

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF MCF
COMMUNICATIONS bg, INC. AND
OMNIPOINT COMMUNICATIONS, INC.
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 237 SANDY HOLLOW ROAD IN THE
TOWN OF GROTON, CONNECTICUT

DOCKET NO. 343

DATE: NOVEMBER 30, 2007

PROPOSED FINDINGS OF FACT

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, MCF Communications bg, Inc. and Omnipoint Communications, Inc. (the “Co-Applicants”) submit these Proposed Findings of Fact (“Proposed Findings”).

Introduction

1. The Co-Applicants, in accordance with provisions of Connecticut General Statutes (“C.G.S.”) §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the Regulations of Connecticut State Agencies (“R.C.S.A.”), applied to the Connecticut Siting Council (“Council”) on July 11, 2007 for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, operation and maintenance of a 130-foot monopole wireless telecommunications facility (“Facility”) at 237 Sandy Hollow road, Groton, Connecticut (“Site”). (Application (“App.”) at 1).
2. The purpose of the proposed Facility is to provide wireless coverage service to this area for Omnipoint Communications, Inc. (“T-Mobile”). (App. at 1, Exhibit F; T-Mobile Interrogatory Responses; Pre-Filed Testimony of Scott Heffernan (“Heffernan Testimony”) at 3; Interrogatory Responses at Exhibit 9).

3. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on Tuesday, October 30, 2007, beginning at 3:00 p.m., continued at 7:00 p.m., at Community Room One, Town Hall Annex, 134 Groton Long Point Road, Groton, Connecticut ("Hearing"). (Hearing Notice; 3:00 p.m. Transcript ["Tr."] at 3).
4. The Council and its staff made an inspection of the Site on October 30, 2007 at 2:00 p.m. (Hearing Notice).
5. The Co-Applicants flew a four foot red balloon at a height of 130 feet at the Site from 8:00 am to 6:00 pm on October 30, 2007. (7:00 p.m. Tr. at 8; Exhibit 5).

Need

6. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services. Through the Federal Telecommunications Act of 1996 (the "Act"), Congress seeks to promote competition, reduce regulation to encourage technical innovation, and foster lower prices for wireless telecommunications services. The Act pre-empts any state or local determination of public need. (App. at 5-6; 3:00 p.m. Tr. at 4-5; Telecommunications Act of 1996).
7. A Facility at the Site will provide coverage for significant coverage gaps experienced by T-Mobile in Groton specifically along Interstate I-95 ("I-95") and the surrounding area. (App. at 5-6, Exhibit F; Interrogatory Responses; Heffernan Testimony; 3:00 Tr. at 69).
8. The Town of Groton as expressed its need to locate emergency services on the proposed Facility. (3:00 Tr. at 29).

Coverage

9. T-Mobile testified that they need to locate at a height of 127 feet on this Facility to minimize the number and height of future telecommunications towers in this area. (Heffernan Testimony at 4; 3:00 Tr. at 48-49).
10. T-Mobile testified that at a height of 117 feet, T-Mobile's coverage along I-95 breaks up and creates a coverage gap to the west of the Site. (3:00 Tr. at 49).

11. T-Mobile testified that it could not locate a proposed Facility at the Oral School in Groton and fill its existing coverage gap in this area. (3:00 Tr. at 72).
12. T-Mobile testified that the use of a distributed antenna system or repeaters in this area would not satisfy T-Mobile's coverage needs. (3:00 Tr. at 67-69).
13. T-Mobile testified that it could not utilize a flagpole design on this Site because of anticipated capacity needs. (Interrogatory Responses; 3:00 Tr. at 57).

Site Search

14. MCF determined that there were no existing structures of a suitable height or location from which the existing lack of coverage experienced by licensed telecommunications carriers in this area of Groton could be remedied. Only after determining that there were no buildings or structures of sufficient height in this area did MCF search for an appropriate location for a new telecommunications facility. (App. at 8-9; Pre-filed testimony of Brad Gannon ("Gannon Testimony") at 2-3).
15. Specifically, MCF investigated the possibility of locating equipment on four existing structures: an existing smokestack located at the Oral School; a water tank on Nantucket Avenue, a church steeple on Sandy Hollow Road and a water tank located on Pequot Avenue. All four of these existing structures were too far outside of T-Mobile's search ring and co-location on these structures would not fill T-Mobile's existing coverage gaps. (Gannon Testimony at 3).
16. MCF conducted a survey of property within the area to identify the best possible location to serve the needs of T-Mobile and other wireless carriers. MCF found that site selection in the area was limited by residential development and extensive wetlands throughout the area. Therefore, MCF focused its search efforts on non-residential uses. (Gannon Testimony at 3-4).

17. MCF considered numerous other parcels of land in the area of the proposed Facility. Specifically, MCF investigated the possibility of locating the proposed Facility at a daycare located at 195 Sandy Hollow Road and at an office building located at 200 Sandy Hollow Road. Both of these sites were rejected. (App. Exhibit H; Gannon Testimony at 3).

The Site

18. MCF proposes to construct the Facility in the southeastern portion of a 3.35 acre parcel of land owned by the Mystic River Ambulance Association, known as 237 Sandy Hollow Road, Map 261909 , Block 06, Lot 5371 of the Groton Tax Assessor's Map. (App. at 3, Exhibit A).
19. The Site is located in the RS-20 residential zone. The Groton Zoning Regulations (the "Regulations") do not prohibit wireless facilities in residential zones. (App. at 3, 14-16; Regulations).
20. The Site is currently developed with a building housing the ambulance company. The western portion of the Site is undeveloped and wooded. (App. at 3; October 30th Field Review).
21. The area surrounding the Site is primarily composed of residential land and contains extensive wetlands. (App. at Exhibit H, Gannon Testimony).
22. The proposed Facility has been designed to accommodate T-Mobile and the equipment of three (3) other telecommunications carriers as well as the Town of Groton emergency services equipment. (App. at 2, Exhibit A; Gannon Testimony).
23. The Facility will accommodate the antennas and equipment of T-Mobile at a height of 127 feet AGL and three other carriers at 117 feet AGL, 107 feet AGL and 97 feet AGL. (App. Exhibit A).
24. The 35 foot by 50 foot compound area with an additional 15 foot by 15 foot area at the base of the Facility will include locations for T-Mobile and the equipment of three (3) other telecommunications carriers. The compound will be enclosed by a new eight-foot chain-link fence. (App. at 10-11, Exhibit A).

25. Vehicular access is proposed over an existing driveway off of Sandy Hollow Road. (App. at 10, Exhibit A).
26. Utility service will run underground from existing utility service currently serving the existing ambulance building on the Property. No water or sanitary facilities are required and, once built, the Facility will generate minimal traffic because each of the co-locating entities will only need to visit the Site about once a month to perform routine maintenance and inspection. (App. at 10-11, Exhibit A).
27. The total estimated cost of the proposed Facility is approximately \$309,797, which includes the cost of installing T-Mobile's antennas and equipment. The total duration of the construction would be approximately six weeks. (App. at 20).
28. The proposed Facility will be designed with a pre-engineered yield point so that, in the unlikely event of a tower failure, the proposed Facility will remain on the Site. (3:00 Tr. at 58-62; Exhibit 6).

Municipal Consultation

29. MCF first met with the Town of Groton on September 25, 2006 concerning the proposed Facility. (App. at 18; Gannon Testimony at 2-4).
30. During the municipal consultation, the Town of Groton did not indicate that it had any objections to the proposed Facility. (Gannon Testimony at 2-4).
31. During the municipal consultation, the Town of Groton indicated that the wetlands agency preferred that the proposed Facility remain outside of the wetlands on the Site and the 50 foot wetland buffer on the Site. (Interrogatory Responses, Gannon Testimony).

Environmental Considerations

32. The Site contains no known existing populations of Federal or State Endangered, Threatened or Special Concern Species, according to the Connecticut Department of Environmental Protection Diversity Database. (App. at 19, Exhibit M, Exhibit O).
33. The proposed development will not directly or indirectly affect any wetlands or watercourses. (App. at 10, Exhibit L; 3:00 Tr. at 15-20).

34. The State Historic Preservation Officer (SHPO) has determined that the construction of the Facility will not have an effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (App. at 19, Exhibit M).
35. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Facility would not require marking or lighting. (App. at 19, Exhibit Q; Interrogatory Responses at Exhibit 6).
36. There would be no impact any known scenic, historic or recreational areas. (App. at Exhibit K).
37. While Sandy Hollow Road is a locally designated scenic road, the local regulations only limit development on the roadway itself. (7:00 Tr. at 10).
38. The Town of Groton was satisfied that the proposed Facility would not impact the scenic value of Sandy Hollow Road because the proposed Facility was located at the proposed location. (7:00 Tr. at 24).
39. A Study prepared by T-Mobile indicates that maximum emissions levels from the proposed Facility would be approximately 3% of the safety criteria adopted by the FCC. (App. at Exhibit N).

Visibility


40. The Facility is proposed to be located at the Site in order to minimize impact to residential receptors; the Facility will be located as low as it can be while still providing the necessary coverage to the area. The topography and the mature vegetation at the Site will significantly limit the visual impact of the Facility. (App. at 11-12, Exhibit K).
39. The proposed Facility will be visible from only 20 acres within a two-mile radius of the tower, which is less than one percent (<1%) of the study area. (App. at 11, Exhibit K).
40. The compound area will have a de minimis visual impact as it will be screened by the proposed fencing as well as the vegetative screening provided by the existing vegetation at the Site. (App. at 12, Exhibit K).

41. The proposed Facility will be visible year-round from 17 residences and will be seasonally visible from an additional 22 residences. (3:00 Tr. at 11).

Towersharing

42. This Facility will provide co-location opportunities for public safety communications systems and four (4) wireless carriers, thus avoiding the proliferation of towers. (App. at Exhibit A).
43. The Town of Groton has indicated a need to locate its emergency services equipment on the proposed Facility. (3:00 Tr. at 29).

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OMNIPOINT COMMUNICATIONS, INC.

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Certification

This is to certify that a copy of the foregoing has been mailed, this date to all parties and intervenors of record.

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