

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

IN RE: :  
: :  
APPLICATION OF CELLCO PARTNERSHIP : DOCKET NO. 360  
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 ON : :  
PROPERTY OF THE FALLS VILLAGE : :  
VOLUNTEER FIRE DEPARTMENT, INC., : :  
188 ROUTE 7 SOUTH, FALLS VILLAGE, : :  
CONNECTICUT : JUNE 17, 2008

**OBJECTION TO MOTION FOR EXTENSION OF TIME  
AND/OR POSTPONEMENT OF HEARING**

Cellco Partnership d/b/a Verizon Wireless (“Cellco”) hereby objects to Dina Jaeger’s Motion for Extension of Time and/or Postponement of Hearing dated June 12, 2008 (“Motion”) in connection with the above-captioned proceeding. As discussed more fully below, Ms. Jaeger has failed to provide a valid basis for granting such a request. Accordingly, the Motion should be denied.

**BACKGROUND**

On March 28, 2008, Cellco filed an Application with the Connecticut Siting Council (“Council”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, maintenance and operation of a telecommunications facility located at 188 Route 7 South, Falls Village (Canaan), Connecticut (the “Application”). Before submitting the Application, Cellco provided Ms. Jaeger with notice of its intent to file the Application via certified mail, return receipt requested, on March 24, 2008. According to the certified mail receipt, Ms. Jaeger received this notice on March 25, 2008.

On May 22, 2008, the Council issued its schedule for Docket No. 360. On June 2, 2008, Ms. Jaeger submitted a Request for Intervenor Status in this proceeding (“Request”). The Council held a pre-hearing conference on June 5, 2008, at which Ms. Jaeger was present. At the pre-hearing conference, Ms. Jaeger submitted certain pre-filed information that she intends to present as exhibits at the July 1, 2008 hearing on the Application. On June 12, 2008, Ms. Jaeger, through her attorney, Robert H. Rout,<sup>1</sup> submitted the Motion, through which she requests: (1) additional time, up to and including June 30, 2008, to submit pre-filed testimony and exhibits; and (2) postponement of the hearing date until July 8, 2008. For the reasons set forth below, Ms. Jaeger’s motion should be denied.

### **ARGUMENT**

#### **I. Ms. Jaeger Has Not Set Forth A Valid Basis For Granting the Motion**

The basis for Ms. Jaeger’s motion is that, despite having received notice of Cellco’s intent to file the Application, attended the pre-hearing conference and submitted more than 280 pages of pre-filed exhibits, she requires additional time to submit pre-filed testimony and exhibits and to prepare for the July 1 hearing. Specifically, Ms. Jaeger argues that additional time is required because her attorney, Gabriel North Seymour, is currently out of the country and will not return until June 27, 2008. *See Motion*. This is not a valid basis upon which to delay this proceeding. Therefore, the Motion should be denied.

Regardless of Attorney Seymour’s present whereabouts, Ms. Jaeger was provided with more than adequate opportunity to prepare for the hearing in this matter. First, Ms. Jaeger received notice of the Application approximately two and a half months ago. As reflected in her Request for Intervenor Status, Ms. Jaeger lives near the site upon which Cellco proposes to construct its facility. In fact, Ms. Jaeger lives at 167 Beebe Hill Road in Falls Village, which

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<sup>1</sup> Attorney Gabriel North Seymour has also appeared in this proceeding on behalf of Ms. Jaeger.

abuts, across Route 7, the Falls Village Volunteer Fire Department property. *See* Request. Connecticut General Statutes § 16-50(b) requires that an applicant for a certificate provide personal notice of its intent to file an application to abutting landowners. Cellco provided Ms. Jaeger with notice of its intent to file the Application via certified mail, return receipt requested, on March 24, 2008. *See* Application at 5, Attachment 5. The certified mail receipt returned indicates that Ms. Jaeger received this notice on March 25, 2008.

Ms. Jaeger also received notice of the hearing date in this docket before Attorney Seymour left the country. The Council published notice of the hearing in *The Hartford Courant* and the *Register Citizen* pursuant to Connecticut General Statutes § 16-50m. *See* May 30, 2008 Memorandum from Cariann Mulcahy, Secretary, Connecticut Siting Council to Classified/Legal Supervisor, *The Hartford Courant* and the *Register Citizen*. This constitutes meaningful notice sufficient to satisfy Ms. Jaeger's procedural due process rights. *See Concerned Citizens of Sterling, Inc. v. Connecticut Siting Council*, 215 Conn. 474 (1990) (finding that notice by publication is sufficient to satisfy due process requirements and upholding denial of continuance). In addition, the hearing date was listed in the Docket No. 360 schedule issued by the Council on May 22, 2008. As such, Ms. Jaeger received adequate advance notice of the hearing.

Cellco should not be unfairly prejudiced by a delay in this proceeding due to Attorney Seymour's travel plans. According to the Motion, Attorney Seymour will be out of the country until four days before the scheduled hearing. However, Ms. Jaeger has been given notice of the hearing date at least three times before Attorney Seymour left the country: (1) when the Council issued the schedule on May 22, 2008; (2) when notice was published in the newspapers; or (3) at least since June 5, when Ms. Jaeger attended the pre-hearing conference, at which the Council outlined the schedule and explained the procedure to be employed during the proceeding. *See*

June 5, 2008 Memorandum from S. Derek Phelps, Executive Director of the Connecticut Siting Council to All Parties and Intervenors. Ms. Jaeger has likewise been advised of the date for submitting pre-filed testimony and exhibits. *See id.* In fact, Ms. Jaeger submitted pre-filed exhibits on June 5, 2008, nineteen days before the June 24, 2008 pre-filed deadline. Yet it was not until another *week later*, on June 12, 2008, that Ms. Jaeger finally submitted the Motion that will, if granted, unnecessarily delay this proceeding. Ms. Jaeger has been given more than adequate opportunity to prepare for the pre-filed deadline and the hearing.

To delay this proceeding would unfairly burden the Council and prejudice Cellco. Unlike other tribunals, the Council is not at liberty to re-schedule hearings at will. The Council is the sole forum in the state for these proceedings and as such, lacks the resources that would afford it the luxury of unfettered flexibility.

### CONCLUSION

For all of the foregoing reasons, Cellco respectfully requests that the Council deny Ms. Jaeger's motion.

Respectfully submitted,

CELLCO PARTNERSHIP d/b/a VERIZON  
WIRELESS

By 

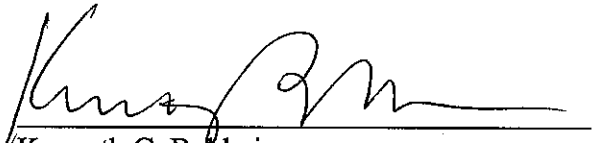
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Its Attorneys

**CERTIFICATION**

I hereby certify that on the 17<sup>th</sup> day of June 2008, a copy of the foregoing was sent via electronic mail and mailed, postage prepaid, to:

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Kenneth C. Baldwin