

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF GLOBAL SIGNAL  
ACQUISITIONS II FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY AND  
PUBLIC NEED FOR THE RE-LOCATION,  
CONSTRUCTION, MAINTENANCE AND  
OPERATION OF A TELECOMMUNICATIONS  
FACILITY AT 1919 BOSTON POST ROAD,  
GUILFORD, CONNECTICUT

DOCKET NO. 349

DATE: MAY 1, 2008

**PROPOSED FINDINGS OF FACT**

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, Global Signal Acquisitions II (the "Applicant") submits these Proposed Findings of Fact ("Proposed Findings").

**Introduction**

1. The Applicant, 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 February 22, 2007 for a Certificate of Environmental Compatibility and Public Need ("Certificate") for the construction, operation and maintenance of a 150-foot monopole wireless telecommunications facility ("Facility") at 1919 Boston Post Road, Guilford, Connecticut (the "Property"). (Applicant's Exhibit 1 ("App.") at 1).

2. There is an existing facility on the Property. The existing facility is a 150 foot monopole with associated equipment compound (the "Existing Facility"). (App. at 2).

3. The Existing Facility was originally approved by the Guilford Planning and Zoning Commission on June 4, 1997 at a height of 130 feet AGL. (App. at 2, Exhibit A).

4. The Existing Facility was expanded to its current height of 150 feet AGL by an approval from the Siting Council (the "Council") in Petition 613T. In approving Petition 613T, the Council made a determination that the increased height would not result in an adverse environmental impact. (App. at 2; Exhibit B).

5. The Property totals 28.22 acres and consists of three parcels: (1) the parcel on which the Existing Facility is located, owned by Roger Stone and leased by DDR Guilford LLC ("DDR") listed as Map 79, Lot 35 in the Guilford Tax Assessor's records; (2) two adjacent parcels owned by DDR listed as Map 79, Lots 34 and 36A in the Guilford Tax Assessor's records. (App. at 2-3).

6. DDR is a real estate development company. (Pre-filed Testimony of James Grafmeyer ("Grafmeyer Testimony") at 1).

7. The purpose of the Application is to dismantle, re-locate and re-construct the Existing Facility on the Property in order to (1) accommodate a retail development approved by the Town of Guilford on the Property, and (2) provide additional structural capabilities currently lacking in the Existing Facility so that the carriers can add antennas to increase capacity and to enable the town of Guilford to locate its emergency service antennas, if they so choose. (App. at 2; April 1, 2008 Hearing ("Cont'd") Transcript ("Tr.") at 76-77).

8. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on Tuesday, January 15, 2008, beginning at 3:00 p.m. and continued at 7:00 p.m., at the Guilford Fire Department, 390 Church Street (Route 77), Guilford, Connecticut ("Hearing"). (Hearing Notice; January 15, 2008, 3:00 p.m. ("3:00 p.m.") Tr. at 3).

9. The Council and its staff made an inspection of the Property on January 15, 2008 at 2:00 p.m. (Hearing Notice).

10. The Applicant flew a balloon, four feet in diameter, at a height of 150 feet at the site of the proposed relocated facility ("Application Site") from 8 am to 5 pm on January 15, 2008. (January 15, 2008, 7:00 p.m. ("7:00 p.m.") Tr. at 48-49; Applicant's Exhibit 5).

11. On March 19, 2008, the Applicant's counsel and DDR met with a portion of the intervenors and their counsel to discuss with them a proposed alternate location for the facility ("Alternate Site") in response to the intervenors' concerns. The Alternate Site is located approximately 121 feet from the Existing Facility and further away from the intervenors' properties, particularly those on Russett Drive. (Applicants' Exhibit 6' April 4<sup>th</sup> Tr. at 46).

12. On March 26, 2008, the Applicant submitted to the Council a Supplemental Submission in which it proposed the Alternate Site. (Applicants' Exhibit 6).

13. On April 1, 2008, the Council resumed the public hearing, at which time additional evidence in support of the Alternate Site was provided to the Council. (Con't Hearing Notice). The intervenors have not submitted any

evidence of any environmental harm arising from locating the facility at the Alternate Site.

### **Need**

14. 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; 3:00 p.m. Tr. at 3-4; Telecommunications Act of 1996).

15. The Existing Facility at the Property currently provides coverage for significant coverage gaps experienced by T-Mobile, Sprint/Nextel, Verizon Wireless and AT&T specifically along Interstate I-95, Route 1 and the surrounding area. (App. at 6-7, Exhibits H, I).

16. The Existing Facility needs to be re-located on the Property in order to accommodate a retail development on the Property proposed by DDR and approved by the Town of Guilford. The re-location will permit T-Mobile, Sprint/Nextel, Verizon Wireless and AT&T to continue to provide coverage in this area of Guilford. (App. at 6-7).

17. The proposed retail development cannot be developed on the Property with the Existing Facility still in place due to the size and shape of the Property and the Existing Facility's location in the middle of the Property. (3:00 Tr. at 76-78).

18. The Re-located Facility will continue to allow T-Mobile, Sprint/Nextel, Verizon Wireless and AT&T to provide coverage to this area of Guilford. (App. at 6-7).

19. The Re-located Facility will continue to allow T-Mobile, Sprint/Nextel, Verizon Wireless and AT&T to provide E-911 services in this area of Guilford. (App. at 6-8).

20. The Existing Facility is currently structurally incapable of permitting any co-location opportunities and is incapable of permitting the existing carriers to add additional antennas and thereby increase their capacity. (Con't Tr. at 76-77).

21. The Re-located Facility will be structurally capable of permitting additional co-location opportunities for wireless service providers as well as emergency service providers. (Con't Tr. at 76-77). The Re-located Facility will be in compliance with the updated building code in regard to wind-loading.

#### **The Site**

22. The Property is currently developed with a self-storage facility and rental center with large portions of the Property remaining undeveloped. (Field Review, Con't Tr. at 46).

23. The Existing Facility needs to be re-located on the Property to accommodate a retail development that is proposed for the Property by DDR. (App. at 3; 3:00 p.m. Tr. at 31).

24. The Property was re-zoned by the Town of Guilford in 2001 to the Service Center West ("SCW") zoning designation specifically to accommodate the type of retail development proposed by DDR. (3:00 p.m. Tr. at 31).

25. The Guilford Zoning Regulations permit facilities in the SCW zone. (App. at 18; 3:00 Tr. at 37-38).

26. The Town of Guilford has approved the retail development on the Property proposed by DDR through its Inland Wetlands Commission and its Planning and Zoning Commission. (Pre-filed Testimony of James Grafmeyer ("Grafmeyer Testimony") at 2).

27. The Guilford First Selectman Carl Ballistraci testified that the proposed retail development is an important economic development for the Town. (7:00 Tr. at 8-10).

28. The Applicant proposes to dismantle the Existing Facility, re-locate and re-construct the Re-located Facility on the Property either approximately 700 feet to the southeast of the Existing Facility (the "Application Site"), (App. at 3, Exhibit C; Con't Tr. at 46) or at the Alternate Site, located in close proximity to the Existing Facility (the Application Site and Alternate Site referred collectively as the "Re-located Facility").

29. The proposed Re-located Facility has been designed to accommodate all of the current tenants on the Existing Facility including: T-Mobile, Sprint/Nextel, Verizon Wireless and AT&T. In addition, the proposed Re-located Facility has been designed to accommodate emergency services, if

requested, additional antenna loading for the current tenants and additional co-location space. (App. at 2, Exhibit C, Con't Tr. at 76-77).

30. The proposed Re-located Facility will accommodate the antennas and equipment of T-Mobile at an antenna centerline of 147 feet AGL, Nextel at an antenna centerline of 137 feet AGL, Sprint at an antenna centerline of 127 feet AGL, Verizon Wireless at an antenna centerline of 117 feet AGL and AT&T at an antenna centerline of 107 feet AGL. (App. at 2, 11, Exhibit C).

31. The compound area at the base of the Re-located Facility will include locations for T-Mobile, Sprint/Nextel, Verizon and AT&T. The compound will be enclosed by a new eight-foot stockade fence. (App. at 2, Exhibit C).

32. Vehicular access is proposed from Route 1/Boston Post Road over the driveway proposed as part of the retail development on the Property. (App. at 2, 10, Exhibit C).

33. Utility service will run underground from existing utility service currently located on Route 1/Boston Post Road. 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 9-12, Exhibit C; 3:00 Tr. at 42)).

34. The total estimated cost of the Re-located Facility is approximately \$518,000.00. The total duration of the construction would be approximately eight weeks. (App. at 23; Applicant's Exhibit 8).

### **Municipal Consultation**

35. Representatives from the Applicant first met with the Town of Guilford on August 3, 2006. (App. at 19).

36. The Town indicated that it did not have any concerns about the Application particularly in light of the fact that the Application simply involves re-locating the Existing Facility on the Property. (App. at 22).

37. Representatives from the Applicant met with the Town of Guilford again on April 1, 2008 to discuss a proposed revised site location on the Property. The Town indicated at that meeting that it still did not have any concerns with the relocation of the Existing Facility at any location on the Property. (Con't Tr. at 24).

### **Environmental Considerations**

38. The Property 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 22-23, Exhibit N, Exhibit P).

39. The proposed development will not directly or indirectly affect any wetlands or watercourses. (App. at 20-21, Exhibit K; Applicant's Exhibit 6).

40. The proposed Facility is not located in a floodplain or a floodway. (App. at Exhibit P).

41. The State Historic Preservation Officer (SHPO) has determined that the construction of the Facility will have no adverse effect on historic,



architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (App. at 15, Exhibit N, Exhibit P).

42. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Facility would not require marking or lighting. (App. at 22, Exhibit R).

43. There would be no impact on any known scenic, historic or recreational areas. (App. at Exhibit L, Exhibit M, Exhibit N, Exhibit P).

44. A study prepared for Petition 613T indicates that maximum emissions levels from the proposed Facility would be 36.43% of the safety criteria adopted by the FCC. (App. at 15-16, Exhibit O; Applicant's Administrative Notice 1).

#### **Visibility**

45. The proposed Re-located Facility will have virtually the same visibility as the Existing Facility. The topography and the mature vegetation at the Property will significantly limit the visual impact of the Facility. (App. at 13-15; Exhibit L).

46. The proposed Re-located Facility at the Application Site will be visible from only 51 acres within a two-mile radius of the tower, which is less than one percent of the study area. The majority of the visibility will occur on the Property itself and in the Route 1, I-95 corridor. (App. at 13, Exhibit L).

47. Only two residences will have partial, year-round views of the proposed Re-located Facility at the Application Site and only ten residences will

have partial, seasonal views of the proposed Re-located Facility. (App. at 13, Exhibit L).

48. The compound area at the Application Site will have a de minimis visual impact as it will be screened by the proposed stockade fencing as well as the vegetative screening provided by Applicant. (App. at 13; Exhibit L).

49. The Applicant has voluntarily agreed to provide vegetative screening both on the Property and specifically surrounding the compound, which will further reduce any potential visual impact of the proposed Re-located Facility. (Applicant's Exhibit 10).

50. During the hearing process, the Applicant voluntarily proposed the Alternate Site on the Property to address the concerns of the intervening neighbors. (Applicant's Exhibit 6).

51. The Alternate Site is less visible than the Existing Facility and less visible than the Re-located Facility at the Application Site. (Applicant's Exhibit 6; Con't Tr. at 75; Applicant's Exhibit 11).

52. The Alternate Site would be visible from only 43 acres within a two-mile radius of the tower. (Applicant's Exhibit 6; Applicant's Exhibit 11).


53. The Alternate Site is further away from the Russet Drive and Joan Drive neighbors as compared to the Existing Facility and the Application Site. (Con't Tr. at 75).

### **Towersharing**

54. The proposed Re-located Facility will provide co-location opportunities for public safety communications systems and six (6) wireless carriers, thus avoiding the proliferation of towers. (App. at Exhibit C; Con't Tr. at 84).

55. The Existing Facility is structurally incapable of providing co-location opportunities or of permitting the existing tenants to switch equipment or add additional antennas. (Con't Tr. at 76-77, 84).

Respectfully Submitted,

By: 

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day a copy of the foregoing was delivered by regular mail, postage prepaid, to all parties and intervenors of record.

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