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April 1, 2021

***VIA ELECTRONIC MAIL
AND FEDERAL EXPRESS***

Ms. Melanie A. Bachman, Esq., Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: DOCKET NO. 496

Dear Attorney Bachman:

This office represents Tarpon Towers II, LLC (“Tarpon”). On behalf of Tarpon, I have enclosed one copy of Tarpon’s post-hearing brief in connection with the above-captioned docket. A hardcopy will follow via Federal Express.

Please do not hesitate to contact me with any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Jesse A. Langer', is written over a light blue horizontal line.

Jesse A. Langer

Enclosure

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

APPLICATION OF TARPON TOWERS	:	DOCKET NO. 496
II, LLC FOR A CERTIFICATE OF	:	
ENVIRONMENTAL COMPATIBILITY	:	
AND PUBLIC NEED FOR THE	:	
CONSTRUCTION, MAINTENANCE	:	
AND OPERATION OF A WIRELESS	:	
TELECOMMUNICATIONS FACILITY	:	
AT 800 PROSPECT HILL ROAD,	:	
WINDSOR, CONNECTICUT	:	April 1, 2021

POST-HEARING BRIEF OF APPLICANT AND INTERVNOR

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I. INTRODUCTION

The Applicant, Tarpon Towers II, LLC (“Tarpon”) and Intervenor, T-Mobile Northeast LLC (“T-Mobile”), respectfully submit this Post-Hearing Brief in accordance with § 16-50j-31 of the Regulations of Connecticut State Agencies. The cumulative evidence presented in connection with the above-captioned application for a Certificate of Environmental Compatibility and Public Need (“Application”) amply demonstrates that there is a public need for the telecommunications facility proposed at 800 Prospect Hill Road, Windsor, Connecticut (“Facility”), and that the nature of the probable environmental impact of the Facility, which is limited to potential views of parts of the Facility, is not sufficient reason to deny the Application.

II. PROCEDURAL MATTERS

On December 4, 2020, Tarpon filed the Application for the Facility, a 135 foot monopole telecommunications structure to be located at 800 Prospect Hill Road, Windsor, Connecticut (“Property”) with the Connecticut Siting Council (“Council”) in accordance with General Statutes § 16-50g *et seq.* and § 16-50j-1 *et seq.* of the Regulations of Connecticut State Agencies. (*Exhibit [“Ex. ”]1.*)¹ Tarpon published notice of its intent to file the Application on two separate occasions in the *Hartford Courant* in accordance with General Statutes § 16-50l(b). (*Ex. 1, Attach. 3.*) Pursuant to General Statutes § 16-50l(b), Tarpon sent notices to each person appearing of record as the owner of the Property and of real property abutting the Property. (*Ex. 1, Attach. 4.*) Tarpon also provided notice to all applicable municipal, regional, State and Federal agencies and officials. (*Ex. 1, Attach. 2.*) On February 16, 2021, Tarpon installed a four-foot by six-foot sign in proximity to the entrance to the Property, which presented information concerning the proposed Facility and the Council’s public hearing. (*Ex. 5.*)

¹ All references to the Hearing Exhibits follow the designations in the Hearing Program, dated March 4, 2021.

On March 4, 2021, pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public evidentiary hearing, beginning at 2:00p.m. (*March 4, 2021 Hearing Transcript 2:00p.m. [“Tr.”], p. 1.*) Thereafter, the Council continued with the public comment session at 6:30p.m. (*Public Session Transcript 6:30p.m.*)

III. PARTIES TO THE PROCEEDINGS

Tarpon is a limited liability company organized under the laws of the State of Delaware. It has a business address of 8916 77th Terrace East, Suite 103, Lakewood Ranch, Florida, 34202. Tarpon develops wireless telecommunications facilities throughout the United States, including Connecticut. (*Ex. 1, p. 2.*) T-Mobile is a wireless provider licensed by the Federal Communications Commission (“FCC”) and operates a network nationally including in Connecticut. T-Mobile has a business address of 12920 SE 38th Street, Bellevue, Washington, 98006. (*Ex. 3.*)

IV. THE PROPOSED FACILITY

The proposed Facility would consist of a 2,304 (48 x 48) square foot fenced compound. The Facility would be located in the northern portion of the Property, an approximate 5.76 acre parcel, consisting of one lot and located at 800 Prospect Hill Road in the Town of Windsor (“Town”). The Property is developed and currently hosts four office or industrial buildings with associated parking and loading areas. The Facility would include a 135 foot monopole structure, with a lightning rod attached as the highest appurtenance. T-Mobile’s antenna array² would be mounted at approximately 130 feet above grade level (“AGL”). The antenna array would consist of three sectors, with three antennas per sector, and one microwave dish. The small microwave dish would be used for backhaul. (*Ex. 1, Attach. 1; Ex. 4, Int. 20; Tr., pp. 87-88.*)

² T-Mobile both prefers and needs a full platform design. Flush mounts reduce the number of possible antennas, thus limiting the performance of the Facility when compared to a full platform configuration. The full platform also allows for future modifications as technology advances. Finally, the full platform is essential to accommodate the additional spectrum T-Mobile recently acquired from the Sprint Corporation merger. (*Ex. 4, Int. 19.*)

Related equipment cabinets would be placed nearby within the leased area. (*Ex. 1, Attach. 1.*) T-Mobile would include a permanent twenty-five kilowatt diesel generator, with a sixty gallon capacity, coupled with battery backup to maintain continuous power in the event of interruption in the electrical grid. (*Ex. 1, Attach. 1; Ex. 4, Interrogatory [“Int.”] 22; Tr., pp. 61-62, 65-66.*) The equipment would be surrounded by an eight foot high chain link fence. Access to the proposed Facility would be across an existing bituminous drive. Utility connections would extend underground from Prospect Hill Road. The Facility is designed to host three additional wireless providers and emergency services as needed. (*Ex. 1, Attach. 1.*)

The Property is located in an Industrial Zone. (*Ex. 1, p. 16.*) The Property is developed and currently hosts four office or industrial buildings with associated parking and loading areas. The areas within the vicinity of the proposed Facility are zoned for industrial to the south and west, as well as agricultural and residential to the north and east. The Facility is congruent with the Town’s Zoning Regulations. The proposed Facility also furthers the Town’s Plan of Conservation and Development, which emphasizes the import of “ensuring that the latest, fastest, and most reliable [communications] services in Windsor.” (*Ex. 1, pp. 16-20, Attach.1; Late Filed Ex. B.*)

V. MUNICIPAL OUTREACH

On November 6, 2020, Tarpon notified the Town of its intent to file the Application in accordance with General Statutes § 16-50l(g)(1). Tarpon submitted a Technical Report to the Town, invited the Town to hold a public information meeting and requested that the Town provide Tarpon with any alternative sites for consideration, including municipal parcels in accordance with General Statutes § 16-50l(g)(2) and (3). (*Ex. 1.a; Ex. 4, Int. 2.*) The Town did not offer any alternative sites for consideration within thirty days of its receipt of the Technical Report or at any time thereafter.

Tarpon would provide space on the Facility for the Town’s emergency communications services for no compensation. (*Ex. 1, Attach. 1.*) Tarpon communicated with the Town’s emergency service providers and learned that the Town was not currently interested in locating its equipment on the Facility. (*Tr., pp. 60-61.*)

At the request of the Town, Tarpon conducted a public informational meeting on January 30, 2021. (*Ex. 1, Attachs. 18-19.*) There were few citizens in attendance at the public meeting. Some Town officials attended and represented that they were speaking on behalf of some of their constituents. Those officials indicated that there is an existing coverage gap to the north of the site of the proposed Facility. They wanted to know whether other carriers could or would collocate on the facility and whether the Facility would be 5G capable. There were no concerns raised about the environmental or visual impacts of the proposed facility. (*Ex. 4, Int. 3.*)

VI. THERE IS A PUBLIC NEED FOR THE PROPOSED FACILITY

General Statutes § 16-50p sets forth the criteria the Council must consider in rendering a decision on a proposal such as the Facility. To approve the Application, the Council must find and determine “a public need for the facility and the basis of the need.” General Statutes § 16-50p(a)(3)(A). The record demonstrates unequivocally that a need exists for the proposed Facility.

The Facility would be an integral component of T-Mobile’s network, specifically for the local roads and areas along the Day Hill Road Corridor, between Route 187 and Interstate 91, in the Town. This area is largely underserved and would include much needed service such as in-vehicle coverage (“IVC”) and in-building coverage for both residential (“IBR”) and commercial properties (“IBC”) in the area of Day Hill Road, Huckleberry Lane and Iron Ore Road. (*Ex. 1, Attach. 5; Ex. 4, Ints. 13-21; Late Filed Ex. B.; Tr., pp. 23-24, 32-35, 78-79.*)

The purpose of the proposed Facility is to improve IVC, IBR and IBC coverage in this area of the Town. The proposed Facility would provide new IVC, IBR and IBC coverage along approximately 2.2 miles of Day Hill Road, which has approximately 20,000 vehicles travelling daily. This stretch of Day Hill Road also hosts a lot of commercial activity that continues to grow. The Facility would also provide new IVC, IBR and IBC coverage: (a) to the northeast along approximately 1 mile of Prospect Hill Road; (b) along approximately 1.1 miles of Goodwin Drive, Phoenix Crossing, Old Iron Ore Road, and surrounding streets; and (c) areas extending approximately 2.5 miles to the north. (*Ex. 1, Attach. 5; Ex. 4, Ints. 13-21; Late Filed Ex. B.; Tr., pp. 23-24, 32-35, 78-79.*)

The proposed Facility would also provide capacity relief to existing sectors on T-Mobile facilities CTHA068A and CT11227D. Specifically, the proposed Facility would provide capacity relief to the following sectors and frequencies: (a) CTHA068A - Alpha sector L6/L7 low band frequency and (b) CT11227D - Gamma sector L700 low band frequency. These existing T-Mobile sites presently cover the aforementioned area below T-Mobile's minimum signal level for reliable coverage. (*Ex. 1, Attach. 5; Ex. 4, Ints. 13-21; Late Filed Ex. B.; Tr., pp. 23-24, 32-35, 78-79.*)

The Property is an ideal location for T-Mobile to achieve its coverage and capacity objectives. Locating the Facility along Day Hill Road to the southeast would interfere with T-Mobile's existing site (CT11227D) at 482 Pigeon Hill Road and would not reduce the potential views in a meaningful way. (*Tr., 39-41, 46-49.*) Additionally, the minimum height at which T-Mobile could achieve its coverage and capacity objective is at a centerline height of 130 feet AGL. (*Ex. 1, Attach. 5; Ex. 4, Ints. 13-21; Late Filed Ex. B.; Tr., pp. 23-24, 32-35, 78-79.*)

Ultimately, the proposed Facility would increase user experience, including data rates and call quality, as well as provide additional capacity in this area and connect reliably to Emergency

911 services. T-Mobile needs the Facility, in conjunction with other existing telecommunications facilities in the Town, to provide reliable services to the public.³ (*Ex. 1, Attach. 5; Ex. 4, Ints. 13-21; Late Filed Ex. B.; Tr., pp. 23-24, 32-35, 78-79.*)

VII. THE NATURE OF THE PROBABLE ENVIRONMENTAL IMPACT OF THE FACILITY IS NOT SUFFICIENT REASON TO DENY THE APPLICATION

Section 16-50p also requires the Council to determine whether the “nature of the probable environmental impact of the facility” is “not sufficient reason to deny the [A]pplication.” General Statutes § 16-50p(a)(3)(B) and (C). Section 16-50p(a)(3)(B) requires the Council to consider:

The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, (i) electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, (ii) ecological balance, (iii) public health and safety, (iv) scenic, historic and recreational values, (v) agriculture, (vi) forests and parks, (vii) air and water purity, and (viii) fish, aquaculture and wildlife . . .

The record is replete with evidence that the probable environmental impact, which is limited to a relatively small area of potential visibility, is an insufficient reason to deny the Application.

A. Radio Frequency / Power Density

The proposed Facility would not have an adverse impact or otherwise conflict with the policies of the State concerning the natural environment. T-Mobile’s antenna installation would fall well within the limits established the FCC, specifically the FCC’s Office of Engineering and Technology Bulletin No. 65, Edition 97-01 (August 1997) (“OET Bulletin 65”). A maximum density calculation, with the assumption that all of T-Mobile’s antennas are operating

³ DISH Network has also expressed an interest in collocating its wireless equipment on the Facility. (*Public Session Tr., p. 9.*)

simultaneously at full power, would not exceed 10.69 percent of the FCC's standard as set forth in the OET Bulletin 65. (*Ex. 1, Attach. 16.*)

B. Ecological Balance and Natural Resources

1. Natural Diversity Database

Tarpon consulted with the Department of Energy & Environmental Protection ("DEEP") for a review of the proposed Facility under the DEEP's Natural Diversity Database ("NDDDB"). The DEEP issued a determination letter indicating that the Eastern Box Turtle and the Eastern Hognose Snake are located within the vicinity of the proposed Facility. Accordingly, the DEEP recommended that Tarpon implement certain protection strategies, primarily related to construction, to protect these species of special concern. If the Council approves the Facility, Tarpon would incorporate these protection strategies into its Development and Management Plan ("D&M Plan"). (*Ex. 1, Attach. 10; Ex. 4, Int. 31; Late Filed Ex. C.*)

2. United States Fish and Wildlife Service

Consultation with the United States Fish and Wildlife Service ("USFW") revealed that the northern long-eared bat ("NLEB") is known to occur in the vicinity of the proposed Facility. As a result of this preliminary finding, Tarpon consulted with the DEEP, which confirmed that there are no known occupied maternity roost trees within 150 feet of the proposed Facility or known NLEB hibernaculum within one-quarter mile of the proposed Facility. The nearest NLEB habitat resource is located approximately 4.6 miles to the northwest in East Granby. As required by federal law, Tarpon submitted this information to the USFW and did not receive a response. This lack of response constitutes a determination from the USFW that the Facility would have no effect on NLEB. (*Ex. 1, Attach. 10.*)

3. Avian Assessment

Tarpon performed a desktop avian assessment, which documented the proximity of the proposed Facility to avian resource areas and the Facility's compliance with the guidelines recommended by the USFW. Tarpon determined that the proposed Facility would not impact any migratory bird species. Most notably, the Facility would comply with the USFW guidelines because the height would be below 199 feet, would not include guy wires and would not require lighting. (*Ex. 1, Attach. 15.*)

4. Wetlands

There are no wetlands or watercourses on the Property. The nearest wetlands area to the Facility is approximately 971 feet to the northwest on a separate property, with an intervening paved service road located on an adjacent parcel. Because of the distance from the proposed Facility to the nearest wetlands area, Tarpon concluded that the proposed Facility would not have a direct or indirect impact on any wetlands area or watercourse. Additionally, there are no Aquifer Protection Areas in the Town.⁴ (*Ex. 1, Attach. 17; Ex. 4, Int. 30.*)

5. Other Environmental Considerations

Tarpon evaluated the Facility pursuant to the FCC's regulations implementing the National Environmental Policy Act of 1969 ("NEPA"). The Property is not designated as a wilderness area and is not located in any areas identified as a wildlife preserve or in a USFW National Wildlife Refuge. There are no National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Gamelands located in the vicinity of the proposed Facility. Furthermore, according to the site survey and field investigations by Tarpon, the Facility

⁴ The DEEP does not include any mapping of municipalities without an Aquifer Protection Area. Please see https://www.ct.gov/deep///cwp/view.asp?q=322248&deepNav_GID=1654.

would not impact any federal or state regulated wetlands or watercourses. (*Ex. 1, Attach. 13.*)
Additionally, the situs of the Facility is not located within a floodplain. (*Ex. 1, Attach. 14.*)

6. Agricultural Resources

There is approximately 0.97 acres of prime farmland soil located on the Property, which is a 5.76 acre parcel hosting manufacturing activities. Tarpon would have to disturb a very small amount of that soil – approximately 0.08 acres – to develop the Facility, specifically the utility trench. (*Ex. 1, Attach. 1; Ex. 4, Int. 29.*)

C. Public Health and Safety

The Facility would be a benefit to the public health and safety. Initially, the proposed Facility would comply with all applicable safety standards and codes relative to the equipment, machinery and technology deployed at the site.

T-Mobile would also support text-to-911 service and otherwise comply with all applicable federal E911 requirements. Additionally, T-Mobile has elected to participate in part in the Wireless Emergency Alert public safety notification system, which enables authorized agencies to send text-like messages to consumers with capable devices to alert them of emergencies in their area. T-Mobile's installation would also comply with the FCC requirements concerning Wireless Emergency Alerts. (*Ex. 4, Ints. 25-27.*)

The operation would not adversely impact the public welfare. The Facility would be unmanned, requiring infrequent maintenance visits by each carrier that typically last approximately one hour in duration. T-Mobile would monitor its equipment at the Facility, which would be monitored twenty-four hours a day, seven days a week from a remote location. T-Mobile routinely visits its telecommunications facilities approximately four times a year, which includes one planned maintenance visit. (*Ex. 1, p. 13, Attach. 1; Ex. 4, Int. 11; Tr. pp. 62-63, 82-84.*)

Tarpon would secure the site with an eight foot high chain link fence. The double swing gates would have a combination lock to prevent unauthorized access. Tarpon would limit access to its authorized representatives and the wireless carriers leasing space on the facility. Additionally, each carrier, T-Mobile in this instance, installs vandal resistant equipment cabinet enclosures to protect their equipment. *(Ex. 1, Attach. 1; Ex. 4, Int. 10.)*

T-Mobile would include a permanent twenty-five kilowatt diesel generator, with a sixty gallon capacity, coupled with battery backup, to maintain continuous power in the event of interruption in the electrical grid. The generator would comply with all applicable DEEP regulations. *(Ex. 1, Attach. 1; Ex. 4, Int. 22; Tr. pp. 61-62.)*

The Facility would not require a water supply or wastewater utilities. The Facility would not require outdoor storage or solid waste receptacles and the Facility would not create or emit any smoke, gas, dust or other air contaminants, noise, odors or vibrations. Additionally, the proposed Facility would not constitute a hazard to air navigation and otherwise require any additional measures or authorizations from the FAA. *(Ex. 1, pp. 13-14, Attachs. 12-13.)*

Lastly, the Facility would not be expected to generate noise beyond the cooling fans within the equipment cabinets. Based on the manufacturer specifications, the standby generator could reach a maximum noise level of 65 dB when observed from twenty-three feet away. The standby generator would be located approximately ninety-seven feet from the closest property line. That property line is shared with a farm to the north located in an Agricultural (AG) Zoning District. The property borders a residential district (AA) to the east; however, the property's eastern boundary is Prospect Hill Road, which is approximately 359 feet from proposed location of the standby generator and shielded by a large building. The other adjoining properties to the south and

to the west are zoned industrial (I). They are 267 feet and 325 feet from the generator respectively and shielded by two large buildings.

While an acoustical study was not performed, Tarpon expects compliance with the noise control standards because of (1) the manufacturer sound specifications, (2) the significant distances to the property line, (3) the existing intervening buildings and road, and (4) the class of receptors, particularly at the closest property line, which is ninety-seven feet. Notably, the standby generator would only run during a power outage. (*Ex. 1, Attach. A; Ex. 4, Int. 28; Tr., pp. 55-57.*)

D. Scenic, Historic and Recreational Values

1. Scenic Values

The overall visual impact of the Facility would be minimal. Initially, the compound would be largely shielded by the existing buildings, plantings and vegetation.

The topography and vegetation within a two mile radius of the proposed Facility (“Study Area”) serve to minimize the potential visual impact of the proposed Facility. Only 2.2 percent (179 acres) of the Study Area would have year round views of portions of the Facility. The majority of those views (71 percent) are within the agricultural, commercial and industrial areas to the south of the proposed Facility around and along Day Hill Road at Goodwin Drive. There are some small pockets of visibility to residences within 0.35 miles of the proposed Facility, largely confined to those within 0.20 miles of the Facility. Most of the limited year round views would be of the uppermost portion of the proposed Facility.

Based on the viewshed analysis, it is estimated that approximately twenty-three residences would potentially have some year-round views of the proposed Facility. Fifteen of these residences are located within the residential area immediately to the north of the proposed site along Huckleberry Road and Morello Court. The remaining seven residences are on Prospect Hill Road

adjacent to and across from the Facility. There are no predicted year round views of significance from the dense residential area to the west or to the north.

An additional 0.39 percent (eight acres) of the Study Area would have seasonal (leaf-off) views of the proposed Facility. These seasonal views would occur primarily along the edges of the year-round views with some small pockets of seasonal visibility scattered within the residential area to the west. These views can be characterized as distant and obscured by existing tree mast.

General Statutes § 16-50l(f)(1) requires an applicant to include in its Technical Report to the host municipality “the location of all schools near the proposed facility, an analysis of the potential aesthetic impacts of the facility on said schools, as well as a discussion of efforts or measures to be taken to mitigate such aesthetic impacts” There are no schools located within the Study Area. The closest school is the Metropolitan Learning Center, which would not have any views of the proposed Facility. (*Ex. 4, Int. 32, Attach. 4; Tr., pp. 70-72, 75-76, 89, 90-91.*)

2. Historic Values

On February 6, 2019, the SHPO determined that the proposed Facility “will have no adverse effect to sites listed on or eligible for listing on the National Register of Historic Places” under the following conditions: (1) the antennas, cables and associated equipment will be designed and painted to match adjacent materials and installed as non-visibly as possible and (2) antennas, cables and associated equipment not in use for six consecutive months will be removed within ninety days of the end of such six month period. Tarpon would incorporate these conditions into its D&M Plan in the event the Council approves the Facility. (*Ex. 1, Attach. 11.*)

3. Recreational Values

There are no outdoor recreational facilities or resources on the Property or proximate to the Property that would be adversely impacted by the proposed Facility. (*Ex. 4, Int. 32, Attach. 4.*)

VIII. CONCLUSION

The record amply supports the finding of a public need, the basis of that need and a finding that the probable environmental impact is not a sufficient reason to deny the Application. The record also demonstrates that the Facility would be instrumental to the public health and safety in that T-Mobile would be able to provide reliable service in the area, including enhanced 911 services. Accordingly Tarpon and T-Mobile respectfully request the Council to approve the Application.

Respectfully submitted by,

TARPON TOWERS II, LLC *and*
T-MOBILE NORTHEAST LLC



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CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing document was sent via electronic mail to the service

list for Docket No. 496 on April 1, 2021:

Counsel for Tarpon Towers II, LLC

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