prevent a "re-boot" condition during the generator start-up delay period. During the proceeding, a question arose as to the availability of natural gas in the vicinity of the proposed site. The Council will order the Applicants to analyze the feasibility of a natural gas connection for the emergency backup generator and provide a cost comparison between natural gas-fueled and diesel-fueled emergency backup generation in the Development and Management (D&M) Plan.

The compound would be accessed via the existing 18-foot wide, 740 foot long paved driveway which extends east from South Main Street through the parking lot and around the northern corner of the supermarket to the proposed compound.

The nearest property line from the proposed tower is approximately 85 feet to the west at the boundary with King Road. There are approximately 75 residential structures within 1,000 feet of the proposed tower. The nearest residential property line and the nearest residential structure would be approximately 125 feet and 168 feet, respectively, to the west, both at 1041 King Road. The Council will order the Applicants to design the tower with a yield-point to ensure the tower setback radius remains within the boundaries of the host parcel.

A geotechnical survey would be performed prior to construction to evaluate existing subsurface conditions as part of the D&M Plan. No tree/brush clearing would be required to allow access for the drill rig to the boring locations.

The site slopes gently from west to east. The equipment compound would have a finished grade of 375 feet above mean sea level. Construction would require 50 cubic yards of cut and 190 cubic yards of fill. TT does not anticipate any blasting to construct the site. If bedrock is encountered, chipping would be used for rock removal.

Development of the site would disturb an approximate 8,000 square foot (0.18-acre) area and would not require a DEEP-issued Stormwater Permit. The Applicants would develop a construction erosion and sedimentation control plan that is consistent with the applicable *Connecticut Guidelines for Soil Erosion and Sedimentation Control* effective March 30, 2024.

Development of the site would not impact any wetlands, trees or prime farmland soils.

The site is not located within a Department of Energy and Environmental Protection (DEEP) Natural Diversity Database buffer area. The northern long-eared bat (NLEB), a federally-listed and State Endangered Species, is known to occur in the vicinity of the proposed site. However, the proposed site is not located within 150 feet of a known NLEB maternity roost tree or within 0.25-mile of a known hibernaculum. The U.S. Fish and Wildlife Service (USFWS) determined that the proposed facility would not have an impact on the NLEB.

The proposed facility is not proximate to a National Audubon Society designated Important Bird Area. The facility would comply with the USFWS guidelines for minimizing the potential for telecommunications towers to impact bird species.

The site is not within a flood zone. Operation of the facility would comply with DEEP Noise Control Standards.

The site is located within the South-Central Connecticut Regional Water Authority's South Cheshire Aquifer Protection Area and Public Water Supply Watershed. The Applicants would implement Best Management Practices as part of its Aquifer Protection Area and Public Water Supply Watershed Protection Program during construction to ensure water quality is not adversely impacted.

Based on TT's visual impact assessment within a two-mile radius of the site (Study Area-8,042 acres), the proposed tower would be visible year-round (leaf-on conditions) from approximately 5 acres of the Study Area, mostly from immediately surrounding areas along King Road and South Main Street. The tower would be seasonally visible (leaf-off conditions) from approximately 71 acres of the study area. Approximately 3 residences within 0.5 miles of the proposed facility would have year round views of the facility. Most views would consist of the upper-most part of the tower.

Existing trees located along the western property boundary and along King Road would serve to limit views of the tower from the west. Privacy slats would screen views of the equipment compound within the host parcel.

A monopine facility at the proposed site would cost more than a monopole design facility however, to reduce visual impact to the adjacent residential neighborhood and considering the Town's recommendation to install a monopine, the Council will order the installation of a monopine tower that blends in with the existing treescape in the surrounding area as shown in Photo 4 (South Main Street) and Photo 23 (Brentwood Drive) of the Visibility Analysis submitted as Attachment 9 to the application.

Pursuant to CGS §16-50p(b), the Council shall examine whether the proposed facility would be located in an area of the state which the Council, in consultation with DEEP and any affected municipalities, finds to

be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance and the latest facility design options intended to minimize aesthetic and environmental impacts.

No comments were received from the Town, Office of Policy and Management or DEEP regarding any impacts to scenic quality or resources. There are no state or locally designated scenic roads located in the vicinity of the proposed site.

There are no Connecticut blue-blazed hiking trails maintained by the Connecticut Forest and Park Association located within two miles of the proposed site.

No resources listed on the State or National Register of Historic Places were identified within 0.5 mile of the proposed site.

Pursuant to CGS §16-50p(a)(3)(F), for a telecommunications facility proposed to be installed on land near a building containing a school, the facility will not be less than 250 feet from the building containing a school unless the location is acceptable to the chief elected official of the municipality or the Council finds that the facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood in which such school is located. No schools or commercial child day care facilities are located within 250 feet of the proposed site.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the cumulative worst-case maximum power density from the radio frequency emissions from the operation of Cellco's proposed antennas to be installed on the tower have been calculated to amount to 5.3 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure (MPE) using a far-field methodology for the proposed facility that accounts for a 6-foot tall person at ground level and the actual antenna patterns. This is conservatively based on the antennas emitting maximum power. This percentage is below federal standards established for the frequencies used by wireless companies.

If federal power density standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other entities add antennas to the tower. The Telecommunications Act of 1996 prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. Potential harm to wildlife from radio frequency emissions, like the potential harm to human health from radio frequency emissions, is a matter of exclusive federal jurisdiction. The Council's role is to ensure that the tower meets federal permissible exposure limits.

The Council finds that the proposal would not cause unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state. The Council has considered all reasonable alternatives and finds that the proposal represents the best alternative consistent with the reasonable requirements of the public health, safety and welfare.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, and maintenance of the telecommunications facility at the proposed location, including effects on the natural environment, ecological balance, public health and safety, scenic, historic, and recreational values, agriculture, forests and parks, air and water purity, and fish, aquaculture and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the state concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, maintenance, and operation of a 94-foot

stealth “tree” monopine telecommunications facility at 1021-1041 South Main Street, Cheshire, Connecticut.