

**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 61-1 BUTTONBALL ROAD IN THE TOWN  
OF OLD LYME, CONNECTICUT

DOCKET NO. 393

Date: July 23, 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 October 15, 2010, 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 61-1 Buttonball Road, Old Lyme, Connecticut ("Property"), pursuant to General Statutes § 16-50aa and § 16-50j-34 of the Regulations of Connecticut State Agencies ("Application"). (*Hearing Exhibit 1, Application, p. 1.*)<sup>1</sup>

2. The Facility would sit within a 5,625 square foot area leased by T-Mobile, located in the eastern portion of the Property, which is a 2.53 acre parcel owned by Ron Swaney, LLC ("Site"). (*App., pp. 2, 9; App. Ex. B.*)

3. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on February 4, 2010, beginning at 3:00p.m., and

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<sup>1</sup> For the Council's convenience, all subsequent page references to Hearing Exhibit 1, which is T-Mobile's Application, shall be made as "App., p. \_\_\_." All subsequent references to exhibits attached to the Application shall be made as "App. Ex. \_\_\_."

continued to 7:00p.m., at the Stonington Community Center, 28 Cutler Street, Stonington, Connecticut. The Council closed the public comment portion of the hearing on February 4, 2010; however, the Council continued the evidentiary portion of the hearing to March 2, 2010, April 20, 2010, and June 23, 2010. The hearing addressed the Application, as well as the applications for Certificate of Environmental Compatibility and Public Need regarding proposed telecommunications facilities in Dockets 391 and 392. (*Hearing Notice; Council Memoranda Regarding Continued Hearing, dated February 26, 2010, March 10, 2010 and June 1, 2010; February 4, 2010 3:00p.m. Transcript* ["2.4.10 3:00p.m. Tr.,"] p. 3.)

4. The Council and its staff conducted a field review of the Site on February 4, 2010, at 1:00p.m. The Council also inspected the proposed sites of the telecommunications facilities in Dockets 391 and 392. (*Hearing Notice.*)

5. On February 4, 2010, T-Mobile conducted a balloon float, with a balloon 4 feet in diameter, at a height of 100 feet, at the Site from 7:00a.m. to 10:00a.m. and from 1:00p.m. to 2:15p.m., at which time an Amtrak representative required T-Mobile to terminate the balloon float. T-Mobile also conducted balloon floats at the proposed sites of the telecommunications facilities proposed in Dockets 391 and 392. Those balloon floats were also terminated by Amtrak representatives. (*Pre-Hearing Conference Notice; Balloon Float Affidavits filed in Dockets 391, 392 and 393, dated February 22, 2010; 2.4.10 3:00p.m. Tr., pp. 24-25; March 2, 2010 Transcript* ["3.2.10 Tr.,"] p. 132.)

#### **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, 104<sup>th</sup> 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 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.*, p. 4; *2.4.10 3:00p.m. Tr.*, pp. 4-6; *February 4, 2010 7:00p.m. Transcript* [“*2.4.10 7:00p.m. Tr.*,”] pp. 5-6.)

7. There is a coverage gap in T-Mobile’s network in the areas surrounding the Site. (*App.*, pp. 4-5; *App. Ex. H, J; Pre-Filed Testimony of Scott Heffernan* [“*Heffernan*,”] pp. 3-4; *3.2.10 Tr.*, pp. 137-40.)

8. The percentage of dropped calls from cells feeding into the area to be covered by the proposed Facility is above T-Mobile’s target dropped call percentage of 2 percent. (*3.2.10 Tr.*, pp. 146, 154-55.)

9. The Town of Old Lyme (“Town”) recognizes that it needs enhanced wireless coverage for its residents, businesses and emergency services, specifically in the areas that would be addressed by the Facility and the telecommunications facilities

proposed in Dockets 391 and 392. (2.4.10 3:00p.m. Tr., pp. 10-11; 2.4.10 7:00p.m. Tr., pp. 12-13; April 20, 2010 Transcript [“4.20.10 Tr.”] pp. 90, 105.)

10. The coverage gap requires the installation of a telecommunications facility in the Town. (Heffernan, pp. 3-5; 4.20.10 Tr., p. 118.)

11. The Facility would be an integral component of T-Mobile's wireless network in the Town. The Facility would remedy the existing coverage gap in this area of the Town, specifically along Buttonball Road and Route 156, as well as the surrounding areas and the Amtrak rail line that passes through the area. (App., pp. 4-5; App. Ex. H, J; Heffernan, pp. 3-4; T-Mobile's Responses to the Council's First Set of Interrogatories [“T-Mobile First Interrog. Resp.”]; T-Mobile's Responses to the Town's First Set of Interrogatory Responses.)

#### Coverage

12. To provide effective coverage in the area of the proposed Facility, T-Mobile seeks to mount its antenna array at 97'9” above grade level (“AGL”). This position would allow T-Mobile to minimize the number and height of future telecommunications facilities in this area of the Town. (App., pp. 4-5, 9; App Ex. B, H; Heffernan, pp. 4-5.)

13. An antenna array at 97'9” AGL would allow T-Mobile to overcome the mature vegetation and topography in the area, and achieve the coverage objective. (App., pp. 4-5, 9; App. Ex. B, H; Heffernan, pp. 4-5.)

14. T-Mobile could locate its antennae at a height of 87 feet AGL, if mounted on T-arms, and still alleviate the coverage gap. (3.2.10 Tr., pp. 187, 247.)

15. SBA Towers II LLC ("SBA") proposed a telecommunications facility, consisting of a 170 foot monopole structure, on property owned by the Town, located at 14 Cross Lane ("SBA Facility"). The Town, however, rejected the proposed SBA Facility and did not lease its property to SBA. (2.4.10 3:00p.m. Tr., pp 10-11; 4.20.10 Tr., p. 84; T-Mobile's Responses to the Council's Second Set of Interrogatories ["T-Mobile Second Interrog. Resp."])

16. Increasing the height of the Facility or the telecommunications facility proposed in Docket 392 would not obviate the need for the telecommunications facility in Docket 391. (4.20.10 Tr., pp. 67-68.)

17. Increasing the height of the telecommunications facility proposed in Docket 391 would not obviate the need for the Facility or the telecommunications facility proposed in Docket 392. (Docket 391 Supplemental Pre-Filed Testimony of Scott Heffernan, dated February 24, 2010; 4.20.10 Tr., p. 67.)

18. Increasing the height of the telecommunications facilities proposed in Dockets 391 and/or 392 would not obviate the need for the Facility or allow T-Mobile to reduce the height of the Facility. (3.2.10 Tr., pp. 246-47.)

19. A two tower scenario would not alleviate T-Mobile's existing coverage gap in the Town. Under such a scenario, gaps would exist in T-Mobile's network, which would result in network performance problems. Additionally, a two tower scenario would require taller facilities – much taller than those proposed by T-Mobile in this Docket as well as Dockets 391 and 392. T-Mobile requires a three tower scenario to provide effective wireless service to the areas of the Town covered by the Facility and

those telecommunications facilities proposed in Dockets 391 and 392. (3.2.10. Tr., p. 113; 4.20.10 Tr., pp. 68-69, 71-74, 111.)

20. The difficulties inherent in a two tower solution to the coverage gaps in the Town are compounded by the coverage needs of Verizon and AT&T. Both wireless providers have established that coverage gaps exist in their respective networks in the area of the Town that would be covered by the telecommunications facility proposed in Docket 391. AT&T could not use the Facility or the telecommunications facility proposed in Docket 392 to alleviate its existing coverage gap. Although Verizon could use the facility proposed in Docket 392, Verizon could not alleviate its coverage gap with the Facility. (*Docket 391 Verizon pre-hearing filing, April 26, 2010; Docket 391 AT&T filing, June 28, 2010; 4.20.10 Tr., p. 168-70; 6.23.10 Tr., pp. 20, 31-32.*)

21. An outdoor Distributed Antenna System is not an alternative, feasible deployment technology. (*Supplemental Pre-Filed Testimony of Scott Heffernan; 3.2.10 Tr., pp. 73-75, 78-80, 82-83, 88-89.*)

22. Repeaters, microcell transmitters and other types of deployment technologies are not alternative, feasible deployment technologies. (*App., p. 7; T-Mobile First Interrog. Resp.*)

#### **Site Search**

23. There are no existing towers, transmission line structures or other structures of a suitable height or location in this area of the Town that would be suitable to remedy the existing coverage gap. (*App., pp. 7-8; App. Ex. J; Pre-filed Testimony of Raymond Vergati ["Vergati,"] pp. 2-6.*)

24. Amtrak adheres to a policy prohibiting wireless carriers such as T-Mobile from locating wireless telecommunications equipment on any Amtrak catenaries. (3.2.10 Tr., pp. 239-40; 4.20.10 Tr., p. 32.)

25. After determining that there were no existing structures suitable for co-location, T-Mobile conducted a site analysis of properties within the area to identify the best possible location to address T-Mobile's coverage needs. (App., pp. 7-8; App. Ex. J; Vergati, pp. 2-5; Heffernan, pp. 4-5.)

26. When selecting a site, T-Mobile considered which properties would address its coverage needs and minimize environmental impacts. (App., pp. 7-8; App. Ex. J; Vergati, pp. 2-3.)

27. T-Mobile conducted a site analysis of properties within the area to identify the best possible location to address T-Mobile's coverage needs. None of the parcels, other than the Property, considered by T-Mobile were suitable sites. (App., pp. 7-8; App. Ex. I, J; Vergati, pp. 3-6.)

28. The Property is superior to other parcels in the area. The Property is zoned for light industrial uses and currently serves several commercial purposes. The Facility would be set back approximately 1000 feet from Buttonball Road. The Facility would not impact any wetlands or coastal resources as there are no such natural resources within the vicinity of the proposed Facility. (App., pp. 1, 9-10; App. Ex. J, K; Vergati, pp. 4-5; Pre-filed Testimony of Scott Chasse ["Chasse,"] p. 2; Pre-Filed Testimony of Dean Gustafson ["Gustafson,"] pp. 3-4.)

29. The Site would address T-Mobile's coverage objective, including along Buttonball Road and Route 156, as well as the surrounding area and the Amtrak rail line

that passes through the area. (*App.*, pp.1, 4-5; *App. Ex. H, J; Heffernan*, pp. 3-5; *Vergati*, pp. 4-5; *T-Mobile First Interrog. Resp.*)

### The Site

30. T-Mobile proposes to construct the Facility at the Site located in the eastern portion of the Property, which is a 2.53 acre parcel of land commonly known as 61-1 Buttonball Road and is identified as Assessors Tax Map 8, Block 11, Lot 1. The Property is zoned for light industrial uses and currently serves several commercial functions. (*App.*, pp. 1-2, 16; *App. Ex. B; Chasse*, p. 2.)

31. As proposed, the Facility would accommodate T-Mobile and the equipment of three other wireless carriers, as well as the Town's public safety wireless equipment, if requested. (*App.*, pp. 8-9; *App. Ex. B; Chasse*, p. 3.)

32. As proposed, the Facility would accommodate the antennae and equipment of T-Mobile at an antenna centerline of 100 feet AGL, mounted to the tower by T-arms, and three other telecommunications carriers at antenna centerlines of 90, 80 and 70 feet AGL. (*App. Ex. B; Chasse*, p. 3.)

33. The Facility would consist of a 2,500 square foot fenced compound area leased to T-Mobile. (*App.*, pp. 2, 9; *App. Ex. B; Chasse*, p. 3.)

34. The compound area would host T-Mobile's equipment and the equipment of three other wireless carriers. The compound would be enclosed by an 8 foot high chain-link fence. (*App.*, pp. 2, 9; *App. Ex. B; Chasse*, p. 3.)

35. Vehicular access to the Facility would extend from Buttonball Road along an existing bituminous driveway and parking area. (*App.*, pp. 2, 9; *App. Ex. B; Chasse*, p. 3; *3.2.10 Tr.*, p. 133.)



36. Utility service would extend underground from an existing transformer and telephone demarcation point on the Property. 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.*, p. 13; *App. Ex. B*; *Chasse*, p. 3; *3.2.10 Tr.*, p. 133.)

37. The Facility compound area would require approximately 231 cubic yards of cut and 46 cubic yards of fill. The utility trench would require approximately 157 cubic yards of cut and 157 cubic yards of fill. (*Chasse*, pp. 3-4; *T-Mobile First Interrog. Resp.*)

38. The estimated cost of the proposed Facility is approximately \$209,000. The duration of the construction would be approximately thirteen weeks, with an additional two weeks for Facility integration and system testing. The estimated cost of the antennae and related equipment for T-Mobile would be approximately \$45,000. (*App.*, pp. 18-19; *T-Mobile Second Interrog. Resp.*)

39. T-Mobile could design the Facility with a yield point so that the tower radius remains on the Property. (*3.2.10 Tr.*, p. 135.)

#### **Municipal Consultation**

40. On May 28, 2009, T-Mobile submitted a technical report to 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.*, p. 17; *App. Ex. Q*; *Bulk Filing*; *Vergati*, p. 5.)

41. On June 25, 2009 and December 1, 2009, representatives of T-Mobile met with the First Selectman, the Honorable Timothy Griswold; the Fire Chief; and the Town Zoning Enforcement Officer to discuss the proposed Facility. (*App.*, p. 17; *Vergati*, p. 5.)

### **Environmental Considerations**

42. 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.*, p. 13; *App. Ex. P*; *Pre-Filed Testimony of Michael Chun* [*Chun*,”] p. 3.)

43. The Facility would not affect threatened or endangered species or designated critical habitats. (*App.*, p. 13; *App. Ex. P*; *Chun*, p. 3.)

44. The Facility would be designed to minimize any impact on migratory bird species. The Facility would comply with the United States Fish and Wildlife Service interim guidelines because the Facility would be well under 200 feet and without guy wires. (*App. Ex. B, P*; *Pre-Filed Testimony of Ashley Bonavenia* [*Bonavenia*,”] p. 3; *2.4.10 3:00p.m. Tr.*, p. 62.)

45. The Facility would not be located in a nominated or existing “important bird area.” (*Bonavenia*, p. 2.)

46. There are no known instances of bird strikes and/or bird carcasses at any existing T-Mobile telecommunications facility. (*Bonavenia*, p. 3; *4.20.10 Tr.*, pp. 60-61.)

47. The Facility is located in an avian flyway designated by the Audubon Society. (*Bonavenia*, p. 2.)

48. The Facility would not endanger osprey. T-Mobile has protocol in place to avoid disturbing any osprey that use T-Mobile telecommunications facilities for nesting. (4.20.10 Tr., pp. 62-64.)

49. 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., p. 13; App. Ex. P; Chun, p. 3.)

50. 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. On August 28, 2009, the State Historic Preservation Officer ("SHPO") determined that the Facility would not have an adverse impact on any such resources. (App., p. 14; App. Ex. N, P; Chun, p. 4.)

51. The proposed Facility would not affect any Native American religious sites. T-Mobile consulted with three Native American tribes – the Mashantucket Pequot Tribe, the Mohegan Indian Tribe and the Narragansett Indian Tribe – because they might have had interests impacted by the construction, operation and maintenance of the Facility. None of the Tribes responded that they have any interests that would be impacted by the Facility. (App., pp. 14-15; App. Ex. P; Chun, p. 4; T-Mobile filing, dated 4.12.10.)

52. The construction, maintenance and operation of the Facility would not have an adverse impact on any wetland system. There is a wetland located on the Property approximately 275 feet west of the Site. There is another wetland system, a man-made irrigation pond, located approximately 175 feet east on an adjacent parcel.

These wetland systems are too far from the Site to be directly or indirectly impacted by the Facility. (*App.*, pp. 16-17; *App. Ex. B, K; Gustafson*, pp. 2-3.)

53. The Facility would have no impact on water flow, water quality, or air quality and would comply with relevant noise regulations. (*App.*, p. 13; *Gustafson*, pp. 3-5.)

54. The proposed access and utility routing for the proposed Facility would not impact any wetland system. (*App. Ex. B, K; Gustafson*, p. 3; *Chasse*, p. 4.)

55. The Facility would not impact any coastal resources. There are no coastal resources located on or near the Property. The nearest coastal resource consists of tidal wetlands associated with the Black Hall River located 1,500 feet west of the Site. (*App.*, p. 14; *App. Ex. N; Gustafson*, p. 4.)

56. The Facility would not be located within a flood plain. (*App.*, p. 13; *App. Ex. P; Chun*, p. 4; *Supplemental Pre-Filed Testimony of Michael Chun*.)

57. According to an aeronautical study conducted by T-Mobile, in accordance with the regulations promulgated by the Federal Aviation Administration, the proposed Facility would not require marking or lighting. (*App.*, p. 18; *App. Ex. R, Revised Ex. R*.)

58. The Facility's maximum emissions levels would be approximately 12.3359 percent of the safety criteria adopted by the Federal Communications Commission. (*App.*, p. 12, *App. Ex. O*.)

### **Visibility**

59. Existing topography and mature vegetation would reduce some of the potential visual impacts of the proposed Facility on the surrounding areas. The average height of the tree canopy within a 2 mile radius of the Facility ("Study Area") is

approximately 60 feet. The tree canopy covers nearly 5,041 acres of the 8,042 acre study area – with 1,767 acres of the Study Area consisting of surface water, mainly portions of the Long Island Sound. (*App.*, pp. 10-11; *App. Ex. M; Pre-Filed Testimony of Michael P. Libertine* [*“Libertine,”*] p. 6.)

60. The Facility would be set back approximately 1,000 feet from Buttonball Road, with screening provided by mature trees, limiting most of the nearby views to the upper portions of the proposed Facility. The few residential properties within 0.25 miles of the Property are located to the west and southwest along Buttonball Road. (*App.*, p. 11; *App. Ex. B, M; Libertine*, p. 6.)

61. The areas from which the Facility would be at least partially visible year round comprise approximately 289 acres, which is 3.6 percent of the entire Study Area. Approximately 91 percent of this area consists of the Great Island Tidal Marsh, located 1.25 miles to 2 miles southeast of the Facility and/or open water on the Long Island Sound to the south. These views of the Facility would be limited to the top of Facility among surrounding vegetation. Aside from these more distant, open water views, some areas near the Facility would have year round partial views, including portions of Buttonball Road near the Facility, select portions of South Neck Road 1.25 miles to the southwest, and some open areas of the Black Hall Golf Course immediately adjacent to the Property. (*App.*, p. 11; *App. Ex. M; Libertine*, p. 5.)

62. The Facility would be visible from the southern portion of the Great Island Wildlife Area. These views would be distant views at approximately 1.25 miles away and would be limited to the very upper portions of the Facility. (*App. Ex. M; Libertine p. 6; 3.2.10 Tr.*, pp. 162-63.)

63. The open water views on the Long Island Sound would have a minimal visual impact on the shoreline and the Facility would not impact any coastal resources. These views would be distant and would be limited to the very upper portion of the Facility, which would be difficult to discern above the tree canopy. The vegetative backdrop coupled with the rising topography as one moves inland from the shoreline would further limit the views of the Facility from the Long Island Sound. The existing development along the immediate shoreline would provide more prominent views than the proposed Facility. (*App. Ex. M; Libertine, pp. 4-6; 2.4.10 3:00p.m. Tr., pp. 64-68; 3.2.10 Tr., pp. 51, 72; 4.20.10 Tr., pp. 56-57.*)

64. The combined total acreage of these distant open water views of the Facility, along with the other telecommunications facilities proposed in Dockets 391 and 392, on the Long Island Sound would be approximately 2,555 acres, a very small percentage of the total acreage of the Long Island Sound. The total acreage of the Long Island Sound (within the Connecticut Coastal Management Zone) is approximately 334,350 acres. (*Supplemental Pre-Filed Testimony of Michael P. Libertine ["Suppl. Libertine,"] p. 3.*)

65. The Facility, along with the other telecommunications facilities proposed in Dockets 391 and 392, would not have a detrimental, cumulative impact on the shoreline. The relatively low height of the facilities and the existing mature vegetation would limit the views of the Facility from the shoreline. (*3.2.10 Tr., pp. 59, 216.*)

66. The Facility would not have an adverse visual effect on historic, architectural, or archeological resources listed on or eligible for the National Register of

Historic Places. This determination is consistent with SHPO's conclusion. (*App. Ex. M; Libertine, p. 6.*)

67. The Facility would not be visible from any hiking trails. (*App. Ex. M; Libertine p. 6.*)

68. Areas of seasonal visibility would include approximately 39 additional acres, comprised largely of the Black Hall Golf Course located adjacent to the Property. (*App., pp. 11-12; App. Ex. M; Libertine, p. 5.*)

69. A monopine stealth design would not mitigate the visibility of the Facility based upon the surrounding vegetation and development in the area. (*Suppl. Libertine, p. 6.*)

#### **The Black Hall Club**

70. The intervenor, Black Hall Club, INC. ("BHC"), owns the Black Hall Golf Course ("Golf Course"), which abuts the Property directly to the east. (*App. Ex. B; BHC Application to Intervene ["App. Intervene"]; BHC Responses to T-Mobile's First Set of Interrogatories ["BHC Interrog. Resp."].*)

71. BHC owns and/or operates the Golf Course, which is a private course located on private property. (*BHC Interrog. Resp.; App. Intervene.*)

72. The Council granted BHC's Application to Intervene under General Statutes §§ 16-50n and 22a-19. T-Mobile objected to the Application to Intervene insofar as it sought intervention under § 22a-19 because BHC did not articulate a valid basis for intervention under that statutory provision. (*Council Memorandum, dated March 18, 2010; T-Mobile Objection, dated April 1, 2010.*)

73. BHC's sole reason for intervening in the proceedings is the potential visual impact of the proposed Facility on the Golf Course. BHC did not intervene in the proceedings because it is concerned with, or claims any harm to, natural resources including, but not limited to, the Long Island Sound or other coastal resources. (*June 23, 2010 Transcript* ["6.23.10 Tr.,"] pp. 166-67.)

74. BHC had agreed previously to locate a 190 foot telecommunications facility on its property, an old quarry site, located across the street from the Golf Course ("BHC Facility"). The BHC Facility would have been located approximately 320 feet west of Buttonball Road directly across the street from the Golf Course. The BHC Facility was proposed by another wireless provider and considered by the Council in Docket 202. (*Docket 202; Suppl. Libertine, pp. 3-4.*)

75. The old quarry site was the primary site for the BHC Facility when considered by the Council in Docket 202. Although the applicant withdrew one of the alternative sites from consideration, the applicant did not withdraw the old quarry site from consideration. Ultimately, the Council selected the second alternative site over the old quarry site for the telecommunications facility in Docket 202. (*Docket 202, Findings of Fact.*)

76. The BHC Facility would have been visible from the Golf Course. The total acreage of year-round visibility from the Golf Course would have been similar to the views on the Golf Course of the proposed Facility (approximately 11 acres). The BHC Facility would have been significantly more visible to the surrounding area than the proposed Facility, particularly to the south and southwest, including the Long Island Sound and residential neighborhoods. The BHC would have been visible from



approximately 1,719 acres of the Study Area, while the Facility would be visible from approximately 289 acres of the Study Area. (*Suppl. Libertine, pp. 3-4.*)

77. Pursuant to an agreement between T-Mobile and BHC, representatives of T-Mobile conducted an in-field inspection of the Black Hall Golf Course. On March 25, 2010, T-Mobile flew a red balloon, 4 feet in diameter, tethered to a height of 100 feet AGL from approximately 8:30a.m. until 11:40a.m. Representatives of T-Mobile and BHC walked the golf course to observe the balloon while aloft and take photographs (including all locations selected by BHC). T-Mobile conducted a supplemental visual analysis based upon the in-field inspection. (*Suppl. Libertine, p. 2.*)

78. The supplemental visual analysis confirmed T-Mobile's initial visual analysis. Some locations of the Black Hall Golf Course would have either year-round or seasonal views of the proposed Facility. Most of the views would be to the north and northwest portions of the golf course. (*Suppl. Libertine, p. 2.*)

79. On or about April 9, 2010, T-Mobile and BHC executed a Joint Stipulation, whereby the signatories agreed, subject to the approval of the Council, to re-configure the Facility so that it would consist of a "brown stick" tower at the originally proposed height of 100 feet AGL. (*Joint Stipulation.*)

80. T-Mobile would attach its antennae to the tower with flush mounts as opposed to T-arms. To achieve its coverage objective, T-Mobile would require two positions on the Facility at 97'9" and 87'9" AGL. (*Joint Stipulation.*)

81. The re-configured Facility would accommodate up to two additional wireless carriers. (*Joint Stipulation; 4.20.10 Tr., pp. 114-15.*)

82. The fenced compound area would host T-Mobile's equipment and the equipment of up to two other wireless carriers. (*Joint Stipulation; 4.20.10 Tr., pp. 114-15.*)

83. The re-configured Facility would include an 8 foot high cedar fence along the two sides of the Facility compound that face the Golf Course. (*Joint Stipulation.*)

### **Tower Sharing**

84. As proposed, the Facility would accommodate T-Mobile and three other wireless telecommunications carriers. The re-configured Facility would accommodate up to two wireless telecommunications carriers. Each configuration would limit the proliferation of telecommunications facilities. (*App., pp. 8-9; App. Ex. B; Chasse, p. 3; Joint Stipulation.*)

85. The Facility would accommodate the Town's municipal public safety communications systems. T-Mobile has offered the Town space on the Facility at no charge. (*App., pp. 8-9; Vergati, pp. 5-6; Supplemental Pre-Filed Testimony of Raymond M. Vergati, pp. 1-2.*)

86. The Town has indicated an interest to locate its public safety communication systems on the telecommunications facility proposed in Docket 391. The Town is not interested at this time in locating its public safety communications systems on the Facility. (*2.4.10 3:00p.m. Tr., p. 11; 4.20.10 Tr., pp. 39-40, 74-80, 129-31; 6.23.10 Tr., pp. 105-08, 122.*)

Dated at Bridgeport, Connecticut this 23<sup>rd</sup> day of July, 2010.

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

By:



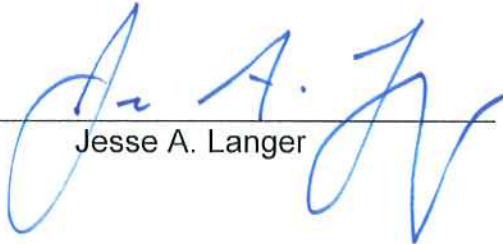
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CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing was delivered by Electronic Mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

The Honorable Timothy C. Griswold  
Office of the Selectman  
Town of Old Lyme  
52 Lyme Street  
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**(Via Email: [firstselectman@oldlyme-ct.gov](mailto:firstselectman@oldlyme-ct.gov))**

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Jesse A. Langer