

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**IN RE:**

**DOCKET NO. 359**

**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 58 MONTANO ROAD/  
618 NEIPSIC ROAD IN THE TOWN OF  
GLASTONBURY, CONNECTICUT**

**Date: JULY 21, 2008**

**POST-HEARING BRIEF OF CO-APPLICANT OPTASITE TOWERS LLC**

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”), co-applicant Optasite Towers LLC (“Optasite”) submits 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. Optasite also submits its Proposed Findings of Fact in conjunction with this Post-Hearing Brief.

**I. BACKGROUND**

Optasite and co-applicant Omnipoint Communications, Inc. d/b/a T-Mobile (“T-Mobile”) (collectively 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 March 17, 2008 for a Certificate of Environmental Compatibility and Public Need (“Certificate”).

Optasite proposes to construct a steel monopole telecommunications facility at one of two alternative locations in Glastonbury: 58 Montano Road ("Site A") or 618 Neipsic Road ("Site B"). At Site A, Optasite proposes to construct a 120-foot steel monopole and associated 2,500 square foot fenced compound area within its 2,500 square foot leased area (the "Site A Facility"). At Site B, Optasite proposes to construct a 130-foot steel monopole and associated 4,900 square foot fenced compound area within its 4,900 square foot leased area (the "Site B Facility"). At either Site, the 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 Town of Glastonbury's Volunteer Fire Department expressed an interest in co-locating on the Facility at either Site.

The purpose of this Facility is to provide wireless telecommunications services to Glastonbury, including along Route 2 and surrounding areas. T-Mobile currently experiences significant gaps in coverage and inadequate coverage in the area. A Facility at either Site will fill the existing coverage need.

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.

There are no other telecommunications facilities in this area of Glastonbury, and no utility structures or other suitably tall structures on which to locate a telecommunications facility. Specifically, Optasite investigated the use of CL&P distribution lines in this area of Glastonbury and determined that they were of insufficient height to provide coverage for T-Mobile's existing coverage gap along Route 2. In addition, T-Mobile testified that it cannot utilize any of the existing telecommunications facilities, including a facility located at 1616 New London Turnpike in Glastonbury, to fill its existing coverage gap along Route 2. Adequate and reliable telecommunication capabilities are beneficial to persons who are traveling through, working, or living in the area. These communication issues can be alleviated with the construction of this Facility at either Site, which will provide benefits for both the residents and businesses in Glastonbury.

T-Mobile has established that it is currently experiencing significant coverage gaps and capacity problems which result in inadequate coverage in this area. A Facility at either of the proposed Sites will alleviate that inadequacy.

### **III. THE FACILITY WILL HAVE A MINIMAL ENVIRONMENTAL IMPACT**

In addition to demonstrating the public need for the Facility, Optasite has 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). 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. In fact, the record is unrefuted with evidence establishing that there will be virtually no environmental impact from Site A and little environmental impact from Site B. 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).

Optasite conducted a complete and comprehensive environmental analysis of this proposal, which can be found at Exhibits: L (Wetlands Impact Analysis), M (Visual Resource Evaluation), P and Q (NEPA Compliance documentation for Site A and Site B respectively) and N (State Agency Correspondence). 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 located at or in the vicinity of Site A; neither the access nor the compound are located within any wetlands or designated upland area; no direct or indirect impact on wetlands or watercourses at Site A (See Exhibit L, P)
- ii. Construction of Site B would result in minimal wetlands impact, including 2,850 square feet of disturbance (See Exhibit L);
- iii. No species of concern on either Site (See Exhibit N);

- iv. Neither Site is not located in a designated wilderness or wildlife preserve area (See Exhibits P, Q);
- v. No listed species or designate critical habitats occur on or near either Site. (See Exhibits N, P, Q);
- vi. According to the State Historic Preservation Office, there will be no adverse impact on cultural resources, including historic areas from either Site (See Exhibit N);
- vii. Neither Site is located on lands belonging to any federally recognized Indian tribe in Connecticut (See Exhibits P, Q);
- viii. The Facility at either Site will be located outside of the 100 year flood zone; (See Exhibits P, Q); and
- ix. The tower at either Site will not be lit (See Exhibit 5).

As far as the Facility's potential visibility, the Facility at either Site is proposed to minimize any potential impact to the surrounding areas. The anticipated visibility of Site A and Site B are very similar. The mature vegetation and proximity to Route 2 at both Site A and Site B will significantly limit the visual impact of the Facility at either Site.

Views of the Facility are expected to be limited to primarily within 0.5 miles of the Facility from either Site. The proposed Facility will be visible from only 24 acres from Site A and 19 acres from Site B within a two-mile radius of the tower, which is less than one percent (1%) of the study area. Of note, there will be no visibility from any scenic roads or areas, state parks or cultural or recreational receptors including J. B. Williams Park. In addition, the proposed Facility will be visible from

approximately six (6) residences year-round from Site A and nine (9) residences from Site B. Further, an additional four (4) residences will experience limited seasonal views of the Facility at Site A and an additional six (6) residences will experience limited seasonal views of the Facility at Site B.

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

**IV. A CERTIFICATE SHOULD BE ISSUED 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 at either Site 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. Accordingly, the issuance of a Certificate will help avoid the construction of new telecommunications tower(s) in this area of

Connecticut. Because all major telecommunications carriers could utilize the Facility as well as local emergency services, including the Town of Glastonbury's Volunteer Fire Department, 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 Glastonbury is necessary to provide adequate wireless coverage. The co-Applicants have demonstrated that utilization of the Property at either Site provides the best location for a Facility in this area of Glastonbury. This Facility is the optimal solution for the lack of coverage in this area, with the least amount of environmental impact. As such, co-applicant Optasite respectfully urges the Council to issue a Certificate for the proposed Facility.

OPTASITE TOWERS LLC



---

Carrie L. Larson, Esq.  
Pullman & Comley, LLC  
90 State House Square  
Hartford, CT 06103-3702  
Tel. (860) 424-4300  
Fax (860) 424-4370



## CERTIFICATE OF SERVICE

I hereby certify that on this 21<sup>st</sup> day of July, 2008 a copy of the foregoing was delivered by regular mail, postage prepaid, to all parties and intervenors of record.

Julie D. Kohler  
Cohen and Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604

Richard J. Johnson, Town Manager  
Town of Glastonbury  
P.O. Box 6523  
Glastonbury, CT 06033

Eric Knapp  
Branse, Willis & Knapp, LLC  
148 Eastern Boulevard, Suite 301  
Glastonbury, CT 06033-6523

Sarosh Wahla  
Wahla & Associates, P.c.  
429 Capitol Avenue  
Hartford, CT 06106

  
Carrie L. Larson, Esq.

Hartford/72517.4/CLARSON/316142v1