

**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 THE TOWN
OF STONINGTON, CONNECTICUT

DOCKET NO. 399

Date: August 11, 2010

PETITION FOR RECONSIDERATION

The applicant, T-Mobile Northeast LLC ("T-Mobile"), files this Petition for Reconsideration ("Petition") with respect to the decision of the Connecticut Siting Council ("Council") rendered in Docket 399 on July 29, 2010. T-Mobile seeks reconsideration of the Council's decision under General Statutes § 4-181a (a) (1) (B) and/or (C). In support of this Petition, T-Mobile states as follows:

1. On January 29, 2010, T-Mobile filed with the 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").

2. The Application was pending before the Council as Docket 399.

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.

4. Cellco Partnership d.b.a. Verizon Wireless ("Verizon") intervened in the proceedings, participated in the hearing and indicated an interest to locate its antennas on the Facility at a height of 107'9" above ground level.

5. On May 13, 2010, the Council closed the record in Docket 399.

6. On July 1, 2010, the Council deliberated on the Application and conducted a straw vote. The Council's straw vote yielded an approval of the Application.

7. On July 7, 2010, the Council requested, via letter, payment for outstanding fees, assessed under General Statutes § 16-50v (d), before the close of business on July 14, 2010, and indicated that it would table all pending and future T-Mobile matters if T-Mobile failed to tender payment as requested.

8. On July 15, 2010, during its regular meeting, the Council tabled the matters pending in Docket 399 and Docket 386 because T-Mobile did not tender payment by the close of business on July 14, 2010.

9. On July 16 and 23, 2010, the Council received checks from T-Mobile in the amount of \$22,825.91 and \$12,774.58, respectively. According to the Council, these payments did not include late fees charges for the outstanding fees, levied pursuant to General Statutes § 16-50v (i).

10. Although T-Mobile had tendered a substantial portion of the amount owed, the Council sent T-Mobile a letter, dated July 23, 2010, reiterating that it would not address any pending T-Mobile matters until T-Mobile paid all outstanding fees and charges. Because the deadline for a decision on Docket 399 under the rules of the Federal Communications Commission was August 2, 2010, the Council also requested from T-Mobile a 90 day extension of time.

11. T-Mobile did not consent to the 90 day extension of time on the ground that the Council lacked statutory authority to table T-Mobile's pending matters for non-payment of fees under General Statutes §§ 16-50v or any other provision.

12. On July 29, 2010, during its regular meeting, the Council denied, without prejudice, T-Mobile's Application on the basis of T-Mobile's outstanding financial obligations to the Council. The Decision and Order provides in relevant part: "[the Council] finds that T-Mobile's total, past due statutory financial obligations to the Council and T-Mobile's refusal to grant a 90-day extension for decision on this application are sufficient reasons to deny the proposed tower without prejudice."

13. The Council stated in its Opinion that "the Council finds that T-Mobile's outstanding financial obligations to the Council are excessive and to grant this application would be unjust to the citizens of the State of Connecticut. The Council further finds that failure to make a decision on this application before August 2, 2010 would violate the federal and state deadlines for final decision." The Council stated no other reason for its decision to deny the Application without prejudice.

14. According to the Council Findings of Fact (finding 113), as of July 29, 2010, the balance of T-Mobile's outstanding fees and charges was \$20,074.89. As of that same date, the late charges amounted to \$1,448.83.

15. T-Mobile drafted a check, dated August 5, 2010, in the amount of \$20,911.47. This payment covers fees and charges assessed under § 16-50v (d) – specifically, invoices TINV000440, TINV000448 and TINV000461, as well as associated late fees. See copy of check attached hereto as Exhibit A.

16. Submitted to the Council concurrently with this Petition is a check in the amount of \$534.01 to cover the remaining late fees associated with the payments made in Paragraph 9 above. See copy of check attached hereto as Exhibit B.

17. On August 10, 2010, T-Mobile sent a check in the amount of \$57,466.80 via overnight delivery, which the Council should receive on the date of this filing. This payment covers the assessment by the Council for the Fiscal Year 2010 pursuant to § 16-50v (b) (2). See copy of check and proof of mailing attached hereto as Exhibit C.

18. Pursuant to § 4-181a (a), T-Mobile petitions the Council to reconsider its decision denying the Application, without prejudice, on the following grounds:

a. The payments made by T-Mobile, as listed in Paragraphs 15 through 17 above, constitute newly discovered evidence which materially affects the basis of the Council's decision under § 4-181a (a) (1) (B) as T-Mobile's outstanding financial obligation was the only basis for the Council's decision; and/or

b. The payments made by T-Mobile, as listed in Paragraphs 15 through 17 above, constitute "good cause for reconsideration" under § 4-181a (a) (1) (C). T-Mobile has brought its account with the Council current regarding the amounts invoiced and considered by the Council to be past due. T-Mobile has also paid its assessments due for this Fiscal Year. These payments constitute sufficient changed circumstances for the Council to reconsider its decision denying the Application without prejudice.

c. T-Mobile submits this Petition within the 15 day period prescribed by § 4-181a (a).

19. T-Mobile requests that the Council:

a. Grant T-Mobile's Petition for Reconsideration regarding the Council's decision in Docket 399, rendered on July 29, 2010, which denied the Application without prejudice;

b. Re-open the record in Docket 399 to render a final decision and approve T-Mobile's Application on its merits;

c. Remove all findings regarding T-Mobile's outstanding financial obligations, specifically findings 104 through 113, from its Findings of Fact;

d. Grant the relief requested in this Paragraph as it relates to Docket 399 at the Council's next regular meeting, currently scheduled for August 17, 2010; and

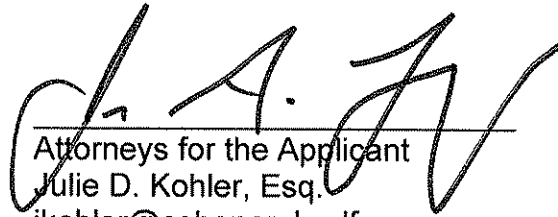
e. Take up all other pending T-Mobile matters in due course.

20. Affording T-Mobile the relief requested of the Council in this Petition would enable T-Mobile, Verizon and any other wireless provider that decides to locate its antennas on the Facility, to provide much needed wireless services to the people and businesses of Stonington, Connecticut.

WHEREFORE, T-Mobile respectfully petitions the Council to grant this Petition and afford T-Mobile the relief requested herein in accordance with § 4-181a (a) (1) (B) and/or (C).

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

By:

A handwritten signature in black ink, appearing to read 'J. A. W.', is written over a horizontal line. The signature is stylized and cursive.

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

EXHIBIT A

1835713
8/5/2010
2000011160

Invoice Number	Inv. Date	Description	Deductions	Voucher	Amount Paid
TINV000448	6/8/2010	DO 386 T-MOBILE/BRANFORD	0.00	1101173489	10884.33
TINV000461	6/8/2010	DO 390 - T-MOBILE/MADISON	0.00	1101173301	2944.24
TINV000440	6/8/2010	DO 385 T-MOBILE/STRATFORD	0.00	1101173300	7082.90

Mellon Bank
500 Ross Street
Pittsburgh, PA 15262
60-160/433

1835713
8/5/2010
VID 2000011160

PAY \$ **20,911.47**
TWO ZERO NINE ONE ONE CTS CTS

***\$20,911.47**

Twenty Thousand Nine Hundred Eleven Dollars And 47 Cents**

To **CONNECTICUT SITING COUNCIL**
The **10 FRANKLIN SQ**
Order **NEW BRITAIN, CT 06051**
Of



⑈000 1835713⑈ ⑆04330160⑆ 013⑈8430⑈

EXHIBIT B

ORIGINAL DOCUMENTARY INSTRUMENT ON CHEMICAL RESISTIVE PAPER WITH MICR INTERLOCK ORDER

113923



Bank of America

LAW OFFICES
COHEN AND WOLF PC

REGULAR ACCOUNT
PO BOX 1821
BRIDGEPORT CONNECTICUT 06801

ST 57/119
August 11, 2010

113923

PAY ****Five Hundred Thirty-Four & 01/100****

\$ ****534.01****

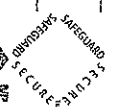
DOLLARS

CONNECTICUT SITING COUNCIL

CHECKS OVER \$1,000.00 REQUIRE TWO SIGNATURES

TO THE
ORDER OF

MP



⑈ 113923 ⑈ ⑆ 01190057 ⑆ 003852874287 ⑈

Security Features Included. Details on back.

EXHIBIT C



T-MOBILE USA, INC.
12920 SE 38TH STREET
BELLEVUE, WA 98006
(425) 378-4000

1836798
8/10/2010
2000035289

Invoice Number	Inv. Date	Description	Deductions	Voucher	Amount Paid
TA000291	7/1/2010	AW TELCOM ASSESSMENT CHARGE	0.00	1101200280	57466.80

DO NOT ACCEPT THIS CHECK UNLESS THE FACE FADES FROM BLACK TO RED WITH LOGO IN BACKGROUND. THE BACK OF THIS DOCUMENT HAS HEAT SENSITIVE INK THAT CHANGES FROM ORANGE TO YELLOW



T-MOBILE USA, INC.
12920 SE 38th Street
Bellevue, WA 98006
(425) 378-4000

Mellon Bank
509 Ross Street
Pittsburgh, PA 15262
80-160/433

1836798
8/10/2010
VID 2000035289

PAY **\$57,466.80**
FIVE SEVEN THOUSAND SIX SIX DOLLARS AND 80 CENTS

\$57,466.80

Fifty Seven Thousand Four Hundred Sixty Six Dollars And 80 Cents

To
The
Order
Of

STATE OF CONNECTICUT
10 FRANKLIN SQ
NEW BRITAIN, CT 06051

VOID AFTER 180 DAYS
THIS CHECK CLEARS THROUGH POSITIVE PAY

Eric K...

This message was sent to you at the request of FSC_AccountsPayable to notify you that the electronic shipment information below has been transmitted to UPS. The physical package(s) may or may not have actually been tendered to UPS for shipment. To verify the actual transit status of your shipment, click on the tracking link below or contact FSC_AccountsPayable directly.

Important Delivery Information

Scheduled Delivery: 11-August-2010

Shipment Detail

Ship To:

State of Connecticut
State of Connecticut
10 Franklin Square
NEW BRITAIN
CT
060512655
US

Number of Packages: 1

UPS Service: NEXT DAY AIR

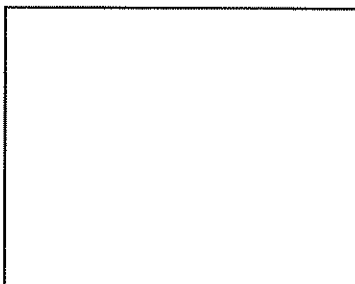
Shipment Type: Letter

Tracking Number: 1Z05VY020194251545

Reference Number 1: V040-1001239

Reference Number 2: CK1836798/TA000291

Click here to track if UPS has received your shipment or visit http://www.ups.com/WebTracking/track?loc=en_US on the Internet.



Discover more about UPS:

[Visit www.ups.com](http://www.ups.com)

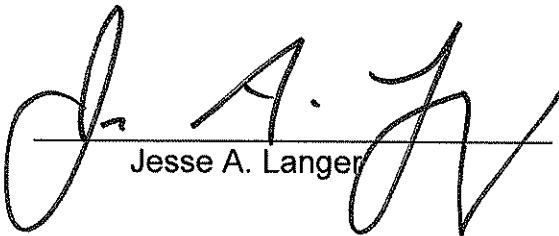
[Sign Up For Additional E-Mail From UPS](#)

[Read Compass Online](#)

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:

Kenneth C. Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103-3597
(Via Email: kbaldwin@rc.com)



Jesse A. Langer