

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION BY PHOENIX PARTNERSHIP, LLC
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 50 DEVINE STREET,
NORTH HAVEN, CONNECTICUT

DOCKET 384

December 31, 2009

POST- HEARING BRIEF OF INTERVENOR POCKET WIRELESS

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies (“RCSA”), intervenor Youghiogheny Communications Northeast, LLC d/b/a Pocket Wireless (“Pocket”) submits this post-hearing brief in support of the above-captioned application.

I. BACKGROUND

Phoenix Partnership (“Phoenix”), in accordance with the provisions of Connecticut General Statutes (“CGS”) §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the RCSA, applied to the Connecticut Siting Council (“Council”) on August 20, 2009 for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction of a telecommunications facility at 50 Devine Street in North Haven (the “Site”).

Phoenix proposes to construct a 120 foot monopole with an associated 70 foot by 70 foot equipment compound (the “Facility”). Pocket evaluated the Phoenix proposal and determined that the proposed site would fill an existing coverage gap in Pocket’s network along I-91 and the surrounding area. Consequently, on or about September 15, 2009, Pocket requested intervenor status in support of Phoenix’s application. Pocket proposes to install three antennas at the 117 foot centerline and associated ground equipment within the proposed equipment compound area.

The Council held a public hearing on the Application on December 1, 2009.

II. A PUBLIC NEED EXISTS FOR THE PROPOSED FACILITY

Pursuant to CGS §16-50p, the Council must find that there is a significant public need for the facility. The Telecommunications Act of 1996 pre-empts state and local determination of need. The evidence in this record clearly demonstrates a significant public need for the proposed Facility and that this need is clearly outweighed by the minimal environmental impact anticipated.

A. POCKET'S NEED

CGS §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..." CGS §16-50p(a). There can be no dispute that Pocket has established a significant public need in this area of Avon.


Pocket evaluated the Phoenix proposal and determined that the proposed site could fill Pocket's existing coverage gap in this area of North Haven at a height of 117 feet. Pocket testified that at heights below 117 feet, coverage gaps begin to open up along Interstate 91. Pocket further testified that its existing coverage gap would not be filled by alternative sites including existing tower locations on Washington Avenue in North Haven and at 222 Sackett Point Road, also in North Haven.

III. CONCLUSION

It is clear from the evidence presented in the docket that approval of the Facility at the Site is necessary to provide adequate wireless coverage for Pocket. As such, Pocket respectfully urges the Council to approve Phoenix's Application for a Certificate for the proposed Facility.

YOUGHIOGHENY COMMUNICATIONS-
NORTHEAST, LLC

By


Carrie L. Larson

Bonnie L. Heiple

clarson@pullcom.com

bheiple@pullcom.com

Pullman & Comley, LLC

90 State House Square

Hartford, CT 06103-3702

Telephone: (860) 424-4312

Fax: (860) 424-4370

Certification

This is to certify that a copy of the foregoing has been mailed on this date to all parties and intervenors of record.

Julie Kohler
Monte Frank
Jesse Langer
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604



Bonnie L. Heiple

Hartford/72572.282/CLARSON/405833v2