

**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 166 PAWCATUCK AVENUE IN THE TOWN
OF STONINGTON, CONNECTICUT

DOCKET NO. 399

Date: May 12, 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 January 29, 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 120 foot monopole wireless telecommunications facility ("Facility") at 166 Pawcatuck Avenue, Stonington, Connecticut ("Property") pursuant to General Statutes § 16-50aa and § 16-50j-34 of the Regulations of Connecticut State Agencies ("Application"). (*Hearing Exhibit 1, Application at p. 1; 7:00p.m. Transcript ["7:00p.m. Tr."] at p. 8.*)¹

2. The Facility would sit within a 2,100 square foot area leased by T-Mobile, located in the northeasterly portion of the Property, which is a 5.02 acre parcel owned by Warren D. Main and Patricia L. Main ("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 April 13, 2010, beginning at 3:00p.m., and continued to 7:00p.m., at the Stonington Community Center, 28 Cutler Street, Stonington, Connecticut. (*Hearing Notice; 3:00p.m. Transcript ["3:00p.m. Tr."] at p. 3.*)

4. The Council and its staff conducted a field review of the Site on April 13, 2010, at 2:00p.m. (*Hearing Notice.*)

5. T-Mobile conducted a balloon float, with a balloon four feet in diameter, at a height of 120 feet, at the Site from 8:00a.m. to 6:00p.m., on April 13, 2010, in accordance with the Council's instructions. (*Pre-Hearing Conference Notice; 3:00p.m. Tr. at pp. 24-25.*)

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 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. 4-6; 7:00p.m. Tr. at pp. 5-6.*)

7. There is a coverage gap in T-Mobile's network in the areas surrounding the Site. (*App. at pp. 4-5; App. Ex. H, J; Pre-Filed Testimony of Scott Heffernan ["Heffernan"] at pp. 3-4; 3:00p.m. Tr. at p. 58.*)

8. The Facility would be an integral component of T-Mobile's wireless network in the Town of Stonington ("Town"). The Facility would remedy the existing gap in coverage in this area of the Town, specifically along Pawcatuck Avenue, River Road and Greenhaven Road, just south of interstate 95, as well as the surrounding areas and the Amtrak rail line that passes through the area. (*App. at pp. 4-5; App. Ex. H, J; Heffernan at pp. 3-4; 3:00p.m. Tr. at pp. 58-60; T-Mobile's Responses to the Council's First Set of Interrogatories ["T-Mobile First Interrog. Resp."].*)

9. Cellco Partnership d.b.a. Verizon Wireless ("Verizon") also experiences a coverage gap in its network in the area of the proposed Facility, including along Route 1, portions of the Amtrak rail line, local roads, marinas and recreational areas along the Pawcatuck River and the Long Island Sound. (*Verizon's Responses to the Council's Interrogatories ["Verizon Interrog. Resp."]; 7:00p.m. Tr. at pp. 25-26.*)

Coverage

10. To provide effective coverage in the area of the proposed Facility and along the shoreline, T-Mobile must mount its antenna array at 117'9" 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. at p. 9; App Ex. B, H; Heffernan at p. 4; T-Mobile First Interrog. Resp.; 3:00p.m. Tr. at pp. 60, 63.*)

11. An antenna array at 117'9" AGL would allow T-Mobile to overcome the mature vegetation and topography in the area, and provide coverage to the coverage objective. (*App. at p. 9; App. Ex. B, H; Heffernan at pp. 5-6; T-Mobile First Interrog. Resp.; 3:00p.m. Tr. at pp. 60, 63.*)

12. Verizon would co-locate its antenna array at 107'9" AGL. This position would enable Verizon to provide coverage along Route 1, portions of the Amtrak rail line, local roads, marinas and recreational areas along the Pawcatuck River and the Long Island Sound. (*Verizon Interrog. Resp.; 7:00p.m. Tr. at pp. 25-26.*)

13. An outdoor Distributed Antenna System is not an alternative, feasible deployment technology because of the geography, terrain and nature of the coverage objective. (*App. at pp. 6-7; 3:00p.m. Tr. at pp. 66-68; T-Mobile's Responses to the Council's Second Set of Interrogatories.*)

Site Search

14. 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. at pp. 7-8; App. Ex. J; Pre-filed Testimony of Raymond Vergati ["Vergati"] at pp. 2-6.*)

15. 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 need. (*App. at pp. 7-8; App. Ex. J; Vergati at pp. 2-5; Heffernan at pp. 4-5.*)

16. When selecting a site, T-Mobile considered which properties would address its coverage needs and minimize environmental impacts. (*App. at pp. 7-8; App. Ex. J; Vergati at pp. 6-7; 7:00p.m. Tr. at p. 93.*)

17. 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. None of the parcels, other than the Property, considered by T-Mobile were suitable sites. (*App. at pp. 7-8; App. Ex. I, J; Vergati at pp. 3-7.*)

18. In conducting its site search, T-Mobile assessed a number of parcels to the southwest of the Property. These parcels are not suitable sites for a telecommunications facility because they are too far to provide adequate coverage to the coverage objective. (*Vergati at pp. 3-6; 3:00p.m. Tr. at pp. 59-60.*)

19. T-Mobile's proposed site would address its coverage objective, including along Pawcatuck Avenue, River Road and Greenhaven Road, just south of Interstate 95, as well as the surrounding area and the Amtrak rail line that passes through the area. (*App. at pp.1, 4-5; App. Ex. H, J; Heffernan at pp. 3-5; T-Mobile First Interrog. Resp.; 3:00p.m. Tr. at pp. 21-22.*)

20. The Property is superior to other parcels in the area. The Property is 5.02 acres. T-Mobile would not have to remove any trees to construct the Facility. The Property is set back approximately 765 feet from Pawcatuck Avenue with excellent screening from mature trees. The Facility would not have an adverse impact on the wetland system located on the Property. (*App. at pp. 7-9; App. Ex. J; Vergati at pp. 6-7; Pre-filed Testimony of Scott Chasse ["Chasse"] at p. 2; Pre-Filed Testimony of Dean Gustafson ["Gustafson"] at pp. 3-4; 7:00p.m. Tr. at p. 47.*)

The Site

21. T-Mobile proposes to construct the Facility at the Site located in the northeastern portion of the Property, which is a 5.02 acre parcel of land commonly known as 166 Pawcatuck Avenue and is identified as Assessors Tax Map 26, Lot 1. The Property is used for residential and agricultural purposes. (*App. at pp. 1-2; App. Ex. B; Chasse at p. 2; 7:00p.m. Tr. at p. 8.*)

22. The Facility would accommodate T-Mobile and the equipment of three other wireless carriers, as well as the Town's emergency services equipment, if requested. (*App. at p. 8; App. Ex. B; Chasse at p. 3; 3:00p.m. Tr. at p. 73.*)

23. The Facility would accommodate the antennae and equipment of T-Mobile at an antenna centerline of 117'9" AGL, mounted to the tower by T-arms, and three other telecommunications carriers at antenna centerlines of 107'9", 97'9" and 87'9" AGL. (*App. Ex. B; Chasse at p. 3; 3:00p.m. Tr. at p. 73.*)

24. The Facility would consist of a 1,800 square foot fenced compound area, which would sit within the 2,100 square foot area leased to T-Mobile. (*App. at pp. 1, 9; App. Ex. B; Chasse at p. 3; 7:00p.m. Tr. at p. 8.*)

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

26. Vehicular access to the Facility would extend from Pawcatuck Avenue along an existing gravel driveway and across an existing cleared field. T-Mobile would add a gravel driveway, which would connect the existing driveway to the proposed Facility. (*App. at pp. 2, 9; App. Ex. B; Chasse at p. 3; 7:00p.m. Tr. at p. 8.*)

27. Utility service would run from an existing transformer 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. at pp. 9, 13; App. Ex. B.*)

28. The estimated cost of the proposed Facility is approximately \$178,000. 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 \$55,000-\$60,000. (*App. at pp. 19-20; T-Mobile First Interrog. Resp.*)

Municipal Consultation

29. On September 29, 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. at p. 18; App. Ex. Q; Bulk Filing; Vergati at p. 7.*)

30. On November 5, 2009, T-Mobile met with the First Selectman, the Honorable Edward Haberek, Jr.; the Director of Public Works, Joe Bragaw; and the Town Engineer, Larry Sullivan, to discuss the proposed Facility. The Town provided notice of the meeting and invited members of the public to attend and ask questions about the Facility. Some members of the public attended the meeting. (*App. at p. 18; Vergati at p. 7.*)

31. In a letter dated November 25, 2009, the Town stated that it has no objections to the Facility. (App. at p. 18; App. Ex. Q; *Vergati at p. 7; 7:00p.m. Tr. at p. 73.*)

Environmental Considerations

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

33. The Facility would not affect threatened or endangered species or designated critical habitats. The endangered species located in the Town include the Piping Plover. The Piping Plover’s habitat is limited to coastal beaches. The proposed Facility would not be situated within the Piping Plover’s natural habitat, as it would be located away from any coastal beaches. (*App. at p. 13; App. Ex. P; Chun at p. 3; 3:00 p.m. Tr. at pp. 91-95.*)

34. 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 it would be well under 199 feet and without guy wires. (*App. at 13; App. Ex. B; 3:00p.m. Tr. at p. 91; T-Mobile Late-Filing Submission, dated May 12, 2010.*)

35. The Facility would not be located in a nominated or existing “important bird area.” (*3:00 p.m. Tr. at p. 92; T-Mobile Late-Filing Submission, dated May 12, 2010.*)

36. There are no known instances of bird strikes and/or bird carcasses at any existing T-Mobile telecommunications facility. (*3:00p.m. Tr. at pp. 94-95.*)

37. 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; Chun at p. 3.*)

38. 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 September 30, 2009, the State Historic Preservation Officer ("SHPO") determined that the Facility would not have an adverse impact on any such resources. (*App. at pp. 13-14; App. Ex. N, P; Chun at p. 4.*)

39. 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. All of the Tribes confirmed that they do not have any interests that would be impacted by the Facility. (*App. at p. 14; App. Ex. P; Chun at p. 4.*)

40. Although there is a wetland system located on the Property, the proposed Facility would be approximately 165 feet from that wetland system. The proposed gravel driveway, which would connect the existing driveway and the Facility, would be seventy-five feet from the wetland system. The construction, maintenance and operation of the Facility would not have an adverse impact on this wetland system (*App. at pp. 8, 17; App. Ex. B, K; Gustafson at pp. 3-4.*)

41. The Facility would have no impact on water flow, water quality, or air quality and would comply with relevant noise regulations. (*App. at p. 9; Gustafson at p. 3-4.*)

42. 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 Pawcatuck River located 3,000 feet east of the proposed Facility. (*App. at p. 14; App. Ex. N; 3:00p.m. Tr. at pp. 79-80.*)

43. The Facility would not be located within a flood plain. (*App. at p. 14; App. Ex. P; Chun at p. 4.*)

44. 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. at p. 16; App. Ex. R.*)

45. The Facility's maximum emissions levels would be approximately 8.6489 percent of the safety criteria adopted by the Federal Communications Commission. (*App. at p. 12, App. Ex. O.*)

Visibility

46. 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 two mile radius of the Facility ("Study Area") is at least sixty-five feet. (*App. at pp. 16; App. Ex. M; Pre-Filed Testimony of Michael P. Libertine ["Libertine"] at p. 6.*)

47. The Facility would be set back approximately 765 feet from Pawcatuck Avenue and shielded with excellent screening from mature vegetation. (*App. at p. 16; App. Ex. B, M; 3:00p.m. Tr. at p. 25.*)

48. The areas from which the Facility would be at least partially visible year round comprise approximately ninety-nine acres, which is just over 1 percent of the 8,042 acre Study Area. (*App. at p. 11; App. Ex. M; Libertine at p. 5.*)

49. The majority of the potential year-round visibility occurs within the general vicinity of the Property and over open water on the Pawcatuck River and its adjacent shoreline to the southeast. (*Libertine at p. 5; App. Ex. M.*)

50. The open water views would have a minimal visual impact and 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. (*App. Ex. M; 3:00p.m. Tr. at p. 57.*)

51. Areas of seasonal visibility would comprise approximately fifty-one additional acres. These views would be within the general vicinity of the proposed Facility (approximately 0.25 miles) (*App. at p. 10; App. Ex. M; 3:00p.m. Tr. at p. 57.*)

52. 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. The Facility would not be visible from the Barn Island Wildlife Area or the Pawcatuck River Wildlife Area. (*App. Ex. M; Libertine at pp. 6-7; 3:00p.m. Tr. at pp. 23-24.*)

Tower Sharing

53. The Facility would provide co-location opportunities for municipal public safety communications systems and three telecommunications carriers, which would limit the proliferation of telecommunications facilities. (*App. at p. 8; App. Ex. B; 3:00p.m. Tr. at pp. 18-19, 73; 7:00pm. Tr. at p. 47.*)

54. Verizon has intervened in the proceedings and indicated an interest to locate its antennas on the Facility at a height of 107'9" AGL. (*Verizon Interrog. Resp.; 7:00p.m. Tr. at pp. 25-26.*)

55. T-Mobile has offered the Town space to locate its emergency services on the proposed Facility at no charge. Although the Town has reserved the right to locate its emergency antennas on the Facility, the Town has not articulated an interest to do so. (*App. at p. 8; Vergati at p. 7; 3:00p.m. Tr. at p. 73; 7:00pm. Tr. at p. 47.*)

Dated at Bridgeport, Connecticut this 12th day of May, 2010.


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

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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:

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Jesse A. Langer