

**CONNECTICUT SITING COUNCIL**  
**DOCKET NO. 354**

IN THE MATTER OF:

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AN APPLICATION OF CELLCO PARTNERSHIP d/b/a/ VERIZON WIRELESS  
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND  
PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND  
OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY  
IN THE TOWN OF WATERTOWN, CONNECTICUT

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APPLICANT'S POST-HEARING BRIEF

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POST-HEARING BRIEF

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## **I. INTRODUCTION**

On November 20, 2007, Cellco Partnership d/b/a Verizon Wireless (“Cellco” or “Applicant”) filed with the Connecticut Siting Council (“Council”) an application (the “Application”) for a certificate of environmental compatibility and public need (“Certificate”), pursuant to Sections 16-50g *et seq.* of the Connecticut General Statutes (“Conn. Gen. Stat.”), for the construction, maintenance and operation of a wireless telecommunications facility at one of two proposed locations in the Town of Watertown, Connecticut. (Cellco Exhibit 1 (“Cellco 1”). The “Watertown West Facility” would fill a significant portion of an existing coverage gap along Route 6 and local roads in the westerly portion of the Town of Watertown (“Town” or “Watertown”). (Cellco 1, pp. 1-3 and 8). Cellco currently experiences a 2.2 mile coverage along Route 6 between its existing Woodbury North, Watertown South and Watertown Central facilities. (Cellco 1; Tab 8; Cellco Response (“Resp.”) 10; 2/26/08 Transcript (afternoon) (“Tr. 1”) pp. 36-37). These significant coverage problems must be resolved in order for Cellco to continue to provide high-quality, uninterrupted wireless telecommunications coverage within its service area consistent with its Federal Communications Commission (“FCC”) license and the demands of its customers. (Cellco 1, pp. 6-8).

Cellco has presented, for the Council’s consideration, two alternative sites, both of which would satisfy its coverage objective along Route 6 in the westerly portion of Watertown. The proposed towers would be capable of supporting antennas of additional carriers. (Cellco 1, pp. 2 and 11).

The Council commenced a public hearing on the Application on February 26, 2008 (2/26/08 Tr. 1, p. 2). Prior to the afternoon session of the hearing, the Council and its staff visited each of

the proposed cell sites. At the Council's request, Cellco caused a balloon, with a diameter of approximately 4 feet, to be flown during the February 26, 2008 site visit at each of the proposed cell site locations between 7:15 a.m. and 5:00 p.m. (Cellco 1, p. 14; Tr. 1, p. 15).

This Post-Hearing Brief is filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies ("R.C.S.A.") and the Council's directives. (2/26/08 Tr. (evening) ("Tr. 2") p. 12). This brief evaluates the Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes.

## **II. FACTUAL BACKGROUND**

### **A. Pre-Application History**

Cellco currently provides little or no reliable wireless service along Route 6 in the westerly portion of the Town between Route 63 and the Watertown/Woodbury town line. (Cellco 1, pp. 1-3 and 8; Tab 8). What little coverage it has in this area extends into Watertown from Cellco's existing Woodbury North facility, an existing Sprint tower at 1440 North Main Street in Woodbury; existing Watertown South facility, a water tank installation off Georgetown Drive in Watertown; and existing Watertown Central facility, a water tank installation off Buckingham Street in Watertown. None of these existing facilities can resolve the existing coverage problems that Cellco is experiencing along Route 6. (Cellco 1, pp. 10-12; Tab 8).

Shortly after the initiation of the site search process in Watertown, Cellco's real estate representatives were made aware of an option agreement between AT&T Wireless ("AT&T") and the Town for a tower site on Town property in the general vicinity of the proposed Site A and Site B locations. Development of this site was not pursued and the AT&T option agreement subsequently expired. In 2005, following the expiration of the AT&T Option Agreement, Cellco's real estate representatives approached the Town about the possibility of leasing property

to Cellco for a tower. The Town agreed to the use of Town property and entered into lease negotiations with Cellco shortly thereafter. (Cellco 1; Tab 10).

Cellco successfully negotiated a lease agreement for the use of the Site A location, east of Old Baird Road, and entered into a lease in April 2007. As stated in the Application, Site A is located on a 0.24 acre parcel surrounded by undeveloped residentially zoned land. Cellco determined that a 150-foot tower at this location would satisfy its coverage objectives in the area. (Cellco 1, pp. 2-3; Tab 1; Tab 10). Because of the small size of the Town parcel and the fact that it was surrounded to the north, east and south by privately-owned land, Cellco asked the Town if it would consider leasing additional property, west of Old Baird Road, for an alternative cell site. The Town agreed and discussions focused on a portion of the Town's 13.7 acre parcel and an area adjacent to the existing Animal Shelter and Solid Waste Transfer Station. This second site became Cellco's Site B alternative as described in the Application. Due to the ground elevation difference at this location, Cellco would need to construct a tower of 160 feet at Site B to satisfy its coverage objectives in the area. (Cellco 1, pp. 2-3; Tab 2; Tab 10).

B. Local Contacts

On May 24, 2007, Watertown's Town Manager Charles Frigon and Public Works Director Roy Cavanaugh received copies of technical information summarizing Cellco's plans for the telecommunications facility on the Town property. At this meeting, Cellco was asked to shift its Site B tower location to allow the Town to more easily access the rear portion of the Town's 13.7 acre parcel, the future site of the Town's Highway Department garage. Because the proposed Watertown West facilities are within 2,500 feet of the Woodbury town line, copies of the Technical Report were also delivered to Woodbury First Selectman Richard Crane. (Cellco 1, pp. 19-20; Tab 10).

C. Tower Sharing

Consistent with its practice, Cellco regularly explores opportunities to share its facilities with other wireless service providers, emergency service providers and municipalities. Cellco will design the approved Watertown West tower so that it could be shared by other carriers, known and unknown at the time of the Council's decision. The Town has also reserved the right to install its antennas on the approved tower in the future. (Cellco 1, p. 11; Tr. 1, p. 9).

D. The Watertown West Proposal

Cellco proposes to construct a tower at one of two locations, either of which would satisfy its coverage objectives in the westerly portion of the Town. (Cellco 1, pp. 2-3 and 8). The first alternative cell site would be located on a 0.24 acre parcel on the east side of Old Baird Road, in the Town's R-70 Residential zone district ("Site A"). This property is vacant and wooded. At Site A, Cellco would construct a 150-foot monopole telecommunications tower. Cellco would install a total of twelve (12) panel-type antennas with their centerline at the 150-foot level on the tower. The top of Cellco's antennas would extend to an overall height of 153 feet above ground level ("AGL"). Equipment associated with the antennas would be located in a 12' x 30' shelter located near the base of the tower. All site improvements associated with Site A would be located within the 10,409 square foot leased area. Access to Site A would extend directly from Old Baird Road, a distance of approximately 20 feet to the cell site. Both the tower and leased area have been designed to accommodate additional carriers and municipal antennas. (Cellco 1, pp. 2-3; Tab 1).

The second alternative location would be located on a 13.7 acre parcel, also in the Town's R-70 zone district ("Site B"). At Site B, Cellco would construct a 160-foot monopole telecommunications tower. Cellco would install a total of twelve (12) panel-type antennas with

their centerline at the 160-foot level on the tower. The top of Cellco's antennas would extend to an overall height of 163 feet AGL. Equipment associated with the Cellco antennas would be located in a 12' x 30' shelter located near the base of the tower. All site improvements associated with the proposed facility would be located within a 100' x 100' leased area. Access to Site B would extend from Old Baird Road along a portion of an existing paved driveway servicing the Town's Transfer Station and Animal Shelter, a distance of approximately 460 feet, then along a new gravel drive an additional distance of 235 feet. Both the tower and leased area are designed to accommodate additional carriers and municipal antennas. (Cellco 1, p. 3; Tab 2).

**III. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

Section 16-50p of the Public Utility Environmental Standards Act (the "Act"), Conn. Gen. Stat. §16-50g et seq., sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. 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; (2) 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 and wildlife; (3) why the adverse effects or conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. A Public Need Exists for the Watertown West Facility

The first step in the review of the pending Application addresses the public need for the proposed facility. As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. (Cellco 1, pp. 6-8). More recently, the Federal Telecommunications Act of 1996 (the “Telecommunications Act”) emphasized and expanded on these aspects of the FCC’s 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. The Council took administrative notice of the Telecommunications Act in this docket. (Cellco 1, pp. 6-8; Council Adm. Notice 7).



Cellco currently provides little or no wireless service along Route 6 or to the surrounding areas in westerly portions of the Town. What little coverage Cellco provides along Route 6 in western Watertown today extends from Cellco's existing Woodbury North, Watertown South and Watertown Central cell sites. (Cellco 1; Tab 8). The record evidence in this docket clearly demonstrates the need for wireless service and, therefore, a wireless facility in western Watertown.

The record in this docket also contains ample written evidence and testimony that Cellco antennas at the 150-foot level on the Site A tower or at the 160-foot level on the Site B tower would allow Cellco to achieve its coverage objectives along Route 6 in Watertown and maintain high quality wireless telecommunications service without interruption from dropped calls and interference. (Cellco 1, pp. 2-3, 8, and 10-11; Tab 8; Cellco 4, Resp. 10). Site A at 150 feet would provide reliable coverage to a 2.42 mile portion of Route 6 and an overall area of approximately 11.6 square miles. Site B at 160 feet would provide reliable coverage to a 2.45 mile portion of Route 6 and an overall area of 11.9 square miles. (Cellco 1, pp. 2-3; Cellco 4, Resp. 5). Either proposed site would provide adequate overlapping coverage along Route 6 with Cellco's Woodbury North facility. (Cellco 1; Tab 8). This evidence and testimony remains unrefuted and would clearly support a finding that there is a need for the proposed facility.

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed facility and particularly the following factors:

1. Natural Environment and Ecological Balance

The proposed development of either Site A or Site B has eliminated, to the extent possible, impacts to the natural environment. At Site A, Cellco intends to use the existing Old Baird Road for a substantial portion of its access way to the cell site. A new 12-foot wide gravel driveway

would extend from the edge of Old Baird Road to the cell site location, a short distance of approximately 20 feet. Construction of the cell site compound will be limited to the 3,382 square foot site compound. (Cellco 1, pp. 2-3; Tab 1).

At Site B, Cellco will utilize Old Baird Road, then an approximately 465-foot portion of the existing driveway servicing the Town's Transfer Station and Animal Shelter. A new gravel driveway extension an additional 235 feet will need to be constructed between the ground shelter and the site compound to the cell site. (Cellco 1, pp. 2-3; Tab 2).

## 2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed facility would be minimal or nonexistent.

First, the potential for the proposed Site A or Site B towers to fall does not pose an unreasonable risk to health and safety. The proposed towers would be designed and built to meet Electronic Industries Association ("EIA") standards adopted for the State of Connecticut as part of the State Building Code. (Cellco 1; Tab 1, p. 6; Tab 2, p. 6). At Site A the tower radius extends onto adjacent properties to the north, east and south and across Old Baird Road to the west. (Cellco 1; Tab 1; Tr. 1, pp. 19-20). The tower radius at Site B remains entirely within the Town parcel. (Cellco 1; Tab 2). Other than the proposed equipment shelters there are no structures within the fall radius of the Site A or B towers. (Cellco 1; Tabs 1 and 2).

Second, worst-case potential public exposure to radio-frequency ("RF") power density for Cellco operations at the nearest point of uncontrolled access (the base of each tower) would be 2.46% of the FCC standard for Site A and 2.16% of the FCC standard for Site B. Power density

levels at each site would drop off rapidly as distance from the tower increases. (Cellco 1, pp. 15-16; Tab 1, p. 8; Tab 2, p. 8).

### 3. Scenic Values

As noted in the Application, the primary impact of any tower facility is visual. (Cellco 1, pp. 13-14). Cellco's site search methodology, described in the Site Search Summary, is designed in large part to minimize the overall visual impact of such facilities. (Cellco 1; Tab 11). As discussed above, wherever feasible, Cellco attempts to avoid the construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near its search area. (Cellco 1; Tab 11). In its site search summary, Cellco identified one existing tower site in Woodbury and two water tanks in Watertown. Cellco already has antennas on each of these existing structures (Cellco's Woodbury North, Watertown South and Watertown Central cell sites). (Cellco 1, p. 10; Tabs 8 and 10).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the site would be reduced to the greatest extent possible. Both the Site A and Site B facilities are surrounded by vacant heavily-wooded parcels. The Site B facility will be located adjacent to the Town's Animal Shelter and Solid Waste Transfer Station. The closest residence is approximately 830 feet east of Site A at 480 Hamilton Avenue and approximately 1,100 feet southeast of Site B at 32 Old Baird Road. (Cellco 4, Resp. 21). The visual impact of either the Site A or Site B facilities is significantly reduced or eliminated completely by (1) changes in area topography; (2) screening provided by the substantial forested area surrounding each site; and (3) the location of the tower. (Cellco 1; Tab 11).

As the record indicates, the location of the proposed Site A or Site B towers has allowed Cellco to propose structures at the minimum height required to satisfy its capacity needs in the area while eliminating, to the extent possible, visual impact on the surrounding landscape.

4. Historical Values

As it does with all of its tower applications, prior to filing the Application with the Council, Cellco requested that the State Historic Preservation Office (“SHPO”) of the Connecticut Historical Commission (the “Commission”) review the proposed sites. (Cellco 1; Tab 12). Based on his review of the information submitted by Cellco, the Deputy State Historic Preservation Officer determined that the development of a telecommunications tower at either Site A or Site B would have “no effect” on historic, architectural or archaeological resources listed on or eligible for the National Register of Historic Places. (Cellco 1, p. 21; Tab 12). Cellco has no reason to believe that there are any other impacts on historical values not addressed by the Commission’s review that are sufficient to warrant a denial of this Application. There is no evidence in the Docket No. 354 record that would suggest otherwise.

5. Recreational Values

There are no recreational activities or facilities at either Site A or Site B that would be impacted by the proposed tower development. (Cellco 1; Tab 11). There is no contrary evidence in the record to support a claim that either the Site A or Site B tower locations would impact recreation resources in the area.

6. Forests and Parks

There are no State Forests located within a two-mile radius of the cell site locations. The proposed towers will, therefore, have no impact on any State Forest lands or any of the hiking trails located therein. (Cellco 1; Tab 11).

7. Air and Water Quality

a. Air Quality. The equipment associated with the proposed

Watertown West Facility would generate no air emissions under normal operating conditions. (Cellco 1; Tab 1, p. 7; Tab 2, p. 7). During power outage events and periodically for maintenance purposes, Cellco would utilize an on-site emergency backup generator to provide emergency power to the facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection (“DEP”) Bureau of Air Management prior to installation of the proposed generator. (Cellco 1; Tab 1, p. 7; Tab 2, p. 7).

b. Water Quality. The proposed Watertown West Facility would not

utilize water, nor would it discharge substances into any surface water, groundwater, or public or private sewage system. There are no lakes, ponds, rivers, streams, wetlands or other regulated water bodies located at either the Site A or Site B locations. Thus, the proposed facility would not impact local water quality. (Cellco 1; Tab 1, p. 7; Tab 2, p. 7).

Cellco proposes to install a propane-fueled back-up generator within its equipment building for use during power outages. (Cellco 1, pp. 2-4 and 16). The propane tank would be located within the facility compound. (Cellco 1, p. 16).

8. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco received comments on the proposed facility from the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Environmental and Geographic Information Center of the DEP. Both the USFWS and the DEP have confirmed that no known populations of Federal or State Endangered, Threatened or Special Concern Species occur at the site. (Cellco 1, pp. 14-15; Tab 12).

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the proposed facility, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts “are not sufficient reason to deny the Application.” Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from the proposed towers involves “scenic values.” As the record overwhelmingly demonstrates, both of the proposed towers would have minimal impacts on scenic values in the area. (Cellco 1, pp. 13-14; Tab 11). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of this facility. Unlike many other types of development, telecommunications facilities do not cause indirect environmental impacts, such as increased traffic and related pollution.

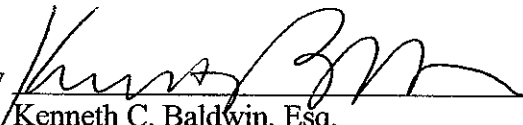
The limited aesthetic and environmental impacts of the proposed facility can be further mitigated by the sharing of the facility. The proposed facility is capable of supporting additional carriers and municipal antennas.

In sum, the potential environmental impacts from the proposed facility would be minimal when balanced against the significant benefits the facility would provide to the public. These impacts do not provide a sufficient basis to deny the Application. The proposed Watertown West Facility, therefore, satisfies the criteria for a Certificate pursuant to Connecticut General Statutes § 16-50p, and the Applicant’s request for a Certificate should be granted.

**IV. CONCLUSION**

Based on the unrefuted evidence contained in the record and the arguments presented above, Cellco has satisfied the criteria in Connecticut General Statutes Section 16-50p. Accordingly, the issuance of a Certificate to the Applicant is appropriate and fully consistent with the Act.

Respectfully submitted,  
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WIRELESS

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