

1 STATE OF CONNECTICUT
2 CONNECTICUT SITING COUNCIL

3
4 Docket No. 488

5 Homeland Towers, LLC and New Cingular
6 Wireless PCS, LLC d/b/a AT&T application for a
7 Certificate of Environmental Compatibility and
8 Public Need for the construction, maintenance, and
9 operation of a telecommunications facility located
10 at one of two sites: Kent Tax Assessor ID #M10,
11 Block 22, Lot 38 Bald Hill Road or 93 Richards
12 Road, Kent, Connecticut

13
14 VIA ZOOM AND TELECONFERENCE

15
16 Continued Public Hearing held on Tuesday,
17 September 22, 2020, beginning at 2 p.m. via remote
18 access.

19
20 H e l d B e f o r e:

21 ROBERT SILVESTRI, Presiding Officer
22

23
24 Reporter: Lisa L. Warner, CSR #061
25

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2
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6 **Department of Energy and Environmental**
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14 **Meeting Host:**

15 **Aaron DeMarest, Pryme Tyme**

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20
21 ****All participants were present via remote access.**

1 MR. SILVESTRI: Good afternoon,
2 everyone. I trust that everyone can hear me.
3 This continued remote evidentiary hearing session
4 is called to order this Tuesday, September 22,
5 2020 at 2 p.m. My name is Robert Silvestri,
6 member and presiding officer of the Connecticut
7 Siting Council.

8 As all are keenly aware, there is
9 currently a statewide effort to prevent the spread
10 of Coronavirus. This is why the Council is
11 holding this remote hearing, and we ask for your
12 patience. If you haven't done so already, I ask
13 that everyone please mute their computer audio
14 and/or telephone now.

15 A copy of the prepared agenda is
16 available on the Council's Docket No. 488 web
17 page, along with the record of this matter, the
18 public hearing notice, instructions for public
19 access to this remote public hearing, and the
20 Council's Citizens Guide to Siting Council
21 Procedures.

22 I'll ask the other members of the
23 Council to acknowledge that they are present when
24 introduced for the benefit of those who are only
25 on audio. We'll start with Mr. John Morissette.

1 MR. MORISSETTE: Good afternoon. I'm
2 present.

3 MR. SILVESTRI: Thank you. Mr. Michael
4 Harder.

5 MR. HARDER: Present.

6 MR. SILVESTRI: Thank you. Mr. Robert
7 Hannon.

8 MR. HANNON: Present.

9 MR. SILVESTRI: Thank you. Ms. Linda
10 Guliuzza.

11 MS. GULIUZZA: Present.

12 MR. SILVESTRI: Thank you. Mr. Edward
13 Edelson.

14 MR. EDELSON: Present.

15 MR. SILVESTRI: Thank you. And
16 Mr. Daniel Lynch.

17 MR. LYNCH: Present, Chairman.

18 MR. SILVESTRI: Thank you, Mr. Lynch.
19 Executive Director Melanie Bachman.

20 MS. BACHMAN: Present. Thank you.

21 MR. SILVESTRI: Thank you. Staff
22 Analyst Robert Mercier.

23 MR. MERCIER: Present.

24 MR. SILVESTRI: And Fiscal
25 Administrative Officer Lisa Fontaine.

1 MS. FONTAINE: Present.

2 MR. SILVESTRI: Thank you also. This
3 evidentiary session is a continuation of the
4 remote public hearings that were held on July
5 23rd, August 11th, and September 3, 2020. It is
6 held pursuant to the provisions of Title 16 of the
7 Connecticut General Statutes and of the Uniform
8 Administrative Procedure Act upon an application
9 from Homeland Towers, LLC and New Cingular
10 Wireless PCS, LLC doing business as AT&T for a
11 Certificate of Environmental Compatibility and
12 Public Need for the construction, maintenance, and
13 operation of a telecommunications facility located
14 at one of two sites: Lot 38 Bald Hill Road or 93
15 Richards Road, Kent, Connecticut.

16 A verbatim transcript will be made of
17 this hearing and deposited with the Kent Town
18 Clerk's office for the convenience of the public.

19 And we'll take a short break at a
20 convenient time during today's proceedings.

21 I'd like to continue with the
22 appearance of the grouped intervenors and CEPA
23 intervenors. That's the Planned Development
24 Alliance of Northwest Connecticut, Inc., which is
25 PDA; Spectacle Ridge Association, Inc., which is

1 SRA; and South Spectacle Lakeside Residents, which
2 we'll refer to as Lakeside.

3 Attorney Ainsworth, is your witness
4 panel present?

5 MR. AINSWORTH: Yes, they are. The
6 same panel members are here, and they remain under
7 oath.

8 MR. SILVESTRI: Very good. Thank you,
9 sir. I'd like to commence with the continued
10 cross-examination of the grouped intervenors, PDA,
11 SRA and Lakeside, by the applicants, and Attorney
12 Fisher, please.

13 MR. FISHER: Good afternoon. Attorney
14 Fisher here on behalf of the applicants, Homeland
15 Towers and New Cingular Wireless.

16 Chairman, if I might just very quickly,
17 I did want to say my condolences to everyone on
18 the Council on the loss of Senator Murphy who was
19 a tremendous figure, and it was always a pleasure
20 to appear before him.

21 MR. SILVESTRI: Much appreciated,
22 Attorney Fisher. Thank you. Also, you're a
23 little bit bassy or a little bit echoey. I don't
24 know if you might be able to adjust your volume a
25 little bit to help us out.

1 MR. FISHER: Is that a little bit
2 better if I face that direction?

3 MR. SILVESTRI: That's a little bit
4 better, yes. Thank you.

5 MR. FISHER: I do have some questions
6 this afternoon for Mr. Maxson on a report that was
7 submitted in a Late-Filed. If that document is
8 already in the record, I'll just proceed with
9 cross-examination. It is item number -- sub
10 Exhibit G on the Late-Filed exhibits by PDA.

11 MR. AINSWORTH: Just for clarification,
12 is that the one regarding the microwave analysis,
13 or was that a photograph of the balloon flight?

14 MR. FISHER: I'm going to start off,
15 actually, with the -- it's titled Memorandum on
16 Connecticut Siting Council Questions Regarding
17 Docket 488 by Isotrope Wireless.

18 MR. AINSWORTH: Thank you. That helps.

19 D A V I D P. M A X S O N,

20 having been previously duly sworn, testified
21 further on his oath as follows:

22 CROSS-EXAMINATION

23 MR. FISHER: Thank you. Good
24 afternoon, Mr. Maxson.

25 THE WITNESS (Maxson): I'm unmuting.

1 Good afternoon, sir.

2 MR. FISHER: Good to see you. Just
3 some questions and follow-up on this report that
4 was filed. Have you yourself been to Martha's
5 Vineyard in the past?

6 THE WITNESS (Maxson): Yes.

7 MR. FISHER: And have you been to
8 Chilmark?

9 THE WITNESS (Maxson): Yes.

10 MR. FISHER: And was the purpose of
11 your trip to Chilmark professional or personal?

12 THE WITNESS (Maxson): Well, you said
13 the one trip. I've been to Martha's Vineyard
14 numerous times, mostly for professional purposes,
15 and occasionally for personal purposes, and that
16 includes Chilmark.

17 MR. FISHER: And as far as the DAS
18 network that's discussed in your report, were any
19 of your trips to Chilmark specifically related to
20 that DAS network?

21 THE WITNESS (Maxson): Yes. Prior to
22 its initiation, I helped the Town of Chilmark make
23 adjustments to its zoning bylaws to enable this
24 kind of service.

25 MR. FISHER: Did you work on the actual

1 application itself or just the bylaws?

2 THE WITNESS (Maxson): It was the
3 bylaws prior to the application for the DAS
4 project.

5 MR. FISHER: In going through your
6 report, would you characterize it mostly as --

7 (AUDIO INTERRUPTION)

8 THE WITNESS (Maxson): I'm sorry, you
9 just muted.

10 MR. FISHER: Can you hear me now?

11 THE WITNESS (Maxson): Yes.

12 MR. FISHER: Thank you. So, going back
13 to the report itself, I had a chance to go through
14 it, would you say that the report that you've
15 provided, is that based on one phone conversation
16 you had with a town official more recently?

17 THE WITNESS (Maxson): Yes, when I was
18 directed to come up with some more details about
19 the DAS in Chilmark and Aquinnah, I phoned
20 Chilmark and they directed me to the town
21 administrator.

22 MR. FISHER: As far as the report
23 itself, you wouldn't call it a case study though,
24 would you?

25 THE WITNESS (Maxson): The report,

1 which report?

2 MR. FISHER: This is Exhibit G.

3 THE WITNESS (Maxson): Specifically the
4 elements describing the Chilmark situation?

5 MR. FISHER: Yes. It's the one I
6 referred to, the memorandum, this was in the PDA
7 Late-Filed exhibit.

8 THE WITNESS (Maxson): Right. I'm
9 sorry, let me just look away to make sure I'm
10 looking at the same one. Yes. I don't know where
11 the term -- what you mean by the term "case
12 study," but it's probably not as detailed as
13 something that I would call a case study.

14 MR. FISHER: Okay. Fair enough. Thank
15 you. So I just want to focus on a couple of your
16 conversations you had with Mr. Carroll. Did you
17 talk about with Mr. Carroll any of the seasonal
18 differences in population density that Martha's
19 Vineyard experiences during the summertime?

20 THE WITNESS (Maxson): Not to my
21 recollection, no.

22 MR. FISHER: And when you spoke to him,
23 did you ask him about some of the coastal terrain
24 that existed in Chilmark and talk about the DAS in
25 that context?

1 THE WITNESS (Maxson): No.

2 MR. FISHER: And did you talk at all
3 about the tree heights that are prevailing in that
4 area of Martha's Vineyard?

5 THE WITNESS (Maxson): No.

6 MR. FISHER: And did you talk at all
7 about some of the towers that had been built on
8 Martha's Vineyard?

9 THE WITNESS (Maxson): No.

10 MR. FISHER: Going to the report
11 itself, I see that you included an image, and in
12 the report you reference a newspaper article; is
13 that correct?

14 THE WITNESS (Maxson): I'm sorry, I
15 reference what?

16 MR. FISHER: A newspaper article.

17 THE WITNESS (Maxson): Yes.

18 MR. FISHER: And that was the source of
19 this image; is that correct?

20 THE WITNESS (Maxson): Yes.

21 MR. FISHER: And I see there are some
22 red dots on the image. Do you know if those dots
23 represent the location of the DAS nodes in
24 Chilmark today?

25 THE WITNESS (Maxson): I do not.

1 MR. FISHER: Do you have any other maps
2 or information that would represent the DAS nodes
3 in Chilmark today?

4 THE WITNESS (Maxson): No.

5 MR. FISHER: And on this map, I believe
6 you referenced it was from 2012; is that correct?

7 THE WITNESS (Maxson): Yes.

8 MR. FISHER: And the map itself, it
9 doesn't have any legend that might identify the
10 height, type of structure, or other details of any
11 of these DAS nodes, does it?

12 THE WITNESS (Maxson): That's correct.

13 MR. FISHER: When you did speak with
14 Mr. Carroll in the town, did you talk about how
15 tall any of the DAS nodes are in Chilmark?

16 THE WITNESS (Maxson): I did not. I've
17 seen them.

18 MR. FISHER: Do you know if any of
19 those DAS nodes required new structures?

20 THE WITNESS (Maxson): I don't recall.
21 I don't know.

22 MR. FISHER: And did you talk at all
23 with Mr. Carroll about what kinds of antennas and
24 equipment are installed on each of these DAS node
25 locations?

1 THE WITNESS (Maxson): I did not.

2 MR. FISHER: Okay. Talking a little
3 bit about the use of the network itself, you said
4 in your report that Mr. Carroll at least believes
5 that AT&T has FirstNet frequencies that are used
6 in the DAS network. Did he say band 14
7 specifically?

8 THE WITNESS (Maxson): I'm sorry, did
9 he say what was the word?

10 MR. FISHER: Band 14, did he say that
11 specifically?

12 THE WITNESS (Maxson): He did not say
13 band 14, no. He mentioned FirstNet.

14 MR. FISHER: Do you know what FCC
15 license frequencies are being used by carriers in
16 that DAS out in Chilmark?

17 THE WITNESS (Maxson): I do not.

18 MR. FISHER: And did you speak with Mr.
19 Carroll about any problems that carriers might be
20 having expanding and using the DAS network?

21 THE WITNESS (Maxson): No more than
22 what he related to me, and then I did my best to
23 repeat in my memorandum.

24 MR. FISHER: Okay. Focusing on the
25 memorandum, a couple of things. I see you talked

1 about backup power at DAS nodes; is that correct?

2 THE WITNESS (Maxson): Yes.

3 MR. FISHER: Is it your understanding
4 that 52 portable generators would have to be
5 deployed in that network to keep it up and
6 operational if there was an outage over four hours
7 or so?

8 THE WITNESS (Maxson): No.

9 MR. FISHER: So there's not a portable
10 generator for each node, there's something less
11 than that?

12 THE WITNESS (Maxson): Well, the
13 assumption is that there are 52 nodes. I don't
14 know if that's true.

15 MR. FISHER: Well, would you say that
16 each node would have to have a back-up power
17 generator in order to keep the power on --

18 THE WITNESS (Maxson): To keep the
19 power on all the nodes in a few hours that would
20 be correct. I don't know that that is what's
21 necessary to maintain a minimum level of service.
22 After all, the design of the networks is intended
23 to provide high quality service, and there may be
24 a way to provision a lower number of nodes to
25 provide a reasonable amount of coverage that may

1 be able to enable telephone calls but perhaps not
2 high, super high bandwidths data connectivity.

3 MR. FISHER: Some phone calls aren't
4 divided just by data at this point, aren't they?

5 THE WITNESS (Maxson): I'm sorry?

6 MR. FISHER: Some phone calls, they are
7 Voice Over IP or data only at this point, it's not
8 just simply a phone call and try to segregate,
9 right?

10 THE WITNESS (Maxson): I guess I'm
11 having a little trouble hearing your questions.
12 It seems the device that you're on doesn't have
13 its microphone open. Are you using a different
14 microphone in the room?

15 MR. FISHER: Yeah, I'll try to -- I'm
16 actually in a room with some of our witnesses.
17 I'll see if I can -- does that work a little bit
18 better?

19 THE WITNESS (Maxson): That is better,
20 thank you.

21 MR. FISHER: Absolutely, yeah. So let
22 me just repeat the question. You seem to be
23 articulating that you could segregate out phone
24 calls from data service as part of the DAS
25 network. Is that what you were just saying a few

1 minutes ago?

2 THE WITNESS (Maxson): No, not that
3 way, no. What I was saying was that what's
4 necessary to maintain a reliable phone call is not
5 the full bandwidth of the system. So a telephone
6 call takes a very small amount of data which means
7 you can have a lower signal level and still
8 maintain a reliable phone call compared to, for
9 instance, trying to stream a video.

10 MR. FISHER: But if people are using
11 different data networks, including Voice Over IP
12 type phone calls, the network may not be able to
13 differentiate between that, you're just making an
14 assumption, aren't you, that it might be able to
15 know the difference between a voice call and a
16 data session?

17 THE WITNESS (Maxson): That's entirely
18 irrelevant. All I'm talking about is that the RF
19 link between the base station or the node in this
20 case and the radio, the user's device, doesn't
21 need to have negative 83 dBm of signal to make
22 that phone call go through on the LTE network.

23 MR. FISHER: So what you're saying then
24 in the event of an emergency and we've got a power
25 outage, the network is down, you think it would be

1 sufficient to have lesser signal strength in terms
2 of the carrying signal, that's the position you're
3 taking, that not as many as one per node of
4 generators would have to be deployed, that's your
5 position?

6 THE WITNESS (Maxson): I think that's a
7 reasonable characterization that what one would do
8 if one is trying to balance the need to have
9 emergency coverage without having to provision
10 every single node with a portable generator and
11 make those costs and operational trade-offs, that
12 one can look at the network and figure out which
13 nodes are the most valuable, the most critical to
14 maintaining lower level connectivity for phone
15 calls and text messages.

16 MR. FISHER: So just going down your
17 train of thought, you'd still have to deploy an
18 extraordinary number of portable generators, maybe
19 not just one per node; is that what you're saying?

20 THE WITNESS (Maxson): I don't know
21 what an extraordinary number is.

22 MR. FISHER: Well, what would you say
23 would be needed, if it's a 52 node network, what
24 number do you think would be needed?

25 THE WITNESS (Maxson): I would have to

1 do what the network engineers would have to do
2 which is to evaluate which nodes in combination
3 would provide a reasonable footprint that could
4 maintain a reasonable amount of connectivity
5 during an emergency situation with loss of power.
6 I can't speculate.

7 MR. FISHER: And in terms of doing
8 backup power provisioning, have you ever had to
9 deal with the logistics of deploying temporary
10 generators to small cell node sites?

11 THE WITNESS (Maxson): I have not.

12 MR. FISHER: Okay. Just moving on in
13 your report, you offered an opinion, and it's on
14 page 2, and it's the second full paragraph down.
15 Do you see that?

16 THE WITNESS (Maxson): I see the
17 paragraph. What are you referring to?

18 MR. FISHER: Yes. Could you just read
19 that paragraph, that one sentence?

20 THE WITNESS (Maxson): Beginning with?

21 MR. FISHER: Chilmark's.

22 THE WITNESS (Maxson): Okay, thanks.
23 "Chilmark's small-cell solution proves that broad
24 areas can be provided coverage by small cell
25 arrays as a way to address both the coverage need

1 and scenic impacts."

2 MR. FISHER: Okay. I want to focus on
3 your use of the word "proves." Was that based off
4 of the one phone call you had with the town
5 administrator, or was it based on something else?

6 THE WITNESS (Maxson): Well, I've been
7 familiar with the presence of this DAS network and
8 the activity with the towns of Aquinnah and
9 Chilmark prior to the network being proposed and
10 built. And it's based on the fact that this
11 network is still operating and that Mr. Carroll
12 mentioned there was even a scheduled power outage
13 this summer to do a major repair on the utilities,
14 and the generators were deployed in whatever
15 fashion that they were deployed.

16 MR. FISHER: You testified just a few
17 minutes ago that your role in Chilmark was really
18 only on the regulatory bylaws, not on the design
19 and operation of the network. So you don't have
20 any firsthand knowledge of how it's performed, do
21 you?

22 THE WITNESS (Maxson): No, other --
23 yeah, firsthand knowledge, meaning I'm not privy
24 to the operational activities of any of the
25 carriers using the network, that's correct.

1 MR. FISHER: And the only real
2 information you've gotten about that is secondhand
3 from the town administrator; isn't that correct?

4 THE WITNESS (Maxson): And from my
5 knowledge and experience of how DAS networks work,
6 my having evaluated Chilmark and Aquinnah for the
7 potential for DAS networks to work, and it's
8 just -- yeah, it's based on experience. It's not
9 based on firsthand knowledge.

10 MR. FISHER: And when you used in your
11 opinion that it proves it can be, a small-cell
12 solution can be used to provide coverage, were you
13 intending to convey that that is beyond Chilmark
14 and in most every area?

15 THE WITNESS (Maxson): I'm not quite
16 understanding the question. What's beyond
17 Chilmark?

18 MR. FISHER: Yeah. So you've talked a
19 little bit about Chilmark, and you're trying to
20 equate it to other regions. Obviously, we're
21 talking about Kent here. But when you referenced
22 this opinion that it proves it, are you saying
23 that the Chilmark experience proves that you can
24 use small cell and DAS in just about any other
25 setting?

1 THE WITNESS (Maxson): I think my
2 statement stands as written, but if there's
3 clarification needed, it's that we're talking
4 about the fact that the applicants have indicated
5 that small cells are used in stadium and dense
6 urban areas, which they are, and in my prefile
7 testimony and in this sentence I reinforce the
8 idea that just because those are the dominant uses
9 for small cells doesn't mean that they aren't used
10 for other purposes like providing wide area
11 coverage in sensitive locations like Chilmark and
12 Aquinnah which are about 23 square miles of area
13 being served by those nodes.

14 MR. FISHER: I wasn't really seeking
15 commentary on the industry. I was looking more
16 for your opinion. I'm trying to understand that
17 if you think Chilmark is representative of an
18 example where you prove that you can build a small
19 cell just about to address any coverage objective,
20 is that your opinion?

21 THE WITNESS (Maxson): Yeah, I don't
22 know where just about any coverage objective comes
23 from. I think it's a matter of engineering that
24 you have to apply the engineering to the
25 situation. And Chilmark is an example of how that

1 was done in a place that isn't a stadium or a
2 dense urban area.

3 MR. FISHER: Okay. So you were more
4 focused in limiting it to stadium and dense urban
5 area, I understand.

6 THE WITNESS (Maxson): No, the
7 applicant was.

8 MR. FISHER: Well, I'm looking for your
9 opinion.

10 THE WITNESS (Maxson): My opinion is
11 that it doesn't need to be focused on stadia and
12 dense urban areas, that there are examples, and
13 Chilmark is one of them, where it was used in a
14 more rural residential kind of an area.

15 MR. FISHER: You're aware that AT&T is
16 in fact using small cells and deploying them
17 throughout parts of the State of Connecticut; are
18 you not?

19 THE WITNESS (Maxson): Parts of what?

20 MR. FISHER: State of Connecticut.

21 THE WITNESS (Maxson): Yes.

22 MR. FISHER: Let's go back to the
23 engineering and talk about Kent. Would you agree
24 that Kent has entirely different population
25 characteristics, geography, and tree heights as

1 compared to Chilmark?

2 THE WITNESS (Maxson): That was quite a
3 list. I don't know anything about the
4 demographics of the population. The density
5 development seems comparable. What were the other
6 items?

7 MR. FISHER: Let's stick with
8 population. So do you have any knowledge of Kent
9 having a seasonal inflow of maybe seven times the
10 residential population as compared to Martha's
11 Vineyard, is that something that you're aware of
12 or not?

13 THE WITNESS (Maxson): I haven't looked
14 at seasonal data, no.

15 MR. FISHER: The second area of focus
16 for me was geography. Do you think Kent's
17 geography is like Chilmark's?

18 THE WITNESS (Maxson): If you mean
19 topography, there are differences, and we've
20 talked about them in previous meetings, but there
21 is a greater terrain roughness in Kent than there
22 is in Chilmark, yes.

23 MR. FISHER: And, in fact, on the
24 terrain itself you submitted -- and just for the
25 record, I believe in Exhibits D through F of the

1 Late-Filed exhibit you submitted some cross
2 section, some microwave path links, at least from
3 my review. Is that correct?

4 THE WITNESS (Maxson): Yes.

5 MR. FISHER: And in looking at those
6 cross sections, that in fact shows the terrain
7 differences in the Town of Kent that we're talking
8 about; does it not?

9 THE WITNESS (Maxson): Yes. Kent and
10 between those sites in Kent and locations in
11 adjacent towns, but yes.

12 MR. FISHER: Yes. When I looked at
13 your charts, you know, you had an AMSL of
14 somewhere between 400 feet, ranging all the way up
15 and down to 1,700 feet in parts of this area of
16 Connecticut, correct?

17 THE WITNESS (Maxson): Right.

18 MR. FISHER: Essentially, we're in the
19 Berkshire foothills, correct?

20 THE WITNESS (Maxson): Essentially,
21 yes.

22 MR. FISHER: Okay. And there's a lot
23 of forest cover, is there not, in this area of
24 Kent as compared to Chilmark?

25 THE WITNESS (Maxson): There is a lot

1 of forest cover in Chilmark.

2 MR. FISHER: Would you agree that the
3 trees are significantly taller in Kent than they
4 are in Chilmark?

5 THE WITNESS (Maxson): In Chilmark
6 there are -- the vegetation is -- the trees are
7 pretty let's call them consistent with more inland
8 growth. As you get out towards the perimeter, you
9 start seeing the shorter vegetation. I'm
10 recalling the nodes that I've looked at on Middle
11 Road, for instance, in Chilmark. The trees are a
12 substantial height in comparison to the utility
13 poles. They're not short, scrub the way you would
14 picture them on a more coastal location.

15 MR. FISHER: So would you say they are
16 about 40, 50 feet maybe in Chilmark?

17 THE WITNESS (Maxson): I wouldn't
18 speculate height.

19 MR. FISHER: So just focusing on this
20 aspect of your report, is it your position that
21 Chilmark is a real case study and representative
22 of what could be done in Kent, is that the
23 position you're taking?

24 THE WITNESS (Maxson): The position I'm
25 taking is that Chilmark is an example of using

1 small cell nodes in a wooded area that is hilly to
2 provide general area coverage to provide service.
3 And to the extent that there are things that
4 compare with Kent, yes, it's not a perfect
5 comparison, of course not, but that's what
6 engineers do is you take the information you have
7 about the location and you engineer your solution
8 to the location.

9 The irregular terrain in Kent that's
10 more severe than in Chilmark is also potentially
11 an advantage because now you can pick a higher
12 high mount as the location of your utility pole to
13 fill in a valley or a residential area with
14 coverage. So there's no -- it's not fatal to the
15 concept of the Chilmark solution just because Kent
16 has more irregular terrain than Chilmark does.

17 MR. FISHER: Okay. So you referenced
18 as an engineering solution, but you yourself, you
19 don't have any engineering data from Chilmark for
20 this docket and providing it so we could compare
21 out what may not or may not be material to Kent,
22 do you?

23 THE WITNESS (Maxson): It sounds like a
24 two point question. I have not done any analysis
25 of small cells in Chilmark in a very long time. I

1 don't know if I have any records of the analysis I
2 once did. So that's the first part of the
3 question. The second part, I think, had to do
4 with -- could you ask it again?

5 MR. FISHER: The first part was
6 actually do you have any engineering data. It
7 sounds like you don't.

8 MR. AINSWORTH: Objection,
9 argumentative.

10 MR. FISHER: Do you have any
11 engineering data from the operation of the
12 Chilmark DAS?

13 THE WITNESS (Maxson): I do not.

14 MR. FISHER: All right. So why don't
15 we move on. Just a couple of things more on your
16 report and then I'll be done.

17 On pages 2 and 3 you have a section
18 entitled Innovation to Answer Regulation; is that
19 correct?

20 THE WITNESS (Maxson): Yes.

21 MR. FISHER: And in the subsequent
22 paragraphs you seem to be of the opinion that
23 advances in wireless innovation, whether it's
24 technology or infrastructure, that's really solely
25 to do with local regulation. Is that the position

1 you're trying to convey?

2 THE WITNESS (Maxson): That what is due
3 solely to local regulation?

4 MR. FISHER: The wireless innovation
5 over the last 30 years, whether it's technology or
6 infrastructure solutions.

7 THE WITNESS (Maxson): No, that's a
8 complete misinterpretation of what I'm saying.

9 MR. FISHER: So you're not taking that
10 position?

11 THE WITNESS (Maxson): Well, if that
12 position is that innovation in the wireless
13 industry is solely promoted by the action of local
14 regulators, of course not.

15 MR. FISHER: So you'd agree then that
16 providers have a right to propose solutions that
17 they believe are appropriate from a technological
18 point of view?

19 THE WITNESS (Maxson): Okay, now we're
20 back to the land use question, it sounds like.
21 And with respect to innovation in land use,
22 there's a natural tension there, and we're all
23 experiencing it right now. The local regulators
24 are looking for ways to minimize environmental
25 impacts and while at the same time enabling a

1 provision of good service. And the examples I
2 gave in those paragraphs were about other
3 situations where I personally witnessed applicants
4 saying it can't be done. And in some places the
5 regulators said, well, do it anyway, or come back
6 with a better idea, and some innovations evolved
7 out of those tensions.

8 MR. FISHER: Well, my question was that
9 the industry has a right to propose those
10 applications. Your position is that, in the
11 context of an application, regulators and the
12 public can weigh in on those. So I'm just going
13 back to an applicant can propose what they think
14 is technically appropriate, can't they?

15 THE WITNESS (Maxson): Yes. I don't
16 see there's any question about that.

17 MR. FISHER: So when they get to the
18 application process, which is where we are now,
19 you'd expect regulators to act on facts and
20 certain criteria in law; would you not?

21 THE WITNESS (Maxson): Okay.

22 MR. FISHER: And in the State of
23 Connecticut you believe the Siting Council's
24 process really gives the public an extraordinary
25 opportunity to weigh in on what those facts and in

1 fact opinions are about how to interpret the
2 statute, wouldn't you?

3 THE WITNESS (Maxson): An extraordinary
4 opportunity. It gives them an opportunity that is
5 part of the public process, yeah, I would agree
6 with that.

7 MR. FISHER: Well, you've participated
8 in other proceedings, maybe in Massachusetts and
9 others. The State of Connecticut's process with
10 these kinds of hearings, interrogatories,
11 cross-examination, that's somewhat extraordinary
12 in the country, isn't it?

13 THE WITNESS (Maxson): Yes, in both
14 favorable and unfavorable ways, yes.

15 MR. FISHER: So related to the DAS and
16 Chilmark, going back to Chilmark and some of your
17 other experience, do you have any other evidence
18 of DAS being used in a place like Kent?

19 THE WITNESS (Maxson): I think when we
20 say "a place like Kent," I think we're
21 specifically looking at the topography, the
22 morphology, the geography, the demographics and
23 land use characteristics of Kent, and I have no
24 example of a match specifically to those
25 characteristics for Kent.

1 MR. FISHER: Okay. So if that's the
2 case, assume for a moment no tower is constructed
3 in this area of Kent, there's a risk, isn't there,
4 that residents and visitors may never get coverage
5 because there's no infrastructure to provide it?

6 THE WITNESS (Maxson): I don't
7 understand why the statement could be true that
8 there's no infrastructure to provide it. I've
9 seen that there are -- there's fiber provided by
10 at least one of the telecom companies using the
11 utility poles that indicates that the necessary
12 backhaul to connect wireless companies to their
13 control operations is available in the area, and
14 then it's just a question of whether those
15 connections are being made to a cell site or to
16 individual small cells.

17 MR. FISHER: Isn't the question
18 fundamentally much more complex than that, that
19 the private sector would have to decide it wants
20 to deploy such technology that you're advocating,
21 design it, secure the rights for it, go through
22 the entitlement process and build it before that
23 kind of service could be provided, it's not as
24 simple as just attach something to fiber that
25 exists, is it?

1 THE WITNESS (Maxson): No, but it's
2 just different from a previous question that you
3 asked, but, yeah, there's a process. There always
4 is.

5 MR. FISHER: Well, my question was that
6 there's a risk if a tower doesn't get built that
7 nothing gets built; that's true, isn't it?

8 THE WITNESS (Maxson): And there's a
9 risk that if a tower gets approved that it doesn't
10 ever get built. I mean, it's -- I guess we can go
11 through a bunch of hypotheticals, but I've also
12 seen situations where a tower has not been
13 approved and through additional creativity and
14 negotiation and those sorts of things that a tower
15 in a location that's preferred by the community
16 and does work for the applicant that wasn't
17 previously given any sway, was ultimately
18 approved.

19 So that's why I mentioned innovation is
20 that it looks, you know, the package looks bleak,
21 the applicant has a list of places that they've
22 considered that are not available for various
23 reasons, and the only place to put the tower is on
24 the top of either of these two scenic ridges, and
25 that's that. Well, we've proposed an approach

1 that involves small cells that can work. It works
2 in Chilmark.

3 But there are also possibilities that
4 if these two facilities are denied and the need is
5 still present in the applicants' mind or AT&T's
6 mind, that they can go back and look for other
7 ways to provide coverage with shorter towers on
8 lower ground or off the ridges. I don't think it
9 completely disposes of those opportunities just
10 because today there's a list of sites that the
11 applicant tried to consider and determined were
12 not viable for various reasons.

13 MR. FISHER: I want to follow up on
14 that just a little bit. I was almost done.
15 But isn't the Siting Council process, one of the
16 reasons why it's extraordinary is that it's geared
17 to having a full-on discussion, like we're having
18 right now, with lots of different stakeholders to
19 get to those results as compared to maybe other
20 jurisdictions you're familiar with where there's
21 zoning denial, zoning denial, zoning denial, and
22 maybe we get the service or maybe we get to
23 building something, it's a different process in
24 Connecticut, isn't it?

25 THE WITNESS (Maxson): It's certainly a

1 different process in Connecticut. I'm just often
2 reminded in Connecticut, Massachusetts, Rhode
3 Island, New Hampshire, Maine, the various states
4 that I've been involved in, New York, where I've
5 been involved in wireless facility application
6 processes, I'm just reminded of a remark of a
7 gentleman philosopher from the 1600s, Thomas
8 Fuller, who said, "Nothing is easy to the
9 unwilling." And it's very hard to produce
10 evidence when you're not a wireless company but an
11 intervenor or a neighbor to prove that the
12 wireless company could do it another way. So we
13 do our best to present illustrations of potential
14 alternatives that can protect the scenic beauty of
15 the environment, but we're not here to design the
16 solution for the applicant.

17 MR. FISHER: Thank you, Chairman. I'm
18 finished with my cross-examination.

19 MR. SILVESTRI: Thank you, Attorney
20 Fisher. And thank you, Mr. Maxson.

21 Attorney Ainsworth, my apologies for
22 not being able to hit my unmute button quick
23 enough, so I apologize on that. I also appreciate
24 that Attorney Fisher did rephrase his question too
25 on that one. So thank you.

1 MR. AINSWORTH: Not a problem at all,
2 but thank you for considering that.

3 MR. SILVESTRI: I tried to get there
4 fast enough and I couldn't. So thank you.

5 I'd like to continue with
6 cross-examination of PDA, SRA and Lakeside by the
7 Bald Hill Road Neighbors, and Attorney DiPentima
8 and Attorney Rybak, please.

9 MR. RYBAK: Thank you, Mr. Chairman.
10 Just a couple of questions. This is for Mr.
11 Maxson.

12 Mr. Maxson, is it your opinion that
13 these small cells, or DAS, or however you want to
14 call it, technology, this alternate technology,
15 represents an opportunity at innovation in this
16 field in this context?

17 THE WITNESS (Maxson): When I was
18 speaking of innovation, I was speaking of creative
19 applications using engineering to solve problems.
20 And yes, we've proposed this as an innovative way
21 to address the protection of the scenic assets of
22 the Town of Kent.

23 MR. RYBAK: So it's your opinion that
24 this is an opportunity to balance the need for
25 cellular service and with environmental concerns

1 such as ridgelines and that kind of thing?

2 THE WITNESS (Maxson): Yes.

3 MR. RYBAK: Thank you. I don't have
4 anything else.

5 MR. SILVESTRI: Thank you very much.
6 I'd like to continue with cross-examination of
7 PDA, SRA and Lakeside by the Town of Kent, and
8 Attorney Casagrande and Attorney Rosemark, please.

9 MR. ROSEMARK: Good afternoon, Mr.
10 Maxson. I have a few questions.

11 THE WITNESS (Maxson): Yes, sir.

12 MR. ROSEMARK: Okay. One of the
13 questions I had is with regard to the small cells.
14 And could the applicant, AT&T, file with the PURA
15 to locate those small cells on Route 341 and the
16 surrounding area?

17 THE WITNESS (Maxson): Not being an
18 expert in the ways of the State of Connecticut for
19 these kinds of things, I can just say that it's my
20 understanding that there is a process for filing
21 with the state to get the permissions necessary to
22 use utility poles in the public way.

23 MR. ROSEMARK: Do you happen to be
24 familiar with the recent passing of a law, Public
25 Act 19-163, that requires the state highway or

1 ConnDOT to allow for the use of small cells in the
2 highways rights-of-ways?

3 THE WITNESS (Maxson): I apologize if
4 I'm looking away from the camera. I've got two
5 screens. That's something that I did have a look
6 at, yes.

7 MR. ROSEMARK: Could you elaborate any
8 on that?

9 THE WITNESS (Maxson): Well, it's my
10 understanding that there is some recent activity
11 that further enabled providers of wireless
12 services to avail themselves of state highways, I
13 believe it was, for installing wireless
14 facilities.

15 MR. ROSEMARK: So if the application
16 here was denied, AT&T could file then with the
17 state under the PURA, assuming that that's the
18 statute or the agency that is approving small
19 cells throughout the State of Connecticut today,
20 and they would be able to have their installation
21 built in a somewhat defined timeline?

22 THE WITNESS (Maxson): It's my
23 understanding that the process would be distinct
24 from that of the Connecticut Siting Council, and
25 that because there is a process, there would be an

1 established timeline.

2 MR. ROSEMARK: Okay. And some other
3 facilities or DAS installations that you are
4 familiar with, are you familiar with the
5 installation that was installed in the State of
6 Connecticut on the Merritt Parkway?

7 THE WITNESS (Maxson): Peripherally
8 familiar with it, yes. I was aware of it at the
9 time that it was being proposed and sort of
10 watched the process unfold.

11 MR. ROSEMARK: Do you know how many
12 nodes that happened to be -- were approved on that
13 one?

14 THE WITNESS (Maxson): I do not.

15 MR. ROSEMARK: And that was the
16 decision that we had asked for in administrative
17 notice in the prior proceeding or prior hearing
18 date which was Petition No. 809. So do you know
19 if AT&T was located on that DAS?

20 THE WITNESS (Maxson): It's my
21 understanding that the major carriers are using
22 it, including AT&T.

23 MR. ROSEMARK: And you mentioned just
24 recently that there's fiber in Kent that you were
25 able to observe or see, or how did you come across

1 that there's fiber in the area?

2 THE WITNESS (Maxson): Well, I have to
3 admit that Google Earth Street View is a fantastic
4 tool for doing reconnaissance. And if you're
5 familiar with fiber infrastructure, there are
6 characteristics of fiber cables along highways
7 that are distinct from copper cables. One of the
8 biggest telltales is this feature called a
9 snowshoe which is used to loop fiber in order to
10 maintain a spare length, what's called a slack
11 loop. So if you can use Street View to go down a
12 road and you look for slack loops along that road,
13 you know that you have fiber along that road. And
14 it's in the communication space, and it's
15 generally something that's available to commercial
16 users as well as for providing internet type
17 services to residences.

18 MR. ROSEMARK: So the basic utilities
19 required for a small cell are located in the area,
20 i.e., being fiber and power?

21 THE WITNESS (Maxson): To the best of
22 my understanding, yeah, based on observing what's
23 on the utility poles on Route 341 today, yes.

24 MR. ROSEMARK: And just remind me,
25 Route 341, as part of the original application of

1 the applicant and the crux of this hearing and the
2 need for the -- the public need for the coverage,
3 the target area that they classified, was that in
4 and around Route 341?

5 THE WITNESS (Maxson): Yes.

6 MR. ROSEMARK: Okay. And then
7 somewhere during this proceeding there was, I
8 remember or recall seeing neg 93 as the coverage
9 thresholds for that area, as originally filed by
10 the applicants, and then I started to see a
11 broader or wider coverage area. Did somehow this
12 change, in your opinion, during the course of this
13 application to be further than the area that was
14 originally intended, or am I missing something?

15 THE WITNESS (Maxson): I think you're
16 spot on. Originally, the application said that
17 they needed negative 93 signal strength and that
18 this would provide connectivity with existing cell
19 sites on Route 7. It would provide, as they said
20 in their RF report, seamless coverage, and it
21 would provide that service along Route 341. But
22 then we pointed out that it doesn't provide
23 seamless coverage at neg 93, and it doesn't
24 provide seamless coverage at neg 108, but the
25 applicant did submit some additional coverage

1 analysis at those lower signal levels.

2 MR. ROSEMARK: Okay. And when we're
3 talking about, again, we're trying to look at a
4 denser area, you know, where AT&T has referenced
5 in their filings that they used their filings for
6 small cells in a little bit more dense area. But
7 are you familiar, or did you have an opportunity
8 to review the exhibit that was filed by the Town
9 of Kent last time with regard to the file was,
10 "ThinkSmallCell: AT&T case studies of outdoor
11 small cells in the suburbs." Did you have a
12 chance to look at that at all?

13 THE WITNESS (Maxson): I have to admit
14 that it's not ringing a bell.

15 MR. ROSEMARK: Okay. Have you
16 experienced from a design perspective when you're
17 involved in various terrains and/or foliage that
18 you could still design a network in and around
19 those what I would call obstacles to provide a
20 continuity or contiguous coverage?

21 THE WITNESS (Maxson): Along key roads,
22 is that the --

23 MR. ROSEMARK: In the suburbs or in
24 dense areas where there's lots of foliage, lots of
25 hilly terrain.

1 THE WITNESS (Maxson): Yes.

2 MR. ROSEMARK: Okay. The question that
3 you had responded to about the microwave dishes,
4 and you ran a study, you ran the study for what
5 purpose?

6 THE WITNESS (Maxson): There was some
7 insinuation, I guess I would call it, in the
8 record that somebody needed 125 foot height on
9 either of the proposed towers at Richards Road or
10 Bald Hill to provide connectivity to each or one
11 of each of two remote towers in nearby towns. So
12 I identified the locations of those remote towers
13 that were mentioned in testimony, and I did a
14 microwave path analysis, which is a very standard
15 procedure, and the output of that standard
16 procedure is in those graphics, to determine what
17 the minimum height would be necessary to make a
18 microwave link function reliably from Bald Hill or
19 the Richards Road locations to those distant
20 towers.

21 MR. ROSEMARK: And those distant
22 towers, was one identified as Mohawk Mountain?

23 THE WITNESS (Maxson): Yes.

24 MR. ROSEMARK: And the other one was a
25 tower located in New Milford?

1 THE WITNESS (Maxson): Yes, I think
2 that was referred to Chapin, C-H-A-P-I-N.

3 MR. ROSEMARK: Okay. And you said the
4 125 feet, was that something that AT&T required,
5 or is that the applicant required that?

6 THE WITNESS (Maxson): I heard
7 testimony from the engineer for C Squared Systems,
8 the consultant to the applicant, that the 125 feet
9 was required, and apparently that was something he
10 was told and not something that he determined
11 himself based on his testimony.

12 MR. ROSEMARK: Okay. So then you ran
13 these microwave lines of sight, if that's what
14 it's called in the industry, to see what would
15 work even assuming for the moment that a microwave
16 was needed and was installed on the Richards Road
17 or Bald Hill towers, is that what you did?

18 THE WITNESS (Maxson): Yes, and I refer
19 to those as path studies.

20 MR. ROSEMARK: Path studies. And the
21 minimum height necessary was part of your analysis
22 and conclusion?

23 THE WITNESS (Maxson): Yes.

24 MR. ROSEMARK: And what was it for
25 Mohawk Mountain from either of those locations, do

1 you recall?

2 THE WITNESS (Maxson): Yes, let me just
3 pull up my notes so I'm accurate. Okay. I'm
4 sorry, to Mohawk Mountain from Bald Hill --

5 MR. ROSEMARK: Correct.

6 THE WITNESS (Maxson): -- we're able to
7 make a connection to the Mohawk Mountain tower
8 clear of trees by a sufficient amount that it
9 clears a thing called the Fresnel Zone. It's not
10 just a laser like line of sight, but a kind of
11 cigar shaped beam that has to clear the
12 vegetation. And according to our analysis, that
13 can be done from an 80 foot height at Bald Hill.

14 MR. ROSEMARK: Okay. And what about,
15 did you run the analysis from Bald Hill to New
16 Milford just in case, or no?

17 THE WITNESS (Maxson): I did, but the
18 intervening terrain made that nonviable.

19 MR. ROSEMARK: Okay. And then from
20 Richards Road?

21 THE WITNESS (Maxson): From Richards
22 Road we were able to make a connection both to
23 Mohawk Mountain and to the Chapin Road location in
24 New Milford with an 80 foot height at Richards
25 Road.

1 MR. ROSEMARK: And that's assuming that
2 there was a need by the applicant or somebody that
3 the applicant was referencing would need a
4 microwave to those two locations?

5 THE WITNESS (Maxson): Yeah, this is
6 just a hypothetical what-if, what if we had to
7 make that connection how low can we go at the
8 proposed locations.

9 MR. ROSEMARK: Okay.

10 THE WITNESS (Maxson): And I picked 80
11 feet as the low point just to kind of make doubly
12 sure that we were above what I expect to be the
13 height of the deciduous vegetation around those
14 locations.

15 MR. ROSEMARK: Okay. And then just to
16 clarify for a moment, if you would, a tower or a
17 small cell, whether either one would work, if the
18 fiber were to go out, it wouldn't matter if you
19 had backup power; is that correct?

20 THE WITNESS (Maxson): Yeah, I think
21 what I tend to think in terms of failure modes, if
22 the failure mode is that a wind shear has taken
23 out a bunch of trees and that in turn has taken
24 out a bunch of utility poles or utility lines,
25 they can take out not just the power but the fiber

1 connection back to the central office. And at
2 that point it doesn't matter whether there's power
3 at the site or not, if the link back to a
4 switching center is compromised, it's compromised,
5 and there's no connectivity from that cell site.

6 MR. ROSEMARK: You could have a
7 generator running but no connectivity anyway?

8 THE WITNESS (Maxson): That's correct.

9 MR. ROSEMARK: Other applications for
10 small cells, as you start to see the industry
11 trending or changing, I noticed, and we provided
12 as part of our administrative notice items we had
13 noticed a recent publication that AT&T is joining
14 in with the State of Connecticut to provide small
15 cells across the New Haven line. Are you familiar
16 with that at all?

17 THE WITNESS (Maxson): I did see a
18 headline to that effect, yes.

19 MR. ROSEMARK: Okay. And that is
20 intended to design to help, what, provide
21 additional support? And I understand that you're
22 not working on the project, but just what did you
23 gather or glean from that using your expert
24 experience?

25 THE WITNESS (Maxson): Well, I had the

1 impression that it was sounding like it was
2 oriented to better service on the New Haven line.
3 But I've done designs of wireless networks to
4 communicate with moving trains, and haphazard
5 placement of small cells along a railroad is not
6 going to significantly improve service to riders
7 on trains. So it's more likely that it's to
8 provide coverage in areas where people congregate,
9 for instance, at train stations.

10 MR. ROSEMARK: Platforms?

11 THE WITNESS (Maxson): Platforms, yes.

12 MR. ROSEMARK: Okay. But that's
13 another example of where small cells are now being
14 really deployed outside of what was traditionally
15 for an in-building environment or a stadium or
16 something like that, is that right, this is all
17 outdoor?

18 THE WITNESS (Maxson): Yes. And that's
19 consistent with other applications. I've
20 certainly seen them in states around Connecticut
21 where carriers like AT&T are looking to, the term
22 they use is densify their service at places where
23 people tend to congregate such as platforms and
24 outdoor locations, shopping areas, that sort of
25 thing.

1 MR. ROSEMARK: So they don't -- so AT&T
2 does not actually need a third party to help build
3 them a tower, they could go out and put these
4 small cells in on their own, so to speak, and
5 provide the same coverage, if they so desired?

6 THE WITNESS (Maxson): Yes, although I
7 would say not necessarily the same coverage, more
8 effectively targeted coverage because they could
9 cover the entire length of Route 341 and all the
10 residential areas connecting to it in a way that a
11 single proposed tower cannot.

12 MR. ROSEMARK: Okay. Great. Now,
13 assuming for the moment that small cells were not
14 approved as an alternative technology here and a
15 tower was approved, in your opinion, what would be
16 the height that would be necessary to provide that
17 coverage while balancing it with the environment
18 and the ridgeline that you talked about and
19 preserving those characteristics?

20 THE WITNESS (Maxson): Well, it's not
21 much of a balance. I provided to the record a map
22 showing the changes in coverage between an 80 foot
23 height and a 150 foot height, I think I used, and
24 it's not significant. AT&T could provide a
25 substantial amount of coverage from an 80 foot

1 height at either Bald Hill or Richards Road.

2 MR. ROSEMARK: Okay. Could you give me
3 one moment? Let me just check my notes. (Pause)

4 That's all the questions I have, Mr. Maxson.

5 THE WITNESS (Maxson): Thank you, sir.

6 MR. ROSEMARK: That's all the questions
7 I have for the intervenors.

8 MR. SILVESTRI: Very good. Thank you,
9 Attorney Rosemark.

10 One thing I wanted to bring up just so
11 there's no, shall we say, confusion. When we're
12 talking about small cell approval, it could fall
13 into either PURA or it could fall into the Siting
14 Council, again, depending on the location that's
15 involved. I didn't want to have the impression
16 that it was just PURA that would approve the small
17 cells.

18 MR. FISHER: Chairman, this is Attorney
19 Fisher. I know we can't recross, but I did have
20 one procedural point I wanted to make. The
21 witness testified regarding Petition 809 and a DAS
22 network along the Merritt. I believe the
23 testimony was that it was built and being used by
24 carriers. It's my understanding that that network
25 was never built. I know that the petition was --

1 administrative notice was taken of that petition.
2 I'd certainly like to see if the records at the
3 Siting Council on that notice have any evidence to
4 confirm that point that that was not built and
5 it's not a network that provides service along the
6 Merritt.

7 MR. SILVESTRI: Thank you, Attorney
8 Fisher. You actually didn't let me finish because
9 I had two other points to bring up, one of them
10 being that my understanding also was that that
11 wasn't built. I'm going to get verification on
12 that from Attorney Bachman in a second just to
13 clear that part.

14 The other thing I wanted to bring up
15 was that a lot of the 19-163 that we had
16 referenced was for 5G.

17 But I'd like to ask Attorney Bachman if
18 she could also give me her understanding as to
19 whether that was built or not. Attorney Bachman.

20 MS. BACHMAN: Thank you, Mr. Silvestri.
21 Petition No. 809, the Extenet Systems distributed
22 antenna system along the Merritt Parkway, was
23 approved in 2007. However, they owed us a D&M
24 plan, and we never got one. The actual project
25 was never constructed. Thank you.

1 MR. SILVESTRI: Thank you for that
2 clarification, Attorney Bachman. And thank you
3 also, Attorney Fisher and Attorney Rosemark.

4 I'd like to continue with
5 cross-examination going back to Council members,
6 starting with Mr. Mercier.

7 MR. MERCIER: I have no questions.
8 Thank you.

9 MR. SILVESTRI: Thank you. Just going
10 down the line for other Council members. Mr.
11 Morissette, any other questions?

12 MR. MORISSETTE: I have no further
13 questions. Thank you.

14 MR. SILVESTRI: Thank you. Mr. Harder.

15 MR. HARDER: No questions.

16 MR. SILVESTRI: Thank you. Mr. Hannon.

17 MR. HANNON: I have no questions.
18 Thank you.

19 MR. SILVESTRI: Thank you. Ms.
20 Guliuzza.

21 MS. GULIUZZA: No questions. Thank
22 you.

23 MR. SILVESTRI: Thank you. Mr.
24 Edelson.

25 MR. EDELSON: Yes. I'd like to know if

1 I could ask Mr. Maxson, the Chilmark DAS system I
2 think we saw was built in 2012. Could you comment
3 on what changes have happened since 2012 to small
4 cell technology as far as the actual units? I'm
5 assuming that what you would be recommending we
6 build today, whether somebody was to go into
7 Chilmark and replicate that system, or we were to
8 do this in Kent, would be different technology
9 than was available in 2012. But I was wondering
10 if you could characterize what those differences
11 might be.

12 THE WITNESS (Maxson): Sure. Thank
13 you. Yes, in 2012, the sort of going method,
14 because we were still heavily locked into
15 third-generation technology, was the distributed
16 antenna system which I described in one of my
17 reports as a sort of brute force method of having
18 a base station locally, converting the radio waves
19 to light, moving them across a fiber to a node,
20 and then converting them back to radio waves.

21 4G and now 5G technologies are much
22 more sophisticated about that and make it much
23 simpler. So that now what we're seeing are
24 companies like AT&T are installing their own nodes
25 where they want them, and they don't need to have

1 a base station hotel or a fiber backbone to get to
2 them. At the same time, the places where there
3 are distributed antenna systems, the distributed
4 antenna system owner/operators are providing
5 capabilities that if the carrier wants can mimic
6 the new small cell approach even though it's on a
7 distributed antenna system.

8 So functionally, what's available now
9 that wasn't available, you know, eight years ago
10 is the fact that a wireless carrier can just pick
11 up and order small cell locations on utility poles
12 from a local utility and make it happen without
13 having to have an intermediary or a base station
14 hotel nearby.

15 MR. EDELSON: Actually, I was really
16 thinking in a different direction, and I was
17 thinking about issues that we deal with of
18 capacity and coverage, or I should say -- yeah,
19 coverage and capacity. I guess I reversed them --
20 what a particular -- we saw of the network from
21 the newspaper article in 2012. Is the technology
22 available today such that you would need fewer
23 nodes because each node has got more capacity or
24 more coverage capability?

25 THE WITNESS (Maxson): Yeah, I don't

1 think there's a direct connection there. It
2 depends on what you're using a node for. In those
3 situations where they're using a node to provide
4 capacity offload, for instance, at a shopping
5 center, they would specifically use high
6 frequencies and then have the macrocell as the
7 backup. But in locations where they're providing
8 coverage and capacity, they would put their 700
9 megahertz and their 800 megahertz and their 2
10 gigahertz services all on that node and provide as
11 much capacity from that node as possible.

12 MR. EDELSON: My other question, and
13 one of the things we know, or lately almost too
14 aware of, is that trees grow. And I'm wondering
15 if -- and I know the trees around Kent grow. Have
16 we seen or are you aware of your conversations
17 with the town supervisor, or whatever his title
18 was, in Chilmark, have they to had to relocate
19 their small cells to higher -- to different
20 heights to increase the height because of the
21 growth of trees affected the ability of the cell
22 to communicate with people at ground level or
23 wherever they are? Did you discuss whether or not
24 the network had to be modified to account for tree
25 growth?

1 THE WITNESS (Maxson): With whom?

2 MR. EDELSON: Chilmark.

3 THE WITNESS (Maxson): With Chilmark,
4 no.

5 MR. EDELSON: Okay. Thank you,
6 Mr. Chairman. I think that's all my questions.

7 MR. SILVESTRI: Thank you, Mr. Edelson.
8 I'd just like to turn now to Mr. Lynch to see if
9 he had any other questions. Mr. Lynch.

10 MR. LYNCH: Just a clarification,
11 Mr. Chairman.

12 MR. SILVESTRI: Go ahead.

13 MR. LYNCH: To Mr. Maxson, did I hear
14 you correctly when you stated that the small cells
15 or DAS that are on telephone poles do not have to
16 be linked to a base cell tower?

17 THE WITNESS (Maxson): That's correct.
18 If they're using these cloud access node
19 configurations, they don't need to be brought back
20 to a local base station.

21 MR. LYNCH: Thank you. That's all, Mr.
22 Chairman.

23 MR. SILVESTRI: Thank you, Mr. Lynch.
24 And thank you, Mr. Maxson, as well. I'm not going
25 to ask you anymore cloud questions because we had

1 talked about that the last time we were together.
2 So thank you.

3 THE WITNESS (Maxson): Thank you, sir.

4 MR. SILVESTRI: I'd like to continue
5 now with the appearance by the Town of Kent. And
6 would the party present the Kent Conservation
7 Commission Chair Connie Manes for the purpose of
8 taking the oath?

9 And Attorney Bachman, when you're
10 ready, would you administer the oath?

11 C O N N I E A. M A N E S,

12 called as a witness, being first duly sworn
13 by Ms. Bachman, was examined and testified on
14 her oath as follows:

15 MS. BACHMAN: Thank you.

16 MR. SILVESTRI: Thank you, both. Can
17 we please begin by verifying the exhibit by the
18 appropriate sworn witness? And I believe this is
19 number 4 on our hearing program.

20 MR. CASAGRANDE: Yes, Mr. Chairman.
21 This is Dan Casagrande. I believe it's Exhibit
22 B-4 which is Ms. Mane's prefiled testimony.

23 MR. SILVESTRI: That is correct, yes.

24 MR. CASAGRANDE: May I proceed?

25 MR. SILVESTRI: Oh, yes, please. Thank

1 you.

2 MR. CASAGRANDE: Thank you.

3 DIRECT EXAMINATION

4 MR. CASAGRANDE: Good afternoon, Ms.
5 Manes.

6 THE WITNESS (Manes): Good afternoon.

7 MR. CASAGRANDE: Did you prepare and
8 submit prefile testimony in this proceeding which
9 is designated as Exhibit B-4 in today's hearing
10 program?

11 THE WITNESS (Manes): Was that the
12 letter dated December 12, 2019?

13 MR. CASAGRANDE: Yes.

14 THE WITNESS (Manes): Yes, I did.

15 MR. CASAGRANDE: And your testimony
16 actually attached a December, I believe December
17 12, 2019 letter from you as chairperson of the
18 Conservation Commission to the Board of Selectmen,
19 correct?

20 THE WITNESS (Manes): Yes.

21 MR. CASAGRANDE: And did that letter
22 summarize the concerns and comments of the
23 Conservation Commission about the proposed cell
24 tower locations proposed in this proceeding?

25 THE WITNESS (Manes): Yes, it did.

1 MR. CASAGRANDE: Is it true and
2 accurate -- are the comments true and accurate to
3 the best of your knowledge?

4 THE WITNESS (Manes): Yes, they are.

5 MR. CASAGRANDE: Do you wish to make
6 any clarifications or additions or subtractions to
7 the comments or any part of Exhibit B-4?

8 THE WITNESS (Manes): No, I don't.

9 MR. CASAGRANDE: And you wish to offer
10 that as your testimony in this case?

11 THE WITNESS (Manes): Yes.

12 MR. CASAGRANDE: Mr. Presiding Officer,
13 I'll offer the testimony, and I open the witness
14 up to cross-examination.

15 MR. SILVESTRI: Thank you, Attorney
16 Casagrande.

17 Does any party or intervenor object to
18 the admission of the town's exhibit? Attorney
19 Fisher.

20 MR. FISHER: No, Chairman. Thank you.

21 MR. SILVESTRI: Thank you. Attorney
22 Ainsworth.

23 MR. AINSWORTH: No, sir. Thank you.

24 MR. SILVESTRI: Thank you also. And
25 Attorney DiPentima and Attorney Rybak.

1 MR. RYBAK: No objection.

2 MR. SILVESTRI: Thank you. The exhibit
3 is therefore admitted.

4 (Town of Kent's Exhibit III-B-4:
5 Received in evidence - described in index.)

6 MR. SILVESTRI: Now I'd like to begin
7 cross-examination of the town's witness, Ms.
8 Manes, by the Council, starting with Mr. Mercier,
9 please.

10 MR. MERCIER: I have no questions.
11 Thank you.

12 MR. SILVESTRI: Thank you, Mr. Mercier.
13 Turning now to Mr. Morissette.

14 MR. MORISSETTE: Thank you, Mr.
15 Silvestri.

16 CROSS-EXAMINATION

17 MR. MORISSETTE: Ms. Manes, I have a
18 clarification I'd like you to address, if
19 possible. It seems we have a conflict in
20 testimony relating to the Horizonline Conservation
21 District. And Mr. Winter seemed to testify that
22 the Bald Hill site was within the Horizonline
23 Conservation District, and the applicant provided
24 testimony and evidence that it was not relating to
25 the Bald Hill site. Could you shed some light on

1 that for me, if you could?

2 THE WITNESS (Manes): I will try to.
3 Prior to the hearing I pulled up the POCD, so I
4 want to check. I don't think the maps were
5 attached to it. With appropriate time, I could
6 make reference to that map, but my understanding
7 was also that the Bald Hill was within the
8 Horizonline District.

9 MR. MORISSETTE: The map that the
10 applicant provided in their response to
11 interrogatory Set One, I believe it was, there was
12 a map attached, and it appears that the site is
13 very close to the district. Now, given that it
14 may or may not be, but given your testimony it is,
15 the significance of it being where it is and the
16 methodology in which you define the horizon belts,
17 it appears that it would deem to be within the
18 1,000 feet area anyway. Am I looking at that
19 properly?

20 THE WITNESS (Manes): You know, it's
21 interesting that you bring that up because as I
22 was reviewing the December letter that was just
23 admitted into evidence, you know, I'm looking at
24 the methodology, and this is, you know, really a
25 Planning and Zoning Board matter, but the footnote

1 makes reference to the Horizonline District being
2 drawn to capture structures that could be seen at
3 a 35 foot height. So, I mean, you know, to the
4 extent that a structure can and can't be built
5 within the Horizonline District, that's really a
6 P&Z matter.

7 For my -- the perspective of my
8 testimony as the Kent Conservation Commission, you
9 know, speaking to the extreme care of our
10 community and townspeople and enacting regulations
11 and policies and planning documents that really
12 protect the rural character of our town, it seems
13 to be a moot point because without a doubt these
14 structures can be seen quite readily from our
15 public roads. I don't know if that answers your
16 question.

17 MR. MORISSETTE: No, that's very
18 helpful. Thank you. My interpretation is, is
19 that it may or may not specifically be within the
20 defined Horizonline District, but nonetheless,
21 because of the height of the structure and the
22 1,000 feet of the ridgeline, it certainly is
23 deemed to have an impact. Thank you very much.
24 That's the only question I have.

25 MR. SILVESTRI: Thank you, Mr.

1 Morissette. I'd like to turn now to Mr. Harder to
2 continue cross-examination.

3 MR. HARDER: No questions. Thank you.

4 MR. SILVESTRI: Thank you, Mr. Harder.
5 Mr. Hannon.

6 MR. HANNON: I have no questions.

7 Thank you.

8 MR. SILVESTRI: Thank you, Mr. Hannon.
9 I'd like to turn now to Ms. Guliuzza.

10 MS. GULIUZZA: Yes. I just have a few
11 questions regarding your statement. You indicate
12 that in leaf-off conditions that there is
13 visibility from the Appalachian Trail and other
14 public trails in Kent and others in other towns as
15 well and also from Lake Waramaug. How did you
16 reach those conclusions?

17 THE WITNESS (Manes): I looked at the
18 maps presented by the applicant to make my
19 assumptions about whether or not you could see
20 these towers. My video just went out. I hope you
21 can still hear me.

22 MS. GULIUZZA: I can hear you.

23 THE WITNESS (Manes): I don't know why
24 that happened. I'm sorry. In any case -- oh, and
25 here I am. I'm sorry, I'm very disconcerted with

1 the way that the grid is shifting in the Zoom.

2 In any case, without the towers, I
3 mean, it's hard to see unless you went out up to
4 all of the trails during the balloon floats
5 exactly what you would see and when. But we've
6 all at this point seen the photos of places nearby
7 from public roads where you can see the towers,
8 and I would stand by my conclusion that, you know,
9 to different degrees of magnitude you would see
10 the tower from points on the Appalachian Trail and
11 certainly from some public trails over in
12 Washington that look out over Lake Waramaug.

13 MS. GULIUZZA: And are there other
14 public trails in Kent?

15 THE WITNESS (Manes): There are many.

16 MS. GULIUZZA: And do you know
17 approximately how many?

18 THE WITNESS (Manes): No. There is a
19 book of all Kent trails, and I believe that there
20 are 24 described in that book, but that book also
21 talks about sections of the Appalachian Trail. So
22 it really depends on how you slice and dice it,
23 but many trails. This is, you know, of course,
24 one of the things that keep our town economy
25 stable is that Kent is a very attractive area for

1 public recreation and hiking and boating.

2 MS. GULIUZZA: And is that what you
3 meant when you said that Kent depends on scenic
4 aspects as an economic driver?

5 THE WITNESS (Manes): Yes. Not only
6 the public recreation, of course, but you've
7 probably seen that for years running we made
8 Yankee Magazine's you know, top places to view the
9 foliage. And so, you know, I mean, if any of you
10 were in the Town of Kent last Sunday, there were
11 many people in town visiting for the day just
12 having a good time at our restaurants and enjoying
13 the fall air.

14 MS. GULIUZZA: Okay. Thank you. I
15 have no further questions, Mr. Silvestri.

16 MR. SILVESTRI: Thank you,
17 Ms. Guliuzza.

18 I'd like to turn now to Mr. Edelson to
19 continue cross-examination.

20 MR. EDELSON: Yes. Ms. Manes, I think
21 I understood what was in the memorandum, but I'm
22 wondering has the Conservation Commission
23 considered the two sites and made a determination
24 of a preference between the two sites that are
25 proposed by the applicant?

1 THE WITNESS (Manes): I don't really
2 think that that is, you know, even a fair thing to
3 be doing with this application. You know, I think
4 it's tricky, if you will, but, you know, the
5 application is for a cell tower. Both of those
6 sites are problematic for the reasons that I
7 stated in my letter, and the Conservation
8 Commission does not have a preference for one over
9 the other. We have a preference for none.

10 MR. EDELSON: Okay. So just to be
11 clear, no conversation about the two sites, it's
12 just from your point of view just whether or not
13 there should be a cell tower in that area versus
14 not a cell tower?

15 THE WITNESS (Manes): There was no
16 conversation comparing the two sites and making
17 any kind of a value judgment of one over the
18 other. The conversation was about the impact to
19 our community and rural character that having a
20 tower in that area would have.

21 MR. EDELSON: Now, related to that and
22 the prior question by Ms. Guliuzza, have you, has
23 the Town of Kent done any survey of people who
24 come to visit whether or not they would no longer
25 or they would reduce their visitation as tourists

1 to come to Kent if there was a cell tower?

2 THE WITNESS (Manes): I have not done
3 that kind of a survey. Our commission has not
4 done that kind of a survey. But the Planning and
5 Zoning Board's documents, including our town POCD,
6 clearly indicate that they believe that protection
7 of the rural and scenic character of our town is
8 essential to maintaining that level of visitation
9 and to maintaining the quality of life for our
10 residents and the people who work in our town.
11 So --

12 MR. EDELSON: The survey --

13 THE WITNESS (Manes): So it wouldn't
14 have been a survey that we would undertake because
15 it's already written into our town plan as a
16 given.

17 MR. EDELSON: Well, but your comment
18 says that if -- the implication of your comment or
19 your answer before was if there was a cell tower
20 built, people would no longer come to Kent in the
21 current numbers that do, and that would affect the
22 economic vitality of the town. So that's why that
23 particular item of one, or I think what we heard
24 in prior testimony probably two towers would need
25 to be built to meet the coverage needs identified

1 by the applicant as well as emergency service
2 people who work for the town.

3 THE WITNESS (Manes): I don't know that
4 I exactly said that I thought people would stop
5 coming to town if there was a tower here. I did
6 say that our townspeople have said in their
7 planning documents, and I agree with this, that
8 maintaining the rural and scenic character of the
9 town is essential to maintaining the economic
10 vitality that we get based on rec tourism and
11 tourism to our town that is due to its scenic
12 aspects. So I do believe that. I don't think
13 that I said the negative which is that people
14 would stop coming. Maybe more people would pass
15 right through town because they could get a signal
16 on 341 now.

17 MR. EDELSON: Okay. I agree that you
18 believe that, but as a commissioner I need to see,
19 or I want to see, data that would show that the
20 rural character of the community would be
21 impacted. Everyone has an opinion, but I'm
22 just -- but I think you've answered the question
23 which is that there is not statistical survey type
24 data to indicate there would be that kind of an
25 impact.

1 THE WITNESS (Manes): I think given
2 time, we could present that data. Are you
3 suggesting that we take that time?

4 MR. EDELSON: No. I'm just asking if
5 it exists. We have to make a decision.

6 THE WITNESS (Manes): We could produce
7 that data given time because I do believe it.

8 MR. EDELSON: Thank you, Mr. Silvestri.
9 No further questions.

10 MR. SILVESTRI: Thank you, Mr. Edelson.
11 I'd like to continue with Mr. Lynch,
12 please.

13 MR. LYNCH: No questions, Mr. Chairman.

14 MR. SILVESTRI: Thank you, Mr. Lynch.
15 I believe those are all the questions
16 that we have from the Siting Council. And I'd
17 like to continue with cross-examination --
18 actually, let me just back up.

19 Mr. Mercier, did you have any follow-up
20 question?

21 MR. MERCIER: Yes, Mr. Silvestri. I
22 just want to ask one question regarding the
23 development of the Plan of Conservation and
24 Development. I understand you came up with
25 horizon line districts and you want to protect the

1 scenic roads and you want to protect trails,
2 hiking trails and potential visibility, seasonal
3 visibility through the trees of potential towers.

4 Was there any analysis conducted as to
5 where in eastern Kent a tower actually could go
6 that would meet criteria such as protecting roads,
7 horizon lines and trails?

8 THE WITNESS (Manes): You know, it's
9 interesting that you mention that because, of
10 course, in preparation for this hearing I went
11 back to the POCD and I read it quite carefully.
12 And frankly, the issue of telecommunications
13 doesn't come up until more than halfway through
14 the document. And that to me is evidence of just
15 how much, you know, the idea of improved
16 telecommunications is subordinated in our town by
17 our community. And of course the POCD was
18 developed after doing a town-wide survey and with
19 all of the input from all of the various municipal
20 boards. So it was, you know, very much a public
21 sourced document reflecting the needs and desires
22 of our town.

23 In any case, when telecommunications
24 finally does get mentioned, it really is mentioned
25 in the context of economic development in our

1 village center. And so the entire discussion of
2 telecommunications is really related to
3 connectivity down in the town center in our
4 business district making it more possible for
5 people to have businesses and for people who are
6 coming and visiting to have a nice time within our
7 village center which is where you park and get out
8 and walk around as opposed to up in 341 which is
9 really, you know, that highway itself is just a
10 means of getting from one town to another and, of
11 course, is surrounded entirely by residential
12 districts where there are roads at all.

13 So in answer to your question, there
14 was no study done with respect to, you know, the
15 appropriate places for cell towers in our town.
16 And I assume that the absences that -- you know,
17 that's not what our community was thinking with
18 respect to cell service.

19 The emergency services question is
20 another very interesting one. It doesn't appear
21 at all in our POCD. And so, you know, to me I'm
22 not sure if that means that people weren't worried
23 about emergency services connectivity. Certainly,
24 the Conservation Commission has now in our letter,
25 as you've seen, recommended to the town that it

1 undertake a study, trying to figure out where we
2 need -- you know, where the optimal places are for
3 structures so that we could improve our emergency
4 services. And we will make sure, given our role,
5 that that is taken up with the development of the
6 next POCD, which is due next year. So I hope that
7 answers your question.

8 MR. MERCIER: Yes. I guess I was going
9 to ask, but you just answered, the previous one
10 was written in 2012, and you had town-wide input,
11 so I assume for the 2022 update you're going to
12 also do town-wide input as to what
13 telecommunication needs the residents in the
14 eastern part of town would like, correct?

15 THE WITNESS (Manes): I would make that
16 assumption. I would not be in charge of that
17 process, but I would make the assumption that that
18 would, you know, that they would follow the same
19 format.

20 And, you know, I guess one thing I left
21 out of my previous answer is that, you know, in
22 our POCD it's also quite clear, you know, but,
23 again, in the latter half, after the town gets
24 talking about everything that it wants to do to
25 preserve the rural character and scenic character

1 here, the town on page 45 made clear that it
2 should have an ongoing role in cell tower siting,
3 and the town should not approve, that cell tower
4 application should not be approved without comment
5 from our various town departments. So clearly,
6 although they haven't undertaken any kind of a
7 study about where cell tower service or where cell
8 service was needed, they wanted to make sure that
9 they had an ongoing role in the future siting of
10 any cell towers.

11 MR. MERCIER: Thank you. Have you read
12 the fire department, volunteer fire department
13 comments that were submitted as part of this
14 record?

15 THE WITNESS (Manes): I did, but
16 probably back in August.

17 MR. MERCIER: All right. Thank you on
18 that. Also, when you developed the 2012 POCD, you
19 said you did some types of surveys where the
20 residents didn't really seem to want
21 telecommunications out in the eastern part of
22 town. How was that survey conducted, was that
23 mailers to every resident out there, or was it
24 just a public notice in the paper where people
25 wrote in if they saw it? How was that conducted?

1 THE WITNESS (Manes): That wasn't my
2 job within the town. I didn't really have a
3 direct role in doing that survey. I also, you
4 know, I think I said that it didn't appear, that
5 telecommunications didn't really appear in, you
6 know, what was said about that survey in the POCD.
7 My recollection, having been part, you know, of
8 providing commentary for the POCD, is that there
9 was a survey that may have been emailed or
10 SurveyMonkey, something like that, and that there
11 were a number, you know, maybe ten or more, focus
12 groups that all of the town commissions and boards
13 were invited to, you know, to submit their
14 thoughts and to help in creating parts of the
15 POCD, and that the POCD itself was presented in
16 draft form and finally at a town meeting before it
17 was fully adopted.

18 So I think it was very well vetted
19 among the community and that the design of, you
20 know, soliciting community feedback was pretty
21 thorough, from what I recall being on the other
22 side of it.

23 MR. MERCIER: Okay. Thank you. I have
24 no other questions. Thank you very much.

25 MR. SILVESTRI: Thank you, Mr. Mercier.

1 I'd like to continue with
2 cross-examination of the town's witness by the
3 applicants, and Attorney Fisher, please.

4 MR. FISHER: Yes. Thank you, Chairman.
5 I do have a few questions.

6 Good afternoon. I wanted to focus on
7 some of your comments just now with Mr. Mercier
8 regarding the POCD. Did you yourself draft the
9 POCD, or was that something that you reviewed with
10 regard to your testimony?

11 THE WITNESS (Manes): Neither. I did
12 not draft the POCD, but I didn't wait until
13 preparing for my testimony to review it. I
14 reviewed it many times during its formation and
15 before it was adopted, and I've reviewed it many
16 times since.

17 MR. FISHER: So you were involved back
18 in 2012 as part of the typical POCD process?

19 THE WITNESS (Manes): Yes, I was.

20 MR. FISHER: And that process is
21 administered by the Planning and Zoning
22 Commission; is it not?

23 THE WITNESS (Manes): Yes.

24 MR. FISHER: And your testimony just
25 before seemed to give some priority to that which

1 shows up in a POCD earlier in the document versus
2 later in the document; is that correct?

3 THE WITNESS (Manes): Yes.

4 MR. FISHER: Doesn't a POCD have
5 several elements under state statute that a
6 planning and zoning commission must address in
7 it's entirety?

8 THE WITNESS (Manes): Maybe. My
9 comments were more driven by when I read it
10 looking at what was prioritized in the
11 introduction and how the POCD was presented in
12 that introduction, you know, as opposed to the
13 mere order, you know, that one might follow if
14 they had a recipe for a POCD. It's clear, and,
15 you know, I just, if you read it, I started to
16 make a note of how often the scenic rural
17 character of our town was mentioned in the POCD,
18 and it was like every page. I mean, you know,
19 there were pages here and there where it wasn't
20 mentioned, but I left off because it just
21 wasn't -- it's like you get hammered over the head
22 because this is so important to our townspeople.

23 MR. FISHER: Well, and as a
24 conservation commission that's naturally your
25 focus, correct?

1 THE WITNESS (Manes): Maybe.

2 MR. FISHER: So maybe you didn't read
3 with such attention some of the other parts of the
4 POCD.

5 THE WITNESS (Manes): No, I read it
6 all.

7 MR. FISHER: So did you read on page 33
8 that one of the town's goals was continuing to
9 support the advancement of telecommunications
10 services in the community?

11 THE WITNESS (Manes): Let me go to page
12 33. 33 in the PDF or 33 in the actual document?

13 MR. FISHER: Page 33 of the plan
14 itself.

15 THE WITNESS (Manes): Okay. So give me
16 a moment to get there. So this is one of the
17 pages summarizing the goals, so it's a summary of
18 the section that precedes it which talks about,
19 that whole section which begins on -- that whole
20 section begins on actually page 19, and it's the
21 section in the menu maybe, if you will, about
22 guide our community's development. So it is the
23 section of the report that talks about ways that
24 we can support economic development in our
25 community.

1 And that section goes through things
2 like the Kent Village Center, as I said, which is
3 really the primary area in our town where we think
4 development is appropriate, including industrial
5 development. There's quite a bit about sidewalks
6 and parking and streetscapes. And yes, in that
7 section there is a small component that deals with
8 telecommunications in the context of the village
9 center. And it says the town should support
10 enhancement of these services wherever possible,
11 however, the town should -- and it's underscored.
12 This is on page 25 -- carefully evaluate proposed
13 locations in siting of telecommunications towers
14 or other major facilities to prevent or
15 mitigate -- so prevent would be first, or
16 mitigate, if you couldn't prevent -- environmental
17 and scenic impacts.

18 MR. FISHER: So you used the word
19 "small," but there is a reference, actually,
20 within the document itself, dated as it is, that
21 talks about telecommunications and advancements,
22 including tower facilities; is there not?

23 THE WITNESS (Manes): There is a small
24 section limited to telecommunications development
25 in our village center as it impacts businesses in

1 our town, not people driving through on one of our
2 state highways.

3 MR. FISHER: So for you does the fact
4 that it's a state highway have less importance for
5 purposes of service to the community?

6 THE WITNESS (Manes): State highway,
7 road, you know, that to me is meaningful for
8 emergency services, for telecommunications, for
9 cell connectivity. The POCD is pretty clear that
10 it's focused on how that improves connectivity
11 down in our village center where people conduct
12 business.

13 And just as a driver, you know, I know
14 that that small section of Route 341 isn't really
15 going to help me make a phone call, not that I
16 conduct business in my car, but if I were to, just
17 simply having more connectivity on that small
18 stretch of 341 isn't going to do anything
19 meaningful for me. I could have a 30 minute -- a
20 30 second, that is, conversation with somebody if
21 I called right at the right time.

22 MR. FISHER: But that might not be true
23 for someone who per se had an accident, the local
24 emergency services had to respond, it might depend
25 on FirstNet frequencies in order to provide first

1 responder care, that might be a different scenario
2 than what you just described for yourself
3 personally, right?

4 MR. CASAGRANDE: Objection. It calls
5 for speculation.

6 MR. SILVESTRI: Sustained. Please move
7 on, Attorney Fisher.

8 MR. FISHER: Just as far as the POCD, I
9 know you were testifying earlier that there
10 haven't been any surveys. Do you think that the
11 town might do some surveys in the next round if
12 it's up and due for a new look?

13 THE WITNESS (Manes): I didn't say
14 there hadn't been any surveys. I said that the
15 surveys did not return any answers that indicated
16 a demand for increased telecommunication service.
17 I think that given this hearing and the outcry
18 from the community, that the town would be wise to
19 do a survey in its next iteration of the POCD and
20 particularly to study where emergency services
21 facilities were needed, to give our town the
22 maximal coverage that it needs rather than just
23 waiting for someone to propose something that
24 makes an incremental difference.

25 MR. FISHER: Thank you, Chairman. I

1 have no further questions.

2 MR. SILVESTRI: Thank you, Attorney
3 Fisher.

4 I'd like to continue cross-examination
5 of the town's witness by PDA, SRA and Lakeside by
6 Attorney Ainsworth, please.

7 MR. AINSWORTH: Mr. Chairman, we have
8 no questions for this witness. Thank you.

9 MR. SILVESTRI: Thank you, Attorney
10 Ainsworth.

11 And to continue with cross-examination
12 of the town's witness by BHRN, Bald Hill Road
13 Neighbors Association, with Attorney DiPentima and
14 Attorney Rybak, please.

15 MR. RYBAK: Yes. Thank you, Mr.
16 Chairman, a few questions.

17 Ms. Manes, is it your testimony then
18 that a tower on Site A or Site B would have a
19 substantial negative impact on, let's say, the
20 natural environment, scenic, historic,
21 recreational values, trails, lakes, all the things
22 we've been talking about so far; is that right?

23 THE WITNESS (Manes): Yes.

24 MR. RYBAK: And how does it have such
25 an impact?

1 THE WITNESS (Manes): Well, I think,
2 you know, as I stated in my letter and in this
3 testimony today that the scenic and rural
4 character of our town is top most in terms of
5 priorities for planning and development in our
6 town. And so, you know, specifically having
7 development in an area that is scenic, that is,
8 you know, part of an area that is protected, you
9 know, with respect to the ridgelines that is, you
10 know, near to scenic lakes and trails and all of
11 that, that having that kind of development in this
12 area would significantly impact the preservation
13 of that rural and scenic character in our town
14 that has been so underscored and stressed in all
15 of our planning documents.

16 MR. RYBAK: You mentioned a little
17 earlier a Horizonline Conservation Overlay
18 District. What is the importance of that district
19 briefly?

20 THE WITNESS (Manes): You know, I have
21 to say that I was not involved in town government
22 when the Horizonline District was -- when that
23 work was done and when that regulation was
24 enacted. To me, it affords a level of protection
25 to our ridgelines that, you know, is really, you

1 know, unique in many ways to the Town of Kent, and
2 it is looked upon by other towns as, you know, as
3 one way that we are leading the effort to protect
4 the rural character in this region generally.

5 You know, the products of the
6 Conservation Commission that I really can speak to
7 in more detail are the Natural Resources Inventory
8 which, of course, was incorporated into the POCD,
9 and the Town Character Study which, you know, goes
10 all the way back to 1990 but has been updated to
11 really call out areas of our town that are
12 significant, and to the ongoing job of the
13 Conservation Commission to, you know, to keep an
14 eye on and catalogue our open space in our
15 resource protection. So I'm sorry that I can't be
16 that specific on the horizon line, and I'm hopeful
17 that you did ask those questions of Matt Winter
18 from P&Z.

19 MR. RYBAK: Are you familiar on the
20 Conservation Commission with the least long-range
21 visual effect standard, is that a standard you
22 have?

23 THE WITNESS (Manes): No. I think that
24 that is verbiage in my letter, but not a term of
25 art, if that's where you're getting that from.

1 MR. RYBAK: So what did you mean by
2 that exactly then?

3 THE WITNESS (Manes): So the idea here,
4 and, you know, I do want to get back to my
5 testimony that a tower is not appropriate in
6 either location, that any siting of
7 telecommunications infrastructure in the Town of
8 Kent should be done with an eye towards
9 mitigating, if you will, kind of going back again
10 to the POCD, that if you can't prevent an impact
11 that you should cause an impact that is least
12 disruptive. So that to me is our duty within the
13 town to mitigate the scenic impact and the impact
14 to the rural character of our town if
15 telecommunications structures are needed.

16 MR. RYBAK: So is it your testimony
17 that either a tower at Site A or Site B would not
18 meet the goals of the Plan of Conservation and
19 Development?

20 THE WITNESS (Manes): That is my
21 testimony.

22 MR. RYBAK: Are you familiar with any
23 scenic road ordinance in the Town of Kent?

24 THE WITNESS (Manes): I am.

25 MR. RYBAK: And how does that relate to

1 the siting of towers, say, at Site A or Site B?

2 THE WITNESS (Manes): The way that that
3 relates to me is that our town has taken measures
4 to protect the experience that one has while
5 driving through town. And though neither Richards
6 Road nor Bald Hill Road are town designated scenic
7 roads, the town is certainly interested in the
8 impact to one's experience when driving along any
9 road in the Town of Kent. And so consistent with
10 regulations like the horizon line district and the
11 scenic road ordinance, you know, the POCD's
12 directives to strongly consider the impacts and to
13 make decisions consistent with the citizens' will
14 to protect the rural character of the town would
15 mean that you would look to mitigate the impact of
16 any towers on the scenery and on the rural
17 character.

18 MR. RYBAK: I think you mentioned
19 something else in your testimony, the Natural and
20 Cultural Resources Inventory; is that correct?

21 THE WITNESS (Manes): Yes.

22 MR. RYBAK: What is that, and if you
23 could briefly, how does it relate to the siting of
24 a tower, say, at Site A or Site B?

25 THE WITNESS (Manes): That is a study

1 prepared, and this is a statutory directive. The
2 State of Connecticut, when it authorized the
3 creation of conservation commissions in the
4 municipalities, one of the things that it tasked
5 conservation commissions with doing is taking
6 inventory of the natural resources and open space
7 resources in the town. And so we did do that.
8 And the resulting document actually also, you
9 know, looks at the cultural resources in our town.
10 So it's an inventory of, you know, soup to nuts of
11 the town's natural resources from geology to
12 recreational trails to scenic drives to those town
13 character areas to our lakes and waters, our
14 forests, our wildlife, et cetera.

15 The way that that relates to me, I
16 mean, it is not a document about cell towers in
17 our town, but it is a document that was
18 incorporated into the POCD. The Planning and
19 Zoning Commission adopted it in its entirety as,
20 you know, an advisory document to help it, you
21 know, employ policies and regulations that were
22 consistent with the town's planning, you know,
23 again, going back to the town's very careful
24 planning with, you know, the communities' input to
25 protect the natural and scenic resources that give

1 our town the character that it has.

2 MR. RYBAK: Thank you.

3 MR. DiPENTIMA: I just have one
4 question. Ms. Manes, given the testimony that
5 I've heard thus far from you, is it true that the
6 small cell technology addresses all the concerns
7 you've discussed?

8 THE WITNESS (Manes): You know, I can't
9 say that I was here for all of the testimony on
10 the small cell. It seems to me that the small
11 cell technology would be one way to mitigate
12 impact of, you know, telecommunications
13 structures. It seems to me if it's true that the
14 height of those facilities would make them less
15 disruptive of the scenic and rural character that
16 that, you know, again, could be a mitigating
17 factor, but I didn't -- I wasn't here for the
18 totality of the testimony, so I don't really want
19 to go beyond that.

20 MR. DiPENTIMA: Thank you,
21 Mr. Chairman.

22 MR. RYBAK: Thank you. Nothing
23 further.

24 MR. SILVESTRI: Thank you, Attorney
25 DiPentima. Thank you, Attorney Rybak. And thank

1 you, Ms. Manes.

2 We're at a decent break point, I think,
3 that we could go stretch our legs. Why don't we
4 take about, oh, a little over 15 minutes, come
5 back here about five minutes after 4, and we'll
6 continue at that time with the appearance by the
7 applicant. So we'll see you in a few minutes.
8 Thank you.

9 (Whereupon, a recess was taken from
10 3:48 p.m. until 4:05 p.m.)

11 MR. SILVESTRI: Okay. Ladies and
12 gentlemen, I do have 4:05. We're back in session.
13 And we will continue with the appearance of the
14 applicants, Homeland Towers and AT&T, to verify
15 the new exhibit that has been submitted, and this
16 is marked as Roman numeral II, Item B, number 15
17 on our hearing program.

18 MR. CASAGRANDE: Mr. Chairman, I'm
19 sorry. Dan Casagrande. Sorry to interrupt. May
20 I ask that Ms. Manes be excused as a witness at
21 this point?

22 MR. SILVESTRI: Granted.

23 MR. CASAGRANDE: Thank you.

24 (Whereupon, Ms. Manes was excused.)

25 MR. SILVESTRI: Thank you. I'll

1 continue. Attorney Fisher, could you please begin
2 by identifying the new exhibit you have filed in
3 this matter and verifying the exhibit by the
4 appropriate sworn witness?

5 MR. FISHER: Yes. Thank you, Chairman.
6 The exhibit is dated August 26, 2020. It is
7 titled a Late-File exhibit by the co-applicants.
8 It has several exhibits to it, and it's two pages
9 in length.

10 Two witnesses, who are already sworn, I
11 believe, Mr. Libertine and Martin Lavin.
12 Mr. Lavin is remote. I believe his video camera
13 he's having difficulty with, but he is available
14 by audio.

15 M I C H A E L L I B E R T I N E,
16 M A R T I N L A V I N,
17 R A Y M O N D V E R G A T I,

18 having been previously duly sworn (remotely)
19 continued to testify on their oath as
20 follows:

21 DIRECT EXAMINATION

22 MR. FISHER: I would ask both of the
23 witnesses, did you prepare and assist in the
24 preparation of the document that's been so
25 identified?

1 THE WITNESS (Lavin): Martin Lavin.

2 Yes.

3 THE WITNESS (Libertine): Mike

4 Libertine. Yes.

5 MR. FISHER: And in preparing for your

6 continued testimony here today, have you reviewed

7 the document?

8 THE WITNESS (Lavin): Martin Lavin.

9 Yes.

10 THE WITNESS (Libertine): Mike

11 Libertine. Yes.

12 MR. FISHER: Do you have any

13 corrections or modifications that need to be made

14 to the document?

15 THE WITNESS (Lavin): Martin Lavin.

16 No.

17 THE WITNESS (Libertine): Mike

18 Libertine. No.

19 MR. FISHER: And is it true and

20 accurate to the best of your belief?

21 THE WITNESS (Lavin): Martin Lavin.

22 Yes.

23 THE WITNESS (Libertine): Mike

24 Libertine. Yes.

25 MR. FISHER: And do you adopt it as

1 part of your testimony in Docket 488?

2 THE WITNESS (Lavin): Martin Lavin.

3 Yes.

4 THE WITNESS (Libertine): Mike

5 Libertine. Yes.

6 MR. FISHER: Chairman, I'd ask that it
7 be accepted as evidence at this time.

8 MR. SILVESTRI: Thank you, Attorney
9 Fisher.

10 Does any party or intervenor object to
11 the admission of the applicants' new exhibit?
12 I'll start with Attorney Ainsworth.

13 MR. AINSWORTH: No objection, sir.

14 MR. SILVESTRI: Thank you, Attorney
15 Ainsworth.

16 Attorney DiPentima and Attorney Rybak.

17 MR. DiPENTIMA: No objection,
18 Mr. Chairman.

19 MR. SILVESTRI: Thank you also. And
20 Attorney Casagrande and Attorney Rosemark.

21 MR. ROSEMARK: I have one objection,
22 Presiding Officer Silvestri, with regard to sub
23 bullet C with regard to the date of the initial
24 search ring that was issued by AT&T.

25 MR. SILVESTRI: How about we use that

1 for cross-examination when the time comes?

2 MR. ROSEMARK: Okay.

3 MR. SILVESTRI: Fair enough?

4 MR. ROSEMARK: Sure.

5 MR. SILVESTRI: Thank you. Anything
6 else?

7 MR. ROSEMARK: Nothing.

8 MR. SILVESTRI: Very good. All right.
9 We'll admit that exhibit.

10 (Applicants' Exhibit II-B-15: Received
11 in evidence - described in index.)

12 MR. SILVESTRI: And we'll continue with
13 cross-examination of the applicants, and this is
14 strictly on the August 26, 2020 Late-Filed
15 exhibit, and we'll start with the Council, and Mr.
16 Mercier.

17 CROSS-EXAMINATION

18 MR. MERCIER: Thank you. I have a
19 question for Mr. Libertine regarding the new photo
20 simulations that were submitted into the record.
21 I just want -- during the previous hearings, we
22 talked a little bit about a monopine application.
23 I just want to know your thoughts as to what a
24 monopine application might look like from certain
25 sensitive areas for both sites. If you have any

1 information, that would be great.

2 THE WITNESS (Libertine): Sure. Good
3 afternoon. I don't think my position has really
4 changed from some of the previous testimony. I
5 think in this case the incorporation of a monopine
6 design here doesn't really get us to the end point
7 for what those particular structures are really
8 designed to do, which is to blend in and be in
9 context, and primarily for two reasons here. One
10 is we do have a height that's above the treeline,
11 and, in addition, in most cases throughout the
12 area we have a mixed deciduous forest, or at least
13 is composed primarily of mixed deciduous trees.
14 And so it just doesn't really provide the context
15 in which I would like to put forth a monopine in,
16 in most typical situations.

17 MR. MERCIER: Okay. So this is in
18 regards to the new height, a 135 foot tower
19 without any whip antennas because the town didn't
20 want to utilize them. So it's your position still
21 that in certain areas, such as over the lake or on
22 a certain roads, that it's just too tall, I guess
23 for lack of a better word?

24 THE WITNESS (Libertine): Yes, and it's
25 a combination. Dropping it 20 feet and getting

1 rid of a whip antenna at the top really doesn't
2 change the characteristics a whole lot. What
3 happens in some of the more, we'll call it,
4 prominent views is that it just provides a lot
5 more mass on the horizon than a standard monopole
6 would do. So again, even at a 20 foot reduction,
7 I don't think it really accomplishes what it's
8 really designed to do.

9 MR. MERCIER: Okay. Yes, I was just
10 looking at photo 21. From a distance you could
11 see something on the horizon. I just wanted your
12 opinion on that.

13 THE WITNESS (Libertine): Well,
14 certainly there are some locations where any
15 design is going to be just at the treetops. And
16 in some cases you could argue that having some
17 faux branches where it's only 5, 10, 15 feet above
18 the treeline could work at distance, but there are
19 other examples where I think it would detract from
20 that benefit.

21 MR. MERCIER: Okay. And again, going
22 down the list here and looking at number 27, this
23 is Richards Road with the Richards tower at 135,
24 you could clearly see the monopine there. It
25 looks like leaf-off conditions when you took the

1 photo. I mean, even though there might be a
2 monopine there, if there was one approved there,
3 there still would be a visual impact whether it's
4 a monopole or monopine, correct?

5 THE WITNESS (Libertine): I would agree
6 with that statement, yes.

7 MR. MERCIER: I mean, it's just going
8 to be there. Photo 19 for Segar Mountain Road,
9 just a half mile away from Bald Hill Road, at 150
10 you don't think a monopine would be beneficial for
11 that particular area?

12 THE WITNESS (Libertine): Again, if we
13 were to go through the entire visual report, I
14 could find areas where you could make the argument
15 that a monopine would certainly be beneficial,
16 but, again, if I'm trying to put the balance of
17 the entire viewscape, I would say that in this
18 case trying to attempt to do a faux pine tree just
19 would not accomplish what it would be intended to
20 do.

21 MR. MERCIER: Okay. Thank you.

22 THE WITNESS (Libertine): To be in
23 context with the environment.

24 MR. MERCIER: Reading through the
25 response -- hold on, please -- there was mention

1 of a potential site that was looked at on Kent
2 Hollow Road. I don't know if anybody has any
3 familiarity with that that's on the witness panel
4 right now.

5 THE WITNESS (Lavin): Yes. This is
6 Martin Lavin. I did do a coverage analysis on it.

7 MR. MERCIER: That was at 50 Upper Kent
8 Hollow Road. It's on the last page of your
9 prefile testimony that was filed.

10 THE WITNESS (Lavin): Yes.

11 MR. MERCIER: I just want to get a
12 sense of, I was looking at the visibility map,
13 looking at the topography of the area, where
14 exactly on Kent Hollow Road that was.

15 THE WITNESS (Lavin): I don't have that
16 right in front of me now. I did do analysis
17 coverage wise. I couldn't comment on visibility.

18 MR. MERCIER: Do you know what
19 elevation you used as a ground elevation for your
20 analysis?

21 THE WITNESS (Lavin): I would have to
22 check. I don't have it offhand. It's on the
23 wrong side of the ridge there. It's completely
24 blocked. It provides no coverage at all on 341 at
25 any of the thresholds we've plotted.

1 MR. MERCIER: Yes. I wasn't sure if
2 the property owner had actual ridgetop property
3 you could build a tower on. I guess that was my
4 question really. Because looking at the
5 particular area, according to the topographic map
6 available in the record, Upper Kent Hollow Road
7 kind of wraps around a steep ridge, and then going
8 south it decreases rapidly in topography. I
9 wasn't sure where the actual property was.

10 THE WITNESS (Lavin): I don't know the
11 extent of the parcel.

12 MR. MERCIER: Okay. Thank you. I have
13 no other questions.

14 THE WITNESS (Vergati): This is Ray
15 Vergati with Homeland Towers. I can certainly
16 clarify the question of where that property is on
17 Kent Hollow Road. The address location is 50 Kent
18 Hollow Road. It has an elevation, I believe, of
19 roughly, I want to say, 1,080 feet. There's a
20 very large ridgeline to the basically northwest of
21 the property that the site could not see over.

22 This came to our attention only where
23 the landlord had reached out and said can you look
24 at my property. So we had Mr. Lavin run the
25 propagation plot. But again, the address is 50

1 Kent Hollow Road on the west side of the street.

2 MR. MERCIER: Okay, on the west side of
3 the street. So his property did not reach that
4 ridgeline top?

5 THE WITNESS (Vergati): No, absolutely
6 not. No, his property does not go all the way up
7 to the top of the ridgeline. And the name of the
8 landlord is James Taibleson just for reference.

9 MR. MERCIER: Thank you. I have no
10 other questions.

11 MR. SILVESTRI: Thank you, Mr. Mercier.
12 I'd like to continue cross-examination
13 with Mr. Morissette at this time.

14 MR. MORISSETTE: Thank you, Mr.
15 Silvestri. I have a question for Mr. Lavin.
16 Based on the coverage maps at 131 feet, in your
17 opinion, which site provides the greatest
18 coverage?

19 THE WITNESS (Lavin): That's covered in
20 a previous filing. The stats are there for
21 coverage Site A and coverage Site B, coverage for
22 Site A and coverage for Site B at 131 feet. Site
23 B provides more coverage.

24 MR. MORISSETTE: Okay. I'll have to go
25 back and take a peek at that. Thank you.

1 Thank you, I have no further questions.

2 MR. SILVESTRI: Thank you, Mr.

3 Morissette.

4 I'd like to continue cross-examination
5 of the applicant with Mr. Harder, please.

6 MR. HARDER: Yes. Thank you. Just one
7 question, I guess, for Mr. Lavin. At that lower
8 elevation, 131 feet, would you pursue the
9 installation of a tower at that location that you
10 say provides better coverage?

11 THE WITNESS (Lavin): We are pursuing
12 both sites at that height. That aspect has not
13 changed.

14 MR. HARDER: Thank you. That's all I
15 have.

16 MR. SILVESTRI: Thank you, Mr. Harder.
17 I'd like to continue now with Mr.
18 Hannon for cross-examination.

19 MR. HANNON: I have no questions at
20 this time.

21 MR. SILVESTRI: Thank you, Mr. Hannon.
22 Turning next to Ms. Guliuzza for
23 cross-examination.

24 MS. GULIUZZA: I have no questions.
25 Thank you.

1 MR. SILVESTRI: Thank you also.

2 Next I have Mr. Edelson for
3 cross-examination.

4 MR. EDELSON: First of all, my
5 questions, I think, are mostly to Mr. Libertine.
6 The pictures that are in this exhibit, all of
7 those that are existing, were those the pictures
8 that were taken, let's say, originally, or were
9 they taken subsequent to putting specifically this
10 analysis together?

11 THE WITNESS (Libertine): Those were
12 the original photos from the float and crane test
13 that was done back in January. They were just
14 scaled down appropriately to drop to the lower
15 elevation that was requested.

16 MR. EDELSON: Thank you. And while I
17 have you, the balloon size on those views to
18 create those pictures, do you remember the
19 diameter of that?

20 THE WITNESS (Libertine): Yes. They
21 were approximately 4 feet in diameter.

22 MR. EDELSON: If you could, because I
23 think we have a difference with different pictures
24 from different people who are part of this hearing
25 using different dimensions. Why, if you wouldn't

1 mind reminding me, why did you choose 4 feet?

2 THE WITNESS (Libertine): We use 4 feet
3 as a standard for a couple of reasons. One is it
4 just allows us primarily to get up through tree
5 canopies. If we use something much larger than
6 that, we often run into problems with actually
7 getting it up to its full height through the
8 trees, and then the more surface area that the
9 balloon has, even a light wind can start to
10 deflect it. So over the 20 years or so we've been
11 doing this, we found that 4 feet is a good
12 representation so that you can still see it at
13 distance but at the same time allows it to more or
14 less stay in its position under the right
15 conditions.

16 MR. EDELSON: I mean, is there anything
17 that would qualify as an industry standard, or
18 that's just a convention of All Points Technology?

19 THE WITNESS (Libertine): I'm not sure
20 there is a true standard. I will say in most
21 cases 4 foot weather balloons are the most common
22 that I have seen. We have used larger on open
23 sites on, you know, perfectly still days, but as I
24 say, they do tend to deflect as you get air
25 movement, and so 4 feet seems to be about that

1 kind of magic number that is a good balance to
2 achieve what you're trying to do in a day to get
3 as many shots in as we can.

4 MR. EDELSON: Okay. Thank you. No
5 further questions, Mr. Silvestri.

6 MR. SILVESTRI: Thank you, Mr. Edelson.
7 I'd like to turn now to Mr. Lynch for
8 further cross-examination.

9 MR. LYNCH: No questions.

10 MR. SILVESTRI: Thank you, Mr. Lynch.
11 I have one that I think is for Mr.
12 Libertine, and it's going to go to photo
13 number (AUDIO INTERRUPTION) figure out what the
14 red dot is over on the left side of that picture,
15 kind of right between the tree branches.

16 THE WITNESS (Libertine): I'm sorry,
17 could you just -- you cut out for just a second.
18 Mr. Silvestri, could you just reference which
19 photo again?

20 MR. SILVESTRI: Yes, this is photo
21 number 27.

22 THE WITNESS (Libertine): Okay. Thank
23 you.

24 MR. SILVESTRI: And it's over on the
25 left-hand side of the photo there's a red dot,

1 maybe a balloon between tree branches, and I'm
2 just curious what that is.

3 THE WITNESS (Libertine): Yes. Thank
4 you. On the day of our float in January, it
5 became apparent that one of the neighbors to
6 Richards Road, Site B, also flew independently a
7 balloon from that property. And so it's in
8 several of the photos, and that just happens to be
9 one of them, but that is --

10 MR. SILVESTRI: Okay. Thank you.

11 THE WITNESS (Libertine): You're
12 welcome.

13 MR. SILVESTRI: I don't have any other
14 further questions. I just want to double check
15 with staff and Council members just to see if they
16 have anything else before we move on.

17 Mr. Mercier, any other questions?

18 MR. MERCIER: No, thank you.

19 MR. SILVESTRI: Thank you. Mr.
20 Morissette.

21 MR. MORISSETTE: No, thank you.

22 MR. SILVESTRI: Thank you. Mr. Harder.

23 MR. HARDER: No questions. Thank you.

24 MR. SILVESTRI: Thank you. Mr. Hannon.

25 MR. HANNON: I have nothing. Thank

1 you.

2 MR. SILVESTRI: Thank you.

3 Ms. Guliuzza.

4 MS. GULIUZZA: No, thank you.

5 MR. SILVESTRI: Thank you. Mr.
6 Edelson, anything else?

7 MR. EDELSON: I want to know, Mr.
8 Silvestri, how you saw that red dot. But no
9 further questions.

10 MR. SILVESTRI: Bifocals.

11 MR. EDELSON: You've got good eyes.

12 MR. SILVESTRI: Mr. Lynch, any
13 follow-up questions?

14 MR. LYNCH: No questions, Mr. Chairman.

15 MR. SILVESTRI: Thank you. We'll
16 continue with cross-examination of the applicants
17 on the August 26, 2020 Late-File exhibit by the
18 grouped intervenors and CEPA intervenors, and
19 that's Planned Development Alliance of Northwest
20 Connecticut, Inc., Spectacle Ridge Association,
21 Inc., and South Spectacle Lakeside Residents, and
22 Attorney Ainsworth.

23 MR. AINSWORTH: I have only one
24 question to Mr. Libertine. Mr. Libertine, you
25 were asked some questions about the size of the

1 balloon. It sounds like, is it fair to say, that
2 the size of the balloon was chosen for the
3 practical reasons of flying the balloon as opposed
4 to attempting to make a facsimile of the visual
5 mass of the tower; is that fair?

6 THE WITNESS (Libertine): That is
7 correct.

8 MR. AINSWORTH: Thank you. No further
9 questions. Thank you.

10 MR. SILVESTRI: Thank you, Attorney
11 Ainsworth.

12 I'd like to continue with
13 cross-examination of the applicants on that
14 Late-Filed exhibit by the Bald Hill Road
15 Neighbors, and Attorney DiPentima and Attorney
16 Rybak, please.

17 MR. DiPENTIMA: Thank you, Mr.
18 Chairman. Just one question for Mr. Libertine.

19 Mr. Libertine, on photo number 28,
20 which is entitled Richards Road, does that not
21 show the height of the tower on the Bald Hill
22 site?

23 THE WITNESS (Libertine): Yes, sir.

24 MR. DiPENTIMA: All right. I just
25 wanted to make sure that everyone understood that

1 that's the Bald Hill site.

2 Thank you, Mr. Chairman. No further
3 questions.

4 MR. SILVESTRI: Thank you very much.
5 And I'd like to continue with cross-examination of
6 the applicants on that Late-Filed exhibit by the
7 Town of Kent, and Attorney Casagrande and Attorney
8 Rosemark.

9 MR. ROSEMARK: Yes, I just had one
10 question for the applicant with regard to the date
11 that they issued the search ring. When we were at
12 a prior hearing, I asked the panel, including
13 Mr. Lavin and Mr. Vergati, regarding the search
14 ring. Neither of them responded that they knew
15 the date of the search ring issued by AT&T. So
16 I'm wondering who on the panel is there today to
17 testify that AT&T issued that search ring in
18 January 2018?

19 MR. FISHER: Mr. Rosemark, I think you
20 can direct your questions to both Mr. Lavin and
21 Mr. Vergati regarding search rings and search
22 dates.

23 MR. ROSEMARK: Agreed. But when I
24 refer you to page 262 of the testimony of
25 Mr. Vergati from the hearing on August 11th -- I'm

1 sorry, 272. I apologize.

2 MR. FISHER: Do you want to provide a
3 copy of that so that the witnesses could refresh
4 their recollection?

5 MR. ROSEMARK: I could. I could share
6 my screen, if that would be appropriate.

7 MR. SILVESTRI: That we don't have the
8 capability to do. Somebody has to have the
9 reference over there amongst the witness panel, I
10 would think.

11 MR. FISHER: I'll take it for --
12 Mr. Rosemark, if he wants to just repeat what the
13 testimony was and inquire, I think we can just
14 move forward that way.

15 MR. ROSEMARK: Yes, yes. My question
16 was to Mr. Vergati, line 16, page 272. "So we
17 don't know when this was originally issued; is
18 that correct?"

19 Mr. Vergati's response beginning on
20 line 18, and this is in regard to the search ring,
21 "I don't know when the initial search ring for
22 AT&T was initiated."

23 THE WITNESS (Vergati): That is
24 correct.

25 MR. ROSEMARK: So if that's his

1 testimony, then how is it on this -- in your
2 response today?

3 THE WITNESS (Vergati): I believe the
4 AT&T RF engineer shared the release date of the
5 search ring being January of 2018.

6 MR. ROSEMARK: Who is the AT&T
7 engineer?

8 THE WITNESS (Vergati): I believe it is
9 a gentleman by the name of Radu.

10 MR. ROSEMARK: So Radu is not here
11 though to testify today; is that correct?

12 THE WITNESS (Vergati): He is not, but
13 Martin Lavin, who is the RF engineer speaking on
14 behalf of AT&T RF, is here to speak as well.

15 MR. ROSEMARK: I also asked Mr. Lavin
16 that same question. He deferred to you, and that
17 was on page 262 of the same testimony on that same
18 day.

19 And then just to make sure of that, I
20 asked again, beginning on page 272, again, line
21 11, I asked just to make sure of this because we
22 understand the fundamental requirement of a search
23 ring, "Is there someone on the panel that can
24 speak to the search ring on the panel today?" is
25 my question.

1 Your response, "I don't believe so."

2 Mr. Lavin did not respond.

3 So again, I'm just questioning who is
4 testifying today, other than somebody you're now
5 making reference to from an AT&T person, about the
6 initiation of the search ring by AT&T.

7 THE WITNESS (Vergati): I will state
8 that the search ring is driven internally by AT&T.
9 It's not something that we had when we started our
10 search efforts in 2012. And I think the question
11 was asked of when the search ring basically came
12 out from AT&T. I believe either our attorneys or
13 Martin inquired of AT&T directly, and we were
14 given the date of January 2018 of when the actual
15 search ring was released by AT&T.

16 MR. ROSEMARK: Okay. But not to be
17 argumentative, but your answer to me when I asked
18 you that on the record on your testimony you said,
19 "I don't know when the initial search ring for
20 AT&T was initiated."

21 Thank you. No further questions.

22 THE WITNESS (Vergati): I didn't know
23 the date back then.

24 MR. FISHER: I'm not sure on that
25 transpiration, I guess I should put an objection

1 on the record as to relevance. But if you have
2 further questions about the date of the search
3 ring, I think that's what we were asked, feel free
4 to ask Mr. Vergati or Mr. Lavin.

5 MR. SILVESTRI: The thing I'm confused
6 about is, and I'll have to agree a bit with
7 Attorney Rosemark, is like I don't know where it
8 came from. If we had prior testimony that nobody
9 could give an answer to that, I'm not sure how
10 valid this line might be in that record. You
11 know, we might be able to resolve it in the
12 written record. If there's a tech report, it
13 might be in there. Otherwise, I have a big
14 question as to what to do with that particular
15 sentence.

16 And I'd just like to turn a bit to
17 Attorney Bachman if she could opine on this one as
18 well.

19 MS. BACHMAN: Thank you, Mr. Silvestri.
20 Certainly, we have the municipal consultation
21 documents with the tech report. We could search
22 the record and try and rectify the
23 inconsistencies, but I don't think it would rise
24 to the level of striking the sentence on the basis
25 that Mr. Lavin and Mr. Vergati are sworn and

1 testified that it was January 2018, to correct the
2 record, and in direct response to a question that
3 was asked during that hearing.

4 Perhaps Attorney Fisher and Attorney
5 Rosemark would like to comment.

6 MR. FISHER: Just a comment. I was not
7 here for that hearing, but my understanding was
8 that Mr. Rosemark inquired as to that, and that
9 specific date of the search ring was information
10 that was not within the knowledge of Mr. Lavin,
11 not within the knowledge of Mr. Vergati, and no
12 one on the panel had that knowledge. The simple
13 question was when was it issued. This information
14 came through Mr. Lavin and inquiry into AT&T.
15 They verified that information. We weren't asked
16 to produce a witness to testify about it, just get
17 the information as to the date of it.

18 And I would also add that, while I'm
19 not sure the line of the inquiry for Mr. Rosemark,
20 I'm not sure why it's materially relevant to the
21 statutory criteria the Council weighs. We, as a
22 group, acknowledge that the AT&T search ring was
23 later than the Homeland search ring and that folks
24 had done searches at different points in time.

25 So I have an objection to

1 Mr. Rosemark's continued inquiry, but at this
2 point in time I'm not sure how relevant it is.

3 MR. SILVESTRI: Mr. Rosemark, did you
4 want to add anything at this point -- Attorney
5 Rosemark?

6 MR. ROSEMARK: Yes. I'm just moving to
7 strike the response. There's nobody here that's
8 available that actually produced the search ring
9 on behalf of the applicant that's subject to
10 cross-examination.

11 MR. SILVESTRI: Thank you, Attorney
12 Rosemark.

13 Attorney Ainsworth, you had a comment?

14 MR. AINSWORTH: Given what I just heard
15 in the exchange of the testimony, I would have to
16 join Attorney Rosemark in this particular
17 objection. Whatever the relevance -- or I think
18 it is relevant. I mean, it's part of the search
19 for a tower, so I think it meets the basic test of
20 relevance. But if you've got two people who were
21 sworn today who said I'm submitting this as my
22 testimony, and neither of them can testify from
23 their direct knowledge, it would be classic
24 hearsay.

25 MR. FISHER: I apologize, Chairman,

1 just a few other comments. I don't ever know that
2 being the standard in an administrative proceeding
3 for an objection. We've always had witnesses who
4 aggregate information and use it in preparation
5 for their testimony without it having to be within
6 their direct knowledge.

7 And I would simply say that the
8 intervenors, they've had more than adequate
9 opportunity for months now to issue
10 interrogatories, and if not, cross-examine
11 witnesses. If they felt it was important to ask
12 for this information, they would have done it in
13 the interrogatories months ago, and they would
14 have demanded that we produce a witness. I still
15 to this point don't know the actual relevance at
16 all to this information as to the criteria for
17 this docket, but apparently they want to move to
18 strike.

19 MR. SILVESTRI: All right. And I
20 appreciate your comments also. I just want to
21 turn to Attorney Bachman for the last one before I
22 give my ruling on this one. Attorney Bachman.

23 MS. BACHMAN: Thank you, Mr. Silvestri.
24 At this point, given the argument, certainly I
25 think we should just let it in for what it's

1 worth. It's one statement. Certainly, we could
2 search the record. And AT&T's particular date
3 that it started to search for tower sites in this
4 location, we have co-applicants here. So Homeland
5 Towers conducted their own search. We know
6 Homeland Towers cannot build a tower without a
7 willing tenant to co-locate on that tower. So I
8 don't see any harm, you know, classic hearsay,
9 we're here on a tower application, and search
10 rings are conducted, and we have information on
11 two different search rings. So the date at this
12 point I think it's more about the information
13 rather than the date. Thank you.

14 MR. SILVESTRI: Thank you, Attorney
15 Bachman.

16 Attorney DiPentima, you had a comment.

17 MR. DiPENTIMA: Yes, Mr. Chairman, if I
18 may. I concur with Attorney Ainsworth. The
19 testimony of a nonavailable witness and a witness
20 who has not been introduced in this proceeding is
21 classic hearsay, and the testimony should be
22 stricken.

23 MR. SILVESTRI: Thank you. Anybody
24 else want to give their opinion on it?

25 (No response.)

1 MR. SILVESTRI: But truthfully, where
2 I'm standing on this issue, I'm inclined to let it
3 in for what it's worth. We do have records. We
4 do have testimony. We do have this discussion in
5 the written record as well. But again, for what
6 it's worth, I'm going to let it in.

7 I'll turn back to Attorney Rosemark and
8 ask if you have any additional questions.

9 MR. ROSEMARK: No further questions.

10 MR. SILVESTRI: Very good. I believe
11 we're at the point for closing by the Connecticut
12 Siting Council. We went throughout everything
13 that I have on our agenda and our hearing program.

14 But before closing the evidentiary
15 record of this matter, the Connecticut Siting
16 Council announces that the briefs and proposed
17 findings of fact may be filed with the Council by
18 any party or intervenor no later than October 22,
19 2020. The submission of briefs or proposed
20 findings of fact are not required by the Council,
21 rather we leave it to the choice of the parties
22 and the intervenors.

23 And again, anyone who has not become a
24 party or intervenor but who desires to make his or
25 her views known to the Council, may file written

1 statements with the Council within 30 days of the
2 date hereof. And the Council will issue draft
3 findings of fact, and thereafter parties and
4 intervenors may identify errors or inconsistencies
5 between the Council's draft findings of fact and
6 the record. However, no new information, no new
7 evidence, no argument, and no reply briefs,
8 without our permission, will be considered by the
9 Council.

10 I hereby declare this hearing
11 adjourned. I thank you all for your
12 participation, your questions and your answers.
13 And we stand adjourned. Thank you very much.

14 (Whereupon, the witnesses were excused,
15 and the hearing adjourned at 4:37 p.m.)
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1 CERTIFICATE OF REMOTE HEARING

2
3 I hereby certify that the foregoing 117 pages
4 are a complete and accurate computer-aided
5 transcription of my original stenotype notes taken
6 of the CONTINUED PUBLIC HEARING HELD BY REMOTE
7 ACCESS IN RE: DOCKET NO. 488, HOMELAND TOWERS,
8 LLC AND NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T
9 APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL
10 COMPATIBILITY AND PUBLIC NEED FOR THE
11 CONSTRUCTION, MAINTENANCE, AND OPERATION OF A
12 TELECOMMUNICATIONS FACILITY LOCATED AT ONE OF TWO
13 SITES: KENT TAX ASSESSOR ID #M10, BLOCK 22, LOT 38
14 BALD HILL ROAD OR 93 RICHARDS ROAD, KENT,
15 CONNECTICUT, which was held before ROBERT
16 SILVESTRI, PRESIDING OFFICER, on September 22,
17 2020.

18
19
20 

21 -----
22 Lisa L. Warner, CSR 061
23 Court Reporter
24 BCT REPORTING SERVICE
25 55 WHITING STREET, SUITE 1A
PLAINVILLE, CONNECTICUT 06062

I N D E X

PDA WITNESS: (SWORN PREVIOUSLY)

DAVID P. MAXSON

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CONNIE A. MANES

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2
3 APPLICANTS' EXHIBIT
4 (Received in Evidence.)

| 5 EXHIBIT | DESCRIPTION | PAGE |
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| 6 II-B-15 | Applicants' Late-Filed Exhibits, dated August 26, 2020. | 659 |

7
8 TOWN OF KENT EXHIBIT
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| 9 EXHIBIT | DESCRIPTION | PAGE |
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| 10 III-B-4 | Prefiled testimony of Connie A. Manes, Kent Land Trust letter to the Council, July 11, 2020. | 627 |

11
12
13
14 ***All exhibits were retained by the Council.