

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY OMNIPOINT
COMMUNICATIONS, INC. 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. _____

Date: September 1, 2009

**APPLICATION FOR CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

Pursuant to General Statutes § 16-50g *et seq.* and § 16-50j-1 *et seq.* of the Regulations of Connecticut State Agencies, Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc. d.b.a. T-Mobile ("T-Mobile"), submits this application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility (the "Facility") at 23 Stonybrook Road in the Town of Stratford (the "Application").

I. EXECUTIVE SUMMARY

T-Mobile seeks to construct, maintain and operate a telecommunications facility on property known as 23 Stonybrook Road in Stratford (the "Property"). The Facility will consist of a 100-foot unipole structure with antennas mounted inside the tower with related equipment on the ground nearby. The Facility will sit within a 2,000 square foot area leased by T-Mobile, located in the southwesterly portion of the Property, which is a .73 acre parcel. An eight-foot chain link fence will secure and conceal the equipment at

the Facility. Vehicle access to the Facility will extend from Stonybrook Road along an existing paved driveway and parking lot.

Included in this Application and the exhibits attached hereto are survey-based plans for, and a topography map of, the proposed Facility, Exhibits B and C, and other information found detailing the proposed Facility. The reports and supporting documentation included in this Application contain the relevant site specific information required by statute and the Connecticut Siting Council's (the "Council") regulations. Included herein as Exhibit D is a copy of the Council's Community Antenna Television and Telecommunication Facilities Application Guide with references to this Application.

II. BACKGROUND INFORMATION

A. The Applicant

T-Mobile is a Delaware corporation with a Connecticut office at 35 Griffin Road South, Bloomfield, Connecticut, 06002. The company and its affiliated entities are licensed by the Federal Communications Commission ("FCC") to construct and operate a personal wireless services system in Connecticut, which has been interpreted as a "cellular system" within the meaning of General Statutes § 16-50i (a) (6). T-Mobile does not conduct any other business in the State of Connecticut other than the provision of cellular services under FCC rules and regulations. T-Mobile is committed to use the proposed Facility as the anchor tenant.

Correspondence and/or communications regarding this Application should be addressed to the attorneys for the Applicant:

Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604
(203) 368-0211
Attention: Julie D. Kohler, Esq.
Monte E. Frank, Esq.
Jesse A. Langer, Esq.

B. Application Fee

The estimated total construction cost for the Facility is \$178,000.00. In accordance with § 16-50v-1a(b) of the Regulations of Connecticut State Agencies, a check made payable to the Council in the amount of \$1,000.00 accompanies this Application.

C. Compliance with General Statute § 16-50/ (c)

T-Mobile is not engaged in generating electric power in the State of Connecticut and, therefore, the proposed Facility is not subject to General Statute § 16-50r. The proposed Facility has not been identified in any annual forecast reports and, therefore, is not subject to General Statute § 16-50/ (c).

III. SERVICE AND NOTICE REQUIRED BY GENERAL STATUTE § 16-50/ (b)

Pursuant to General Statutes § 16-50/ (b), T-Mobile sent copies of this Application to municipal, regional, State, and Federal officials. A certificate of service, along with a list of the parties served with a copy of the Application is attached hereto as Exhibit E. Pursuant to § 16-50/ (b), T-Mobile published its intent to submit this Application on two occasions in the *Connecticut Post*. A copy of the legal notice and

the publisher's certificate of publication are attached hereto as Exhibit F. In compliance with § 16-50/ (b), notices were sent to each person appearing of record as owner of a property which abuts the Facility. Certification of such notice, a sample notice letter, and the list of property owners to whom the notice was mailed are included in Exhibit G.

IV. STATEMENT OF NEED AND BENEFIT

A. Statement of Need

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.

The Facility is an integral component of T-Mobile's wireless network in Stratford. The 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. Additionally, the proposed Facility will provide capacity relief for the current sites that presently cover this area from outer lying areas.

The propagation plots, attached hereto as Exhibit H, depict T-Mobile's need for the Facility. Based upon the location of the Facility and the current weakness in coverage in this area, T-Mobile cannot readily predict a point in time at which the Facility might reach maximum capacity.

B. Statement of Benefits

T-Mobile is a leading provider of advanced wireless voice and data services throughout the United States. T-Mobile has provided such services in Connecticut since the mid-1990s and remains actively involved in the deployment of state-of-the-art wireless services. In recent years, the public's demand for traditional cellular telephone services has evolved to include expectations of seamless service, wherever the public travels, and readily available access to the internet as well as the ability to send and receive voice, text, image and video through their wireless devices continuously. The ever increasing availability and enhanced sophistication of wireless services has led the public to use their wireless devices as their primary form of communication for both personal and business needs.

To help provide the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999 (the "911 Act").

The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. In enacting the 911 Act, Congress recognized that networks capable of rapid, efficient deployment of emergency services would enable faster delivery of emergency care, resulting in reduced fatalities and severity of injuries. With each year since passage of the 911 Act, additional anecdotal evidence supports the public safety value of improved wireless communications in aiding lost, ill or injured individuals such as motorists, hikers and boaters.

As an outgrowth of the 911 Act, the FCC mandated that wireless carriers provide enhanced 911 services ("E911") as part of their communications networks. These services ultimately allow 911 public safety dispatchers to identify a wireless caller's geographical location within several hundred feet. T-Mobile has deployed and continues to deploy TDOA (Time Difference of Arrival) network technology to comply with the FCC E911 requirements. The Facility will become an integral component of T-Mobile's E911 network in this area of the State. As another wireless carrier expands its service in Stratford through the Facility, E911 services will experience additional improvement, through that carrier. Clearwire has expressed interest in the Facility.

C. Technological Alternatives

The FCC licenses granted to T-Mobile authorize it to provide cellular and Personal Communication Services ("PCS services") in this area of the State through deployment of a network of wireless transmitting sites. The Facility is a necessary component of T-Mobile's wireless network. The Facility will also allow other wireless carriers, such as Clearwire, to provide services in this area.

Repeaters, microcell transmitters, distributed antenna systems and other types of transmitting technologies are not a practicable or feasible means to providing service in this area. Terrain variations, topography and tree cover in Stratford and the surrounding area, as well as other practical factors limit the use of such technologies and preclude their implementation as alternatives to the proposed Facility. There are no equally effective technological alternatives to construction of a new tower facility for providing reliable personal wireless services in this area of Connecticut.

V. SITE SELECTION AND TOWER SHARING

A. Site Selection

T-Mobile selects a site in an area where there is an existing need or problem regarding coverage or capacity within T-Mobile's network. The site selected is the geographical location where the installation of a telecommunications facility would likely address the identified coverage or capacity issue. T-Mobile conducts a site search with the goal of finding a site that will resolve the coverage or capacity issue and minimize any potential environmental impact.

T-Mobile conducted a site search in this area of Stratford and has identified the Property as the best possible location to resolve the existing coverage concerns. T-Mobile already uses the nearest telecommunication towers. There are no other facilities or structures which T-Mobile could utilize to strengthen the existing coverage to provide adequate service to its customers, particularly those who require in-building use.

The Site Selection narrative and map of rejected sites and facilities within a four mile radius, Exhibits I and J, provides a complete explanation of T-Mobile's

methodology for conducting site searches, the actual search for potential sites in Stratford, and depicts the locations reviewed during T-Mobile's search and the reasons for elimination from consideration of all but the Property. Due to the nature of development and terrain in the area, the Property is uniquely suited for a telecommunications tower.

B. Tower Sharing

To promote the sharing of wireless facilities in the Town of Stratford, T-Mobile proposes to construct a facility that can accommodate T-Mobile and one other antenna platform and related equipment for the wireless carriers in the Connecticut marketplace. Clearwire has expressed interest in the Facility. Municipal public safety antennas also could be accommodated at no cost to the Town. Details of the design are included in Exhibit B. Materials provided by T-Mobile to the Town of Stratford articulated T-Mobile's willingness to provide, free of charge, space on the proposed monopole for municipal public safety communications antennas.

VI. FACILITY DESIGN

T-Mobile will lease a 2,000 square foot area within the Property, which is an approximately .73 acre parcel. The Facility will consist of a 100-foot unipole structure. T-Mobile will install up to three antennas (one per sector) at 97' rad center and 87' rad center and place its equipment cabinets nearby. The compound will be enclosed by an eight-foot chain link fence. The unipole tower and equipment compound are designed to accommodate an additional wireless carrier active in the Connecticut marketplace.

Clearwire has expressed interest in this Facility. T-Mobile will make space available, free of charge, for municipal public safety communications.

Vehicular access to the Facility would extend from Stonybrook Road over an existing paved driveway and parking lot. T-Mobile will extend utility service underground from an existing transformer on the Property. Exhibit B contains plans, descriptions and other relevant information for the Facility. Exhibit K is an inland wetlands delineation report and statement of compliance. Exhibit L is a listing of residential buildings within 1,000 feet of the Facility. In summary, those exhibits reveal the following:

- The Property is zoned for heavy commercial (CC);
- The nearest wetlands are approximately fifty feet from the Facility; however, the construction, maintenance and operation of the Facility will not have an adverse impact on this wetland system
- The Property is currently used for commercial purposes (retail);
- Minimal grading will be required for the construction of the Facility;
- The Facility will not require the removal or relocation of any trees; and
- The Facility will have no impact on water flow, water quality, or air quality and will comply with relevant noise regulations.

VII. ENVIRONMENTAL COMPATIBILITY

Pursuant to General Statutes § 16-50p, the Council is required to determine as part of the Application process any probable environmental impact of the Facility on the natural environment, ecological balance, public health and safety, scenic, historic and

recreational values, forest and parks, air and water purity and fish and wildlife. As demonstrated in this Application and the accompanying attachments and documentation, the Facility will not have a significant adverse environmental impact.

A. Visual Assessment

The visual impact of the Facility will vary from different locations around the Facility depending upon factors such as vegetation, topography, distance from the Facility, and the location of structures around the Facility. Exhibit M contains a computer-based, predictive viewshed model, which has proven to depict accurately the potential impact of the Facility from surrounding views as well as a Visual Resource Evaluation.

T-Mobile retained visibility experts, Vanasse Hangen Brustlin (“VHB”), to prepare the Visual Resource Evaluation. As part of its study, on August 15, 2009, VHB conducted a balloon float test at 100-feet AGL at the proposed site to evaluate the potential viewshed impacts, if any, associated with the Facility. With this balloon float, VHB sought to determine the visibility impact of the Facility, accounting for local, state and federal historic and recreational sites within a two-mile radius of the proposed Site (the “Study Area”).

The proposed unipole design will limit the visual impact of the Facility. As opposed to more traditional telecommunication towers, the unipole design locates associated antenna panels and cables in the interior of the tower.

The topography and vegetation contained at the Property and within the Study Area also serve to minimize the potential visual impact of the Facility. The existing vegetation in the area of the Property is mixed deciduous hardwood species with an

average estimated height of sixty feet. This vegetation sits on gently rolling hills that range in ground elevation from approximately sea level to approximately 210 feet ASML. The tree canopy covers nearly 2,567 acres of the 8,042 acre Study Area. Approximately 299 acres of the Study Area consists of surface water, as the Housatonic River is located in the southeast portion of the Study Area.

The Visual Resources Evaluation demonstrates that the Facility will be as inconspicuous as possible. Based on the viewshed analysis contained in Exhibit M, areas from which the Facility will be at least partially visible year round comprise only ten acres, or less than one half of one percent (>.05 percent) of the Study Area. The view of the Facility from this area, which is generally within 0.25 miles of the Facility, would be limited to the upper half of the monopole tower. Approximately fifty-one residential properties will have this limited view of the Facility, including six residences along Stonybrook Road (which is adjacent to the Facility), eight residences along Broadbridge Avenue, two residences along North Avenue near the intersection of Broadbridge Avenue; two residences located along London Terrace just east of Broadbridge Avenue; eight residences along Marcroft Street located between the western terminus of the roadway and Chevy Street; four residences located along Viele Street; nine residences along Barnum Terrace; four residences located along Klondike Street; six residences located along Yukon Street; and two residences located along Eaton Street just north of Stonybrook Road.

Areas of seasonal visibility comprise of approximately thirty-seven additional acres, which overlaps the areas where year-round visibility is anticipated. These areas

include select portions of the roadways identified above. During leaf-off conditions, additional portions of the tower may be visible.

The Facility will have a *de minimis* visual impact as it is proposed for only 100 feet, and will be screened by the proposed fencing and existing vegetation. These Visual Resources demonstrate that the Facility will not be obtrusive, even from most of the areas where the Facility will be partially visible. Accordingly, the proposed Facility will not result in an unacceptable adverse visual impact. Weather permitting, T-Mobile will raise a balloon with a diameter of at least three (3) feet at the Facility on the day of the Council's first hearing session on this Application, or at a time otherwise specified by the Council.

B. Solicitation of State Agency Comments

T-Mobile submitted a request for review and comment for the Facility to the Connecticut State Historic Preservation Officer ("SHPO") and obtained the necessary maps from the database of the Connecticut Department of Environmental Protection ("DEP"). SHPO has determined that, given the nature of the terrain and soil on the Property, no impact is anticipated. The DEP map reveals that the Facility will be near a wetlands system. Yet, as explained in Part VIII.D., *infra*, the Facility will not have an adverse impact on that wetland system. A copy of the SHPO correspondence and the DEP map regarding the Facility is attached hereto as Exhibit N.

C. MPE Limits/Power Density Analysis

In August 1996, the FCC adopted a standard for exposure to Radio Frequency ("RF") emissions from telecommunications facilities like the Facility proposed in this Application. To ensure compliance with applicable standards, T-Mobile performed

maximum power density calculations for the Facility assuming that the antennas were pointed at the base of the tower and all channels were operating simultaneously. The resulting power density for T-Mobile's operations would be approximately 12.336% of the applicable MPE standards. A copy of the power density calculations and report for the Facility is attached hereto as Exhibit O.

D. Other Environmental Factors

The Facility will be unmanned, requiring infrequent monthly maintenance visits by each carrier that will last approximately one hour. T-Mobile's equipment at the Facility will be monitored 24 hours a day, 7 days a week from a remote location. The Facility will not require a water supply or wastewater utilities. No outdoor storage or solid waste receptacles will be needed, and the Facility will not create or emit any smoke, gas, dust or other air contaminants, noise, odors or vibrations. The construction and operation of the proposed Facility will have no significant impact on air, water, or noise quality.

T-Mobile retained EBI Consulting ("EBI") to evaluate the Facility in accordance with the FCC's regulations implementing the National Environmental Policy Act of 1969 (the "NEPA"). A copy of the NEPA Report is attached hereto as Exhibit P. The Facility 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. The Facility will not affect threatened or endangered species or designated critical habitats. No National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Gamelands are located in the vicinity of the Facility. The Facility will also not affect any sites, buildings, structures or objects significant to American history, architecture, culture, archeology or engineering.

Further, according to the site survey and field investigations, the Facility will not impact any federal or state regulated wetlands or watercourses.

The Facility, however, is located within a 100-year floodplain. EBI has recommended that T-Mobile obtain an environmental assessment at the time it applies for a building permit. T-Mobile will do so and apprise the Council of the assessment and provide copies and any additional information as requested by the Council.

Finally, VHB analyzed whether the Facility meets the requirements of the Connecticut Coastal Management Act, General Statutes § 22a-90 *et seq.* (the "CMA"). A copy of VHB's report is attached as Exhibit N. Although located within the "coastal area" (the entire Town of Stratford is located within the "coastal area"), the Property is located outside the "coastal boundary," and there are no "coastal resources" located on the Property. The nearest "coastal resource" is the Yellow Mill Channel, which is approximately 1.5 miles to the southwest of the Property. Accordingly, the Facility will not impact any "coastal resources" and will comply with the requirements of the CMA.

VIII. CONSISTENCY WITH THE STRATFORD LAND USE REGULATIONS

The Facility will be largely consistent with Stratford's Zoning and Wetland Regulations and Plan of Conservation and Development. A description of the zoning classification of the Facility and the planned and existing uses of the Property are also detailed in this section.

A. Stratford Plan of Development

The Stratford Plan of Conservation and Development (the "Plan"), a copy of which is included in the bulk filing, was adopted on December 10, 2003. The Plan does not

address telecommunications. Nevertheless, the construction, maintenance and operation of telecommunication facilities such as the Facility will provide the Town's residents with much improved wireless communication services. The Facility will also strengthen the Town's ability to provide its residents with emergency services.

B. Stratford Zoning Regulations

Section 3.28 of the Stratford Regulations addresses telecommunications facilities and sites. The regulations recognize that telecommunications facilities accommodate the communications needs of the Town's residents and businesses. See Bulk Filing, Stratford Zoning Regs., c 3, § 3.28.1.

The Facility comports with the majority of the standards for towers under § 3.28. It does not impact the scenic, historic, environmental or natural resources of the community. *Id.*, c 3, § 3.28.1(B). The Facility is located in a commercial district and, accordingly, does not impair the character, appearance or property values within the Town. *Id.*, c 3, § 3.28.1(A). The Facility also meets the regulation's purpose to limit the number of facilities because it will be engineered to accommodate another carrier. The Facility satisfies many of the other requirements contained in the zoning regulations for telecommunications facilities:

- The unipole will not be illuminated;
- The Facility will not contain any signage;
- The utilities (except for telephone) will be underground;
- The Facility will comply with FCC standards for emissions;
- The Facility will not be located in an historic district; and
- The tower is 100 feet in height and of a unipole design.

Accordingly, the Facility is largely consistent with the Town's zoning regulations.

C. Planned and Existing Land Uses

The Property is currently used for commercial retail. T-Mobile is not aware of any future development plans regarding the Property.

D. Stratford Inland Wetlands and Watercourses Regulations

The Stratford Inland Wetlands and Watercourses Regulations ("Local Wetlands Regulations") regulate certain activities conducted in or adjacent to "wetlands" as defined therein. One such regulated activity is any "removal or deposition of material, or any obstruction, construction, alteration or pollution" of such wetland and in areas adjacent to a wetland or watercourse. See Bulk Filing, Inland Wetlands and Watercourses Regulations, § 2.26. The Local Wetlands Regulations do define a specific buffer area as a radius of 100 feet from each point on the boundary of a wetland or watercourse. See *id.*

According to the site survey and field investigations conducted at the Property, there is a wetland system located within 100 feet of the Facility. T-Mobile hired VHB to ascertain whether the proposed Facility would have a detrimental impact on that wetland system. VHB concluded that the Facility would have no such impact. In accordance with the Connecticut Soil Erosion Control Guidelines, as established by the Council of Soil and Water Conservation, soil erosion control measures and other best management practices will be established and maintained throughout the construction of the Facility.

IX. CONSULTATIONS WITH LOCAL, STATE AND FEDERAL OFFICIALS

A. Local Consultations

General Statutes § 16-50/ (e) requires an applicant to consult with the local municipality in which a proposed facility may be located and with any adjoining municipality having a boundary of 2,500 feet from the proposed facility concerning the proposed and alternate sites of the facility. On May 28, 2009, T-Mobile submitted a technical report to the First Selectman regarding the Facility. The technical report, a copy of which is being bulk filed with this Application, included specifics about the Property, the Facility, the site selection process and the environmental effects of the proposed Facility. A copy of the cover letter to the Town regarding the technical report is attached as Exhibit Q. The Town did not respond to T-Mobile's requests for a consultation regarding the Facility.

B. Consultations with State Officials

As noted in Section VII.B, *supra*, T-Mobile undertook a consultation with the SHPO and obtained a DEP map from the DEP's database in the course of its NEPA survey. Copies of the correspondence with SHPO and the DEP map are attached hereto as Exhibit N.

C. Consultation with Federal Agencies

T-Mobile received a report from SiteSafe concerning compliance with the Federal Aviation Administration ("FAA") for the Facility, which is attached hereto as Exhibit R. The results indicate that the Facility will not require FAA registration, let alone FAA review as a potential air navigation obstruction or hazard. Therefore, no FAA lighting or

marking will be required for the towers proposed in this Application. T-Mobile will forward copies of the final FAA approval when received.

T-Mobile's FCC license permits it to modify its network by building wireless facilities within its licensed area without prior approval from the FCC provided that a proposed facility does not fall within one of the "listed" categories requiring review under NEPA. The "listed" categories, included in 47 C.F.R § 1.1307, are activities that may affect wilderness areas, wilderness preserves, endangered or threatened species, critical habitats, National Register historic districts, sites, buildings, structures or objects, Indian religious sites, flood plains and federal wetlands. The resulting report, attached hereto as Exhibit P, confirm that the Property does not fall under any of the NEPA "listed" categories of 47 C.F.R. §1.1307. Therefore, the proposed Facility does not require review by the FCC pursuant to the NEPA.

X. ESTIMATED COST AND SCHEDULE

A. Overall Estimated Cost

The total estimated cost of construction for the Facility is \$178,000.00. This estimate includes:

- (1) Tower and foundation costs (including installation) of approximately \$71,000.00;
- (2) Site development costs of approximately \$68,000.00; and
- (3) Utility installation costs of approximately \$39,000.00.


B. Overall Scheduling

Site preparation and engineering would commence immediately following Council approval of T-Mobile's Development and Management ("D&M") Plan and is expected to be completed within four (4) to five (5) weeks. Installation of the monopole structure, antennas and associated equipment is expected to take an additional eight (8) weeks. The duration of the total construction schedule is approximately thirteen (13) weeks. Facility integration and system testing is expected to require an additional two (2) weeks after the construction is completed.

XI. CONCLUSION

This Application and the accompanying materials and documentation demonstrate that a public need exists in the Town of Stratford for improved wireless services and that the Facility will not have any substantial adverse environmental effects. T-Mobile therefore respectfully submits that the public need for the Facility outweighs any potential environmental effects resulting from the construction of the Facility, and that the Council should grant a Certificate of Environmental Compatibility and Public Need for the Facility.

Respectfully Submitted,

By: 

Attorneys for the Applicants
Julie D. Kohler, Esq.

jkohler@cohenandwolf.com

Monte E. Frank, Esq.

mfrank@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