

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY T-MOBILE
NORTHEAST, LLC, FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR A TELECOMMUNICATIONS FACILITY
AT 23 STONYBROOK ROAD IN THE TOWN
OF STRATFORD, CONNECTICUT

DOCKET NO. 385

Date: January 7, 2010

THE APPLICANT'S PROPOSED FINDINGS OF FACT

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, T-Mobile Northeast, LLC ("T-Mobile") submits these proposed findings of fact.

Introduction

1. On September 1, 2009, T-Mobile filed with the Connecticut Siting Council ("Council") an application for Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a 100 foot monopole wireless telecommunications facility ("Facility") at 23 Stonybrook Road, Stratford, Connecticut ("Property") pursuant to General Statutes § 16-50aa and § 16-50j-34 of the Regulations of Connecticut State Agencies. (*Hearing Exhibit 1, Application at p. 1.*)¹

2. The Facility would sit within a 2,000 square foot area leased by T-Mobile, located in the southwesterly portion of the Property, which is a 0.73 acre parcel owned by Stonybrook Management, LLC ("Site"). (*App. at p.1; App. Ex. B.*)

¹ For the Council's convenience, all subsequent page references to Hearing Exhibit 1, which is T-Mobile's application, shall be made as "App. at p. ___." All subsequent references to exhibits attached to the Application shall be made as "App. Ex. ___."

3. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on December 8, 2009, beginning at 3:00p.m., and continued to 7:00p.m., at the Birdseye Municipal Complex, 468 Birdseye Street, Stratford, Connecticut. (*Hearing Notice; 3:00p.m. Transcript [3:00p.m. Tr.] at p. 2.*)

4. The Council and its staff conducted a field review of the Site on December 8, 2009, at 2:00p.m. (*Hearing Notice.*)

5. T-Mobile conducted a balloon float, with a balloon four feet in diameter, at a height of 100 feet, at the Site from 12:00p.m. to 4:30p.m., on December 8, 2009, in accordance with the Council's instructions. (*Pre-Hearing Conference Results; Hearing Exhibit 6.*)

Need

6. In amending the Communications Act of 1934 with the Telecommunications Act of 1996, the United States Congress recognized the important public need for high quality telecommunications services throughout the United States. The purpose of the Telecommunications Act of 1996 was to “provide for a competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans.” H.R. Conf. Rep. No. 104-458, 206, 104th Cong., Sess. 1 (1996). The Telecommunications Act of 1996 expressly preserved State and/or local land use authority over wireless facilities, placed several requirements and legal limitations on the exercise of that authority, and preempted State or local regulatory oversight of radio frequency emissions as more fully set forth in 47 U.S.C. § 332(c)(7). In doing so, Congress sought a balance between the public interest in deployment of wireless

services and legitimate areas of State and/or local regulatory control over wireless infrastructure. (*App. at p. 4; 3:00p.m. Tr. at pp. 3-4.*)

7. The existing coverage in the area of the proposed Facility does not provide adequate service for T-Mobile customers, particularly for those customers who require in-building use. The existing weakness in coverage is particularly acute along Broadbridge Avenue, Henry Avenue, Franklin Avenue and Route 108 just north of Route 1. The Facility, in conjunction with other existing and future facilities in Stratford and surrounding towns, is necessary for T-Mobile to provide wireless services to people living and working in and traveling through this area of the State. The proposed Facility would also provide capacity relief for the current sites that presently cover this area from outer lying areas. (*App. at pp. 4-5; App. Ex. H; Pre-Filed Testimony of Scott Heffernan [“Heffernan”] at pp.3-4; 3:00p.m. Tr. at p.20.*)

Coverage

8. To alleviate the coverage issues in this area of Stratford, T-Mobile’s must mount antenna arrays at 87 and 97 feet above grade level (“AGL”). These positions would allow T-Mobile to minimize the number and height of future telecommunications facilities in this area. (*Heffernan at pp. 4-5; 3:00p.m. Tr. at pp. 18, 20; T-Mobile’s Responses to the Council’s Interrogatories [“Interrog. Resp.”].*)

9. T-Mobile would require two locations on the proposed monopole tower because the antenna arrays would be mounted inside the monopole tower to minimize the visual impacts of the Facility. (*Heffernan at p. 4; 3:00p.m. Tr. at p. 18; App. Ex. B.*)

10. The Facility would also provide coverage along Nichols Avenue in the Town of Stratford. (*3:00p.m. Tr. at p. 49.*)

Site Search

11. There were no existing towers, transmission line structures or other structures of a suitable height or location in this area of the Town of Stratford that would be suitable for co-location. (*App. at p. 7; App. Ex. J; Vergati Pre-Filed Testimony [“Vergati”] at pp. 2-4.*)

12. T-Mobile’s site search analysis included the area along Nichols Avenue in the Town of Stratford. (*3:00p.m. Tr. at p. 16.*)

13. The Town of Stratford has not expressed any interest in leasing municipal property to T-Mobile for purposes of installing a telecommunications facility. (*3:00p.m. Tr. at pp. 20-22, 32.*)

14. After determining that there were no existing structures suitable for co-location, T-Mobile searched for an appropriate location for a new telecommunications facility. (*App. at p. 7; App. Ex. J; Vergati at pp. 2-4.*)

15. T-Mobile conducted a site analysis of properties within the area to identify the best possible location to address T-Mobile’s coverage need in the area. (*App. Ex. J; 3:00 Tr. pp. 59-60; Vergati at pp. 2-3.*)

16. T-Mobile considered several other properties in the area to determine whether those properties would address T-Mobile’s coverage need while also minimizing any environmental impacts. None of those properties were suitable sites. (*App. Ex. J; 3:00 Tr. pp. 59-60; Vergati at pp. 2-4.*)

17. The Property is uniquely suited for development of a Facility in this area because it is zoned for commercial use, it is already developed for commercial purposes, access would be across an existing bituminous drive and parking lot, and T-

Mobile would not have to remove any trees to construct, operate and maintain the Facility. (*App. at pp. 7-9; App. Ex. J; Vergati at pp. 4-5; Pre-filed Testimony of Scott Chasse [“Chasse”] at pp. 2-3.*)

The Site

18. T-Mobile proposes to construct the Facility at the Site located in the southwestern portion of the Property, which is a 0.73 acre parcel of land commonly known as 23 Stonybrook Road, which is identified as Assessors Tax Map 30.11, Block 10, Lots 12, 13 and 16. (*App. at pp. 1, 8; App. Ex. B; Chasse at p. 2.*)

19. The Property is zoned for commercial uses (CC zone). The Facility would comport largely with the Stratford Zoning Regulations. (*App. at pp. 14-15; Stratford Zoning Regulations in the Bulk Filing with the Application [“Bulk Filing”].*)

20. The proposed Facility would accommodate T-Mobile and the equipment of one other telecommunications carrier, as well as the Town of Stratford emergency services equipment, if requested. (*App. at p. 8; App. Ex. B.*)

21. The Facility would accommodate the antennae and equipment of T-Mobile at an antenna centerline of 87 and 97 feet AGL and one other telecommunications carrier at an antenna centerline of 77 feet AGL. (*App. at p. 8; App. Ex. B.*)

22. The Facility would consist of a 1,300 square foot fenced compound area, which would sit within the 2,000 square foot area leased to T-Mobile. (*App. at pp. 1, 8; App. Ex. B; Chasse at pp. 2-3.*)

23. The fenced compound area would host T-Mobile’s equipment and the equipment of one other telecommunications carrier. The compound would be enclosed by a new eight foot security fence. (*App. at pp. 1, 8; App. Ex. B; Chasse at pp. 2-3.*)

24. Vehicular access would extend from Stonybrook Road over an existing bituminous drive and parking area. (*App. at pp. 1, 8; App. Ex. B; Chasse at p. 3.*)

25. Utility service would run from existing utility service currently located on Stonybrook Road. No water or sanitary facilities would be required and, once built, the Facility would generate minimal traffic because T-Mobile, or any other carrier, would only need to visit the Site approximately once a month to perform routine maintenance and inspection. (*App. at pp. 8-9, 13; App. Ex. B.*)

26. The estimated cost of the proposed Facility is approximately \$178,000. The cost of T-Mobile's equipment would range between \$50,000 and 70,000. The duration of the construction would be approximately thirteen weeks, with an additional two weeks for Facility integration and system testing. (*App. at pp. 18-19; 3:00p.m. Tr. at 74.*)

Municipal Consultation

27. On May 28, 2009, T-Mobile submitted a technical report to the Town of Stratford (the "Town") regarding the Facility pursuant to General Statutes § 16-50I (e). The technical report, a copy of which is included in the bulk filing accompanying the Application, included specifics about the Property, the Facility, the site selection process and the environmental effects of the Facility. (*App. at p. 17; App. Ex. Q; Bulk Filing; Vergati at p. 5; 3:00p.m. Tr. at pp. 20-22.*)

28. The Town did not respond to T-Mobile's requests for a consultation regarding the Facility. T-Mobile attempted to communicate with the Town on multiple occasions, including email correspondence and approximately twelve phone calls. On or about July 28, 2009, a representative of T-Mobile met briefly with several Town

officials, including Gary Lorentson (the Planning & Zoning Administrator) and Brian Carey (the Conservation Administrator), regarding a different project and reminded them of the municipal consultation period associated with the proposed Facility. (*Vergati at p. 5; 3:00p.m. Tr. at pp. 20-22.*)

29. On December 28, 2009, T-Mobile sent a letter to the Town of Stratford's new administration. The letter described the Facility and requested the Town to comment on the proposal and indicate whether it has an interest to locate the Town's emergency equipment on the Facility. The Town has not responded to the letter. (*December 28, 2009 Letter.*)

Environmental Considerations

30. The Property is not designated as a wilderness area and it is not located in any areas identified as a wildlife preserve or in a U.S. Fish and Wildlife Service National Wildlife Refuge. (*App. at pp. 13-14; App. Ex. P.*)

31. The Facility would not affect threatened or endangered species or designated critical habitats. The endangered species located in Stratford, Connecticut, include the Piping Plover and the Roseate Tern. The former resides along coastal beaches and the latter resides along coastal beaches, islands and the Atlantic Ocean. Because the proposed Facility would be located in a developed and disturbed area and away from the animals' natural habitat, the Facility would not impact the Piping Plover or the Roseate Tern. (*App. at pp. 13-14; App. Ex. P.*)

32. The proposed Facility would not affect any National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Game lands. (*App. at pp. 13-14; App. Ex. P.*)

33. The proposed Facility would not impact any recognized districts, sites, buildings, structures or objects of significance in American history, architecture, archeology, engineering or culture as listed on the National Register of Historic Places. In a letter dated June 10, 2009, the State Historic Preservation Officer concluded that the Facility would have no such impact. (*App. at pp. 13-14, 17; App. Ex. N, P.*)

34. The proposed Facility would not affect any Native American religious sites. Representatives of T-Mobile consulted with three Native American tribes – the Delaware Nation, the Mashantucket Pequot Tribe and the Narragansett Indian Tribe – because the Tribes might have had interests impacted by the construction, operation and maintenance of the Facility. The Mashantucket Pequot Tribe responded that the proposed Facility would not impact any of its interests. The Delaware Nation responded that it had no interest exploring further the impact of the Facility. The Narragansett Indian Tribe did not respond to any of the correspondence regarding the Facility. (*App. at pp. 13-14; App. Ex. P.*)

35. The nearest wetland system is Bruce Brook, which flows north to south along the southern boundary line of the Property. (*App. at p. 16; App. Ex. K; Pre-Filed Testimony of Dean E. Gustafson [“Gustafson”] at pp. 2-4.*)

36. Although development activities would occur within fifty feet of a wetland system, no direct impact would occur. The proposed development activities would occur within an existing developed area which is currently paved. T-Mobile would not have to remove any mature upland vegetation bordering the wetland system. T-Mobile would install and maintain a silt fence during construction of the Facility to avoid any temporary impact to the wetlands and permanently stabilize any exposed soils near the

proposed Facility with loam and seeding with a New England Conservation / Wildlife seed mix. (*App. at p. 16; App. Ex. K; Gustafson at pp. 2-4; 3:00p.m. Tr. at pp. 99, 101.*)

37. The Facility would not impact any coastal resources. There are no coastal resources located on or near the Property. The nearest coastal resource is the Yellow Mill Channel located 1.5 miles to the southwest. (*App. at p. 14; App. Ex. N.*)

38. Although the Facility would be located within a 100 year flood plain, the Facility would not adversely impact the flood storage capacity of the flood plain. The existing ground elevation is approximately three feet above the flood elevation. (*7:00p.m. Hearing Transcript [7:00p.m. Tr.] at p. 25.*)

39. According to an aeronautical study conducted by a representative of T-Mobile, in accordance with the regulations promulgated by the Federal Aviation Administration, the proposed Facility would not require marking or lighting. (*App. at pp. 17-18; App. Ex. R.*)

40. The Facility's maximum emissions levels would be approximately 14.345 percent of the safety criteria adopted by the Federal Communications Commission. (*App. at pp. 12-13, App. Ex. O; Updated Power Density Calculations.*)

Visibility

41. Existing topography and mature vegetation would reduce some of the potential visual impacts of the proposed Facility on the surrounding areas. The proposed stealth design, which includes the installation of the antennae inside the monopole structure, would limit the visual impact of the Facility. (*App at pp. 1, 10; App. Ex. B; Michael Libertine Pre-filed Testimony ["Libertine"] at pp. 5-6.*)

42. The areas from which the Facility would be at least partially visible year round comprise approximately ten acres, or less than one half of one percent (>.05 percent) of the Study Area. (*App at pp. 10-11; App. Ex. B, M; Libertine at p. 5.*)

43. The view of the Facility from these areas, which are generally within 0.25 miles of the Facility, would be limited to the upper half of the tower. These views would not include residences along Swanson Road. (*App at pp. 10-11; App. Ex. B, M; Libertine at p. 5; 7:00p.m. Tr. at p. 40.*)

44. Areas of seasonal visibility would comprise approximately thirty-seven additional acres, which overlaps the areas where year-round visibility is anticipated. (*App at pp. 10-11; App. Ex. B, M; Libertine at p. 5.*)

45. The compound area would have a *de minimis* visual impact as it would be screened by stockade fencing, which would also shelter the dumpsters already stored on the Property. (*7:00p.m. Tr. at p. 39.*)

Tower Sharing

46. The Facility would provide co-location opportunities for public safety communications systems and one telecommunications carrier, which would limit the proliferation of telecommunications facilities. (*App at p. 8; App. Ex. B.*)

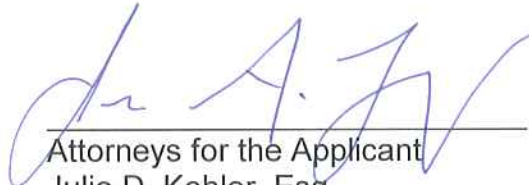
47. Clearwire Communications has indicated an interest in the Facility. (*App. at p. 6; 3:00p.m. Tr. at pp. 24-25; 7:00p.m. Tr. at pp. 27-28.*)

48. T-Mobile has offered the Town of Stratford space to locate its emergency services on the proposed monopole tower at no charge, but has not yet received a reply from the Town. (*App. at p. 8; Vergati at p. 5; 3:00p.m. Tr. at pp. 20-22; Hearing Exhibit 5; Interrog. Resp.*)

Dated at Bridgeport, Connecticut this 7th day of January, 2010.

**THE APPLICANT,
T-MOBILE NORTHEAST, LLC**

By:

A handwritten signature in blue ink, appearing to be 'J. A. Langer', is written over a horizontal line.

Attorneys for the Applicant

Julie D. Kohler, Esq.

jkohler@cohenandwolf.com

Jesse A. Langer, Esq.

jlanger@cohenandwolf.com

Cohen and Wolf, P.C.

1115 Broad Street

Bridgeport, CT 06604

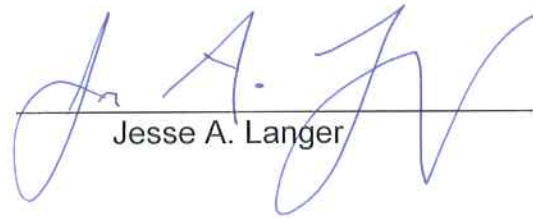
Tel. (203) 368-0211

Fax (203) 394-9901

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.

N/A


Jesse A. Langer