

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF OPTASITE TOWERS LLC
AND OMNIPOINT COMMUNICATIONS, INC.
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 93 LAKE STREET
MANCHESTER, CONNECTICUT

DOCKET NO. 351

Date: FEBRUARY 27, 2008

**POST- HEARING BRIEF OF OPTASITE TOWERS LLC AND OMNIPOINT
COMMUNICATIONS, INC.**

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”), Optasite Towers LLC (“Optasite”) and Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc., d/b/a T-Mobile (hereinafter “T-Mobile”) (collectively the “Co-Applicants”) submit this post-hearing brief in support of the above-captioned application. This brief is limited to (1) the public need for this telecommunications facility, (2) the lack of environmental impact of the proposed facility, and (3) consistency with the mandate of the Connecticut Legislature to avoid the unnecessary proliferation of towers in the state. The Co-Applicants also submit their Proposed Findings of Fact in conjunction with this Post-Hearing Brief.

I. BACKGROUND

The Co-Applicants, in accordance with the 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 November 1, 2007 for a Certificate of Environmental Compatibility and Public Need (“Certificate”).

Co-applicant Optasite proposes to construct a 110-foot steel monopole telecommunications facility in the eastern portion of a 23.4 acre parcel of land owned by Alan Rossetto known at 93 Lake Street, Assessors Map 135, Block 3330, Lot 93A of the Manchester Tax Assessor's Records (the “Site”). The Site is currently developed with a residence and associated garage and pool. The 70-foot by 70-foot leased area will include a 70-foot by 70-foot fenced compound area at the Site (“Facility”). This Facility will be designed to accommodate the antenna arrays and associated equipment of T-Mobile and the equipment of three (3) other telecommunications carriers.

The purpose of this Facility is to provide wireless telecommunications services to Manchester, including along Route 6/Route 44, Middle Turnpike, Lake Street and surrounding areas. See Pre-filed Testimony of Scott Heffernan. T-Mobile currently experiences significant gaps in coverage and inadequate coverage in the area. In particular, T-Mobile experiences a coverage gap of 1.44 miles on Route 6/Route 44 and experiences coverage gaps and inadequate coverage in the area. See Applicants’ Exhibit 2. A Facility at the Site will provide wireless coverage service to this area which currently suffers from inadequate coverage. Id.

II. A SIGNIFICANT PUBLIC NEED EXISTS FOR A TELECOMMUNICATIONS FACILITY IN THIS AREA

Connecticut General Statute (“C.G.S.”) §16-50p(a) mandates that the Council “shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the

need...” C.G.S. §16-50p(a). There can be no dispute that there is a significant public need for this Facility. (Applicants’ Exhibit 1 (“App.”) at Exhibit H).

There are no other telecommunications facilities in this area of Manchester and no utility structures or other suitably tall structures on which to locate a telecommunications facility. In particular, the Applicants investigated co-locating on 1) an existing tower located AT 200 Boston Turnpike, which would not fill T –Mobile’s coverage needs; 2) existing towers located at Box Mountain, which would cause tremendous interference on T-Mobile’s existing network; 3) an existing tower located at 53 Diane Lane in Vernon, that would not fill T-Mobile’s coverage needs and 4) an existing tower at Love Lane In Manchester, that was structurally incapable of supporting wireless equipment. As stated, none of these existing structures, even if available for co-location, would fill T-Mobile’s existing coverage needs.

T-Mobile has established that it is currently experiencing significant coverage gaps and capacity problems along Route 6, Middle Turnpike West and the surrounding area which result in inadequate coverage in this area. These communications issues can be alleviated with the construction of this Facility, which will provide benefits for both the residents and businesses in Manchester. A Facility at the proposed Site will alleviate that inadequacy.

The Town of Manchester has also expressed its interest in locating emergency equipment on the proposed Facility. Clearly, the provision of reliable emergency services is important for the community and residents of this area of Manchester and is filling a vital public need.

III. THE FACILITY WILL HAVE A MINIMAL ENVIRONMENTAL IMPACT

In addition to demonstrating the public need for the Facility, the Co-Applicants have identified “the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning, the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife...” as required by C.G.S. §16-50p(a).

While some of the residents have opined that the proposed Facility will have an adverse environmental impact, the record is replete with expert testimony that 1) the Facility will have no adverse environmental impact; 2) the Facility will have no effect on historic resources, as determined by the State Historic Preservation Office; and 3) the Facility will have minimal visual impact.

Indeed, the record in this matter convincingly demonstrates that the Facility will have a minimal environmental impact on the surrounding areas, and will not conflict with any environmental policies of the State of Connecticut. Several Court decisions have affirmed the issuance of Certificates for similar facilities and projects that involved comparable or greater environmental impacts than that proposed in the present Application. Westport v. Connecticut Siting Council, 47 Conn. Sup. 382 (2001), Aff'd, Westport v. Connecticut Siting Council, 260 Conn. 266, 796 A.2d 510 (2002); Nobs v. Connecticut Siting Council, 2000 Conn. Super. LEXIS 1156 (April 28, 2000).

The Co-Applicants conducted a complete and comprehensive environmental analysis of this proposal, which can be found in the Application at Exhibits: J (Visual Resource Evaluation), K (Preliminary NEPA Analysis) and the Co-Applicants' Exhibit 4 (NEPA Compliance documentation). The State and Federal Agencies contacted as part of this environmental analysis provided substantive responses and conclusions. The environmental analysis concludes that:

- i. No wetlands within 1000 feet of the Site; neither the access nor the compound area is located within any wetlands or designated upland area; no direct or indirect impact on wetlands or watercourses (See Pre-Filed Testimony of Rodney Bascom; Exhibit 4; 7:00 Tr. at 39-40);
- ii. No species of concern exist on the Site (See Exhibit 4);
- iii. The Site is not located in a designated wilderness or wildlife preserve area (See Exhibit 4);
- iv. No listed species or designate critical habitats occur on or near the Site. (See Exhibit 4);
- v. According to the State Historic Preservation Office, there will be no adverse impact on cultural resources, including historic areas (See Exhibit 4);
- vi. The Site is not located on lands belonging to any federally recognized Indian tribe in Connecticut (See Exhibit 4);
- vii. The Facility will be located outside of the 100 year flood zone; (See Exhibit 4); and
- viii. The tower will not be lit (See Exhibit N).

As far as the Facility's potential visibility, the Facility is proposed to be located on the Property in order to minimize impact to residential receptors. The topography in the vicinity of the Property will significantly limit the visual impact of the Facility. In

addition, much of the surrounding area is commercially or industrially zoned and therefore there will be minimal visual impact on residential areas.

Views of the Facility are expected to be limited to primarily within 0.25 miles of the Facility. The proposed Facility will be visible from only 34 acres within a two-mile radius of the proposed Facility, which is less than .5% of the study area. Of note, there will be no visibility from any scenic roads or areas, state parks or cultural or recreational receptors. The proposed Facility will be visible from approximately twelve (12) residences year-round and an additional eight (8) residences will experience limited seasonal views of the Facility.

As the foregoing demonstrates, any environmental impacts associated with the Facility will be extremely limited. Further, the Facility will eliminate the need for additional facilities in this area of Manchester, thereby reducing the cumulative environmental impact on the Town to the greatest extent possible.

IV. A CERTIFICATE SHOULD ISSUE FOR THE PROPOSED FACILITY TO AVOID THE UNNECESSARY PROLIFERATION OF TOWERS

The Connecticut legislature has declared that the sharing of towers to avoid the unnecessary proliferation of towers is in the public interest. C.G.S. §16-50aa. In addition, §16-50p(b) directs that, when issuing a certificate for a telecommunications tower, the Council “may impose such reasonable conditions as it deems necessary to promote immediate and future shared use of such facilities and avoid the unnecessary proliferation of such facilities in the state.” “The sharing of facilities is encouraged, if not required by General Statutes §16-50p(b)(1)(A).” Nobs v. Connecticut Siting Council, 2000 Conn. Super. LEXIS 1156 (April 28, 2000).

Certification of the proposed Facility will help to avoid the unnecessary proliferation of telecommunication facilities in this portion of the state. There are no other existing facilities or structures in this area from which the carriers could co-locate to provide such coverage. Because all major telecommunications carriers could utilize the Facility as well as local emergency services, as requested, approval by the Council will uphold the state mandate to avoid the unnecessary proliferation of towers.

V. CONCLUSION

It is clear from the evidence presented in the docket that approval of the Facility in this area of Manchester is necessary to provide adequate wireless coverage. The Co-Applicants have demonstrated that utilization of the Property provides the best location for a Facility in this area of Manchester. This Facility is the optimal solution for the lack of coverage in this area, with the least amount of environmental impact. As such, the Co-Applicants, Optasite and T-Mobile respectfully urge the Council to issue a Certificate for the proposed Facility.

**OPTASITE TOWERS LLC AND
OMNIPOINT COMMUNICATIONS, INC.**

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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