

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
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 :
 APPLICATION OF SBA TOWERS II LLC : DOCKET NO. 396
 FOR A CERTIFICATE OF :
 ENVIRONMENTAL COMPATIBILITY :
 AND PUBLIC NEED FOR THE :
 CONSTRUCTION, MAINTENANCE AND :
 OPERATION OF A :
 TELECOMMUNICATIONS FACILITY :
 AT 49 BRAINERD ROAD, EAST LYME, :
 CONNECTICUT : JUNE 17, 2010

POST-HEARING BRIEF OF INTERVENOR
CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS

Cellco Partnership d/b/a Verizon Wireless (“Cellco”) hereby submits its post-hearing brief in connection with the above-referenced proceeding.

I. BACKGROUND

On December 4, 2009, SBA Towers II, LLC (“SBA”) submitted an application (“Application”) to the Connecticut Siting Council (“Council”) for a certificate of environmental compatibility and public need (“Certificate”) for the construction, maintenance and operation of a 170-foot telecommunications tower at 49 Brainerd Road in East Lyme, Connecticut (“Property”). (SBA Exhibit (“Exh.”) 1.)

Cellco Partnership d/b/a Verizon Wireless (“Cellco”) has identified a need for wireless service in the southern-most portion of East Lyme and identified the proposed SBA facility as a structure that could satisfy that need. Consequently, on December 10, 2009, Cellco filed a

petition to intervene in the Application and hearing process (“Petition”). (Cellco Exh. 1.) On January 7, 2010, the Council granted Cellco intervenor status.

The Council conducted an evidentiary and public hearing on the Application on February 23, 2010, March 23, 2010 and April 22, 2010. This post-hearing brief is filed on behalf of Cellco pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”) and the Council’s directives.

II. THE CELLCO INSTALLATION

The Cellco installation would consist of twelve (12) panel-type antennas at the 147-foot level on the proposed tower. To mitigate the visual impact of the proposed facility, Cellco plans to install its antennas on a low-profile platform. If directed by the Council, Cellco could install its antenna on T-Arms. Cellco Exh. 2, Response (“Resp.”) 4).

Cellco’s equipment and a diesel-fueled back-up generator would be located in a 12’ x 30’ single-story equipment shelter installed near the base of the tower. The generator would be used during power outages and periodically for maintenance purposes. (SBA Exh. 1; Cellco Exh. 2 Resp. 16; 3/23/10 Transcript (“Tr.”) pp. 92-93).

III. CELLCO’S NEED

The record contains ample written evidence and testimony that Cellco’s antennas at the 147-foot level on the 170-foot tower would provide quality wireless service and satisfy Cellco’s coverage objectives in East Lyme. Cellco’s network in East Lyme and the surrounding area currently experiences significant gaps in coverage along portions of Route 156 and local roads in the southerly portions of East Lyme as well as portions of the Acela/Amtrak rail line. (Cellco Exh. 2, Resp. 7). These gaps exist at both cellular and PCS frequencies between Cellco’s existing Old Lyme, East Lyme and Waterford South cell sites. (Cellco Exh. 2, Resp. 8).

From the proposed East Lyme cell site, with antennas at the 147-foot level on the tower, Cellco would provide 1.84 miles of coverage along Route 156 and 2.58 miles of coverage along the Acela rail line at cellular frequencies and 1.79 miles of coverage along Route 156 and 2.45 miles of coverage along the Acela rail line at PCS frequencies. (Cellco Exh. 2, Resp. 9).

Cellco's coverage footprint from the proposed East Lyme cell site, with antennas at the 147-foot level on the proposed tower, would be approximately 16.29 square miles at cellular frequencies, 8.19 square miles at PCS frequencies and 18.42 square miles at LTE frequencies. (Cellco Exh. 2, Resp. 10). This evidence of Cellco's need for a facility in East Lyme remains unrefuted.

IV. ALTERNATIVE SITES

During the course of the Docket No. 396 proceeding, Cellco was asked to evaluate a total of twelve (12) alternative cell site locations in the East Lyme area. As a wireless carrier, intervening in the SBA application, Cellco's evaluation was limited to a determination of whether the alternative locations would satisfy its East Lyme coverage objectives. Early in this proceeding the Council asked Cellco to evaluate the Pondcliff Condominium property at 97 West Main Street in Niantic and the Nebelung Farm property at 138 North Bridebrook Road in Niantic. Both of these sites were rejected by Cellco's RF Engineers. (Cellco Exh. 2, Resp. 13 and 14). Likewise, Cellco determined that none of the tower sites currently being considered in Council docket nos. 391, 392 and 393 in Old Lyme, Connecticut could satisfy its East Lyme coverage objectives. (Cellco Exh. 2 Resp. 15).

At the request of Russell Brown, the Town of East Lyme ("Town") and the Friends of the Pattagansett Trust ("FOPT"), Cellco evaluated seven (7) additional alternative tower locations,

both on the Property and on parcels of land to the north of the Property.¹ Two (2) of these seven alternatives were, in fact, sites on the Property, located between 144 and 500 feet south of the SBA tower site. (Brown Exh. 1). Four (4) of these alternatives were located on a 103 acre parcel owned by the Department of Environmental Protection (“DEP”).² (Cellco Exh. 4). The seventh alternative was located on a parcel of land off Indian Woods Road in East Lyme. A portion of this parcel is currently leased to T-Mobile for the potential future development of a telecommunications tower. (Cellco Exh. 3; T-Mobile Limited Appearance 4/16/10).

After careful consideration, Cellco’s RF Engineers determined that any of these last seven (7) alternative sites could be used to satisfy its coverage objectives in East Lyme. Certain of these locations may, however, require Cellco to install its antennas at a centerline height higher than the 147 feet proposed in Docket No. 396. (Cellco Exh. 2, 3, 4; 3/23/to Tr. pp 99-100, 119-122).

The evaluation of alternative sites, however, can not stop with a determination by an RF Engineer that a particular location is acceptable. Before any of these sites can be presented as true “alternatives” to the SBA tower at the Property, the environmental effects of each alternative facility must be considered. That evaluation has not been completed by any of the parties or intervenors who support the alternative locations. We do not, therefore, know if the visual impact of a tower at any of the alternative locations would be less significant than the proposed SBA tower location. We do not know if a tower location at any of the alternative locations would comply with the Town’s Plan of Conservation and Development, Zoning Regulations or

¹ There is no evidence in the record that Mr. Brown, the Town or the FOPT have any ownership or leasehold interest in any of these properties.

² The DEP has made it clear that they have no interest in leasing any portion of this parcel to SBA to construct a tower site. (SBA Exh. 7) The Town’s efforts to acquire this parcel, to date, have been unsuccessful. (Town Exh. 4).

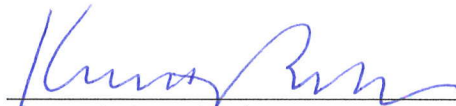
Wetland Regulations. We do not know if any of the alternative tower locations would be visible from Long Island Sound or other areas deemed “sensitive” along the Eat Lyme shoreline.

Perhaps most importantly, we do not know whether any of these alternative locations would impact other residential areas to which they are proximate. Before the Council can consider these sites as true alternatives to the proposed SBA tower, the party and/or intervenor promoting them has the burden to fully assess each location for consistency with the Council’s review and approval criteria and present that information to the Council for its review. No such evidence exists in this record.

IV. CONCLUSION

The evidence in the Docket No. 396 record supports Cellco’s need for the installation of antennas on the proposed SBA facility. The installation of Cellco’s antennas at the facility will fill significant coverage gaps in the East Lyme area; in particular, along the heavily traveled Route 156, local roads in the area and portions of the Acela/Amtrak rail line. Cellco, therefore, respectfully requests that the Council approve SBA’s Application and issue a Certificate for the Facility.

Respectfully submitted,
CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of June, 2010, a copy of the foregoing was sent via electronic mail to:

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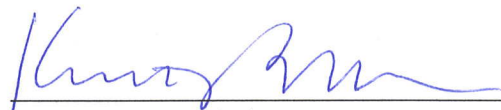
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