

CONNECTICUT SITING COUNCIL

DOCKET NO. 402

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IN THE MATTER OF:

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APPLICATION OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 16
BELL ROAD EXTENSION, CORNWALL, CONNECTICUT

APPLICANT'S POST-HEARING BRIEF

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EXECUTIVE SUMMARY

On May 6, 2010, Cellco Partnership d/b/a Verizon Wireless (“Cellco”) filed an application (“Application”) with the Connecticut Siting Council (“Council”) for a Certificate of Environmental Capability and Public Need (“Certificate”) to construct a wireless telecommunications facility at 16 Bell Road Extension in the Town of Cornwall, Connecticut (the “Cornwall Facility”). The proposed Cornwall Facility would provide for much needed wireless services along portions of Routes 7 and 4, as well as local roads and significant portions of the Housatonic State Forest, in westerly portions of the Town of Cornwall and easterly portions of the Town of Sharon, Connecticut.

Facility Description

At the Cornwall Facility, Cellco proposes to construct a 110-foot tower in the westerly portion of a 41-acre parcel located at 16 Bell Road Extension. At the top of the tower, Cellco would install fifteen (15) antennas at a centerline height of 110 feet above ground level. The top of Cellco’s antennas will extend above the top of the tower to an overall height of 113 feet. Cellco would also install a 12’ x 24’ shelter near the base of the tower to house its radio equipment and a diesel-fueled back-up generator. Access to the Cornwall Facility would extend from Bell Road Extension along an existing gravel driveway a distance of approximately 1,675 feet, then over a new gravel driveway an additional distance of approximately 545 feet to the cell site.

Public Need

Cellco currently experiences significant gaps in both cellular and PCS coverage along Routes 7 and 4 and other area roadways between its existing Cornwall 2, Sharon North, Sharon 2

and Mohawk Mountain cell sites. The proposed Cornwall Facility would provide reliable service to a 1.97 mile portion of Route 7; a 2.46 mile portion of Route 4 and an overall area of 10.05 square miles at cellular frequencies; and a 1.83 mile portion of Route 7, a 0.93 mile portion of Route 4 and an overall area of approximately 2.99 square miles at PCS frequencies.

Nature of Probable Impacts

The most prominent potential adverse impact from the proposed tower involves “scenic values.” The overall area where some portion of the proposed Cornwall Facility tower would be visible year round (above the tree line), is limited to approximately fourteen (14) acres, or less than two-tenths of one-percent of the two mile radius study area (8,042 acres). Areas where seasonal views are anticipated comprise an additional thirteen (13) acres. The closest off-premises residence to the tower site is located approximately 1,245 feet to the south of the cell site, the residence at 66 Popple Swamp Road. The tower would not be visible from any of the abutting properties. Temporary and permanent impacts on wetland areas adjacent to a portion of the existing driveway that Cellco intends to improve have been minimized to the extent possible and determined to be insignificant.

Public Input

Cellco commenced discussion about its need for improved wireless service and new telecommunications facilities in Cornwall in the Fall of 2008, almost a full year prior to the commencement of the Council’s 60-day consultation period. Cellco commenced its 60-day local input process by meeting with several representatives from Cornwall and the Sharon First Selectman on July 21, 2009. The Town of Cornwall intervened in this docket and appeared at the Council’s July 20, 2010 hearing.

Conclusion

The evidence in the record clearly demonstrates that there is a need for the proposed Cornwall Facility and that the environmental impacts associated with the development of the proposed facility would be minimal, especially when balanced against its overall benefits. The Council should, therefore, approve the Application as submitted.

I. INTRODUCTION

On May 6, 2010, Cellco Partnership d/b/a Verizon Wireless (“Cellco” or “Applicant”) filed with the Connecticut Siting Council (“Council”) an application (the “Application”) for a certificate of environmental compatibility and public need (“Certificate”), pursuant to Sections 16-50g et seq. of the Connecticut General Statutes (“Comm. Gen. Stat.”), for the construction, maintenance and operation of a wireless telecommunications facility (the “Cornwall Facility”) on a 41 acre parcel at 16 Bell Road Extension in the Town of Cornwall, Connecticut (the “Property”). (Cellco Exhibit (“Exh.”) 1). Cellco currently experiences significant gaps in reliable wireless service throughout the Town of Cornwall, particularly along Routes 7 and 4. What little reliable service Cellco does provide in Cornwall today comes from its existing Mohawk Mountain facility off Toomey Road in Cornwall; Cornwall 2 facility at 7 Surdan Mountain Road in Sharon; Sharon North facility at 477 Route 7 in Sharon; and Sharon 2 facility at 70 Herb Road in Sharon. These existing coverage problems must be resolved in order for Cellco to continue to provide high-quality, uninterrupted and reliable wireless telecommunications service consistent with its Federal Communications Commission (“FCC”) license and to meet the demands of its wireless telecommunications customers. The Cornwall Facility would provide for much needed reliable coverage along significant portions of Route 7 and Route 4, and local roads in the area and significant portions of the Housatonic State Forest in westerly portions of Cornwall and the easterly portions of Sharon. (Cellco Exh. 1).

II. PROCEDURAL BACKGROUND

The Council conducted an evidentiary and public hearing on the Application on July 20, 2010. (July 20, 2010 Transcript (afternoon) (“TR1”), p. 2; July 20, 2010 Transcript (evening) (“TR2”), p. 2). Prior to the afternoon session of the hearing, the Council and its staff visited the

Property. At the Council's request, Cellco caused a balloon with a diameter of approximately four (4) feet to be flown at the proposed tower location, at 110 feet above ground level ("AGL") between the hours of 1:00 p.m. and 7:00 p.m. on the day of the hearing. (Cellco Exh. 1; TR1, pp. 31-32).

This post-hearing brief is filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies ("R.C.S.A.") and the Council's directives. (TR2, p. 92). This brief evaluates the Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes and addresses several other issues raised throughout the course of this proceeding.

III. FACTUAL BACKGROUND

A. Pre-Application History

Cellco is licensed to provide PCS (1900 MHz), cellular (850 MHz) and LTE (700 MHz) service throughout Connecticut. As of the date of this filing Cellco has not deployed and is not therefore operating its LTE service in or around the Cornwall area. Cellco currently experiences significant gaps in reliable wireless service along Routes 7 and 4 and local roadways in the area between its existing Mohawk Mountain, Cornwall 2, Sharon North and Sharon 2 cell sites. (Cellco Exh. 1, Tab 7). Cellco began its search for an appropriate location for a facility to resolve these service problems in November of 2007. (Cellco Exh. 1, Tab 9). As the first step in its site search process, Cellco investigates whether there are existing towers, or non-tower structures of suitable height in an area that can be used to satisfy its coverage objectives. Cellco identified four (4) existing towers within five (5) miles of the Cornwall Facility. Cellco currently shares each of these existing towers. Likewise, there are no existing non-tower structures of suitable

height in the area that can satisfy Cellco's coverage objectives. (Cellco Exh. 1, Tab 9). If a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the facility could be reduced to the greatest extent possible. (Cellco Ex. 1, p. 11, Tab 9). Cellco selected the location for the proposed Cornwall Facility in such a manner as to allow it to build and to operate a high-quality wireless system with the least environmental impact.

B. Local Contacts

Cellco began talking to municipal officials about its plans for future cell site development in Cornwall in the Fall of 2008. At that point, Cellco had a lease for a tower site at 78 Popple Swamp Road in Cornwall. Cellco's representatives met with Cornwall's First Selectman Gordon Ridgway, members of the Board of Selectmen, Town land use staff and members of the general public at that time. (Cellco Exh. 1, pp. 20-21; Cellco Exh. 2). Initially these discussions focused on Cellco's existing sites in and around the Cornwall area and its plans to modify the existing Mohawk Mountain facility. (TR2, p.72). Further discussions focused on a potential cell site at 78 Popple Swamp Road. Town officials and members of the public expressed concerns about the 78 Popple Swamp Road location due to site topography, visibility and other potential environmental effects. (Cellco Exh. 2). Cellco was asked to search for and consider alternative locations in the area, which it did. (Cellco Exh. 1, Tab 9; Cellco Exh. 2). When Cellco returned to the Town on July 21, 2009 to commence the Council's 60-day local input process, Cellco presented the First Selectman, other members of the Board of Selectmen, municipal officials and members of the general public with two alternative cell site locations for its consideration, the 78 Popple Swamp Road cell site and the 16 Bell Road Extension cell site. In August of 2009, Cellco hosted a public information

meeting at Cornwall Town Hall to present information about both of these alternative sites. Property owners whose land abuts both the 78 Popple Swamp Road and 16 Bell Road Extension parcels were provided with notice of the public information meeting. A legal notice announcing the public information meeting was also published in the *Waterbury Republican*. (Cellco Exh. 1, pp. 20-21). Following the public information meeting, Cellco officials continued to investigate alternative sites recommended by the Town. (Cellco Exh. 1, pp. 20-21, Tab 9). After hearing the concerns of the Town and members of the general public, and completing a more in-depth engineer review of the alternative cell sites, Cellco decided to remove the 78 Popple Swamp Road site from its Cornwall proposal. (Cellco Exh. 2).

C. Tower Sharing

Consistent with its practice, Cellco regularly explores opportunities to share its facilities with other wireless service providers. Cellco intends to design the Cornwall Facility tower so that it could be expanded up to twenty feet, if necessary, and shared by other carriers. (Cellco Exh. 1, p. 12; TR1, p. 64). During the course of its meeting with municipal officials in Cornwall and Sharon, Cellco agreed to provide space on the tower, at no cost, to local emergency service providers. Cellco would also agree to make ground space in the facility compound available, if needed. (Cellco Exh. 1, p. 12; TR1, p. 73). Even though they did not intervene in the Docket No. 402 proceeding, AT&T Wireless recently notified Cellco that it was interested in sharing the proposed Cornwall Facility. (TR1, pp. 59-60).

D. The Cornwall Facility Proposal

The Cornwall Facility would be located within a 34' x 70' fenced compound in the westerly portion of a 41 acre parcel ("Property") owned by Ralph Gulliver, Jr. (Cellco Exh. 1,

Tab 1; Cellco Exh. 6). At the Cornwall Facility, Cellco would construct a new 110-foot tall monopole tower and install fifteen (15) panel-type antennas with their centerline at 110 feet above the finished grade of the site compound. The top of the Cellco antennas would extend above the top of the tower to an overall height of 113 feet. (Cellco Exh. 1, p. 3, Tab 1).

Cellco would install a 12' x 24' single-story shelter near the base of the tower to house its receiving, transmitting, switching, processing and performance monitoring equipment and the required heating and cooling equipment. A diesel-fueled back-up generator would be installed within a segregated room in Cellco's shelter for use during power outages and periodically for maintenance purposes. The tower and equipment shelter would be surrounded by an 8-foot high security fence and gate. Vehicular access and utility service to the Cornwall Facility would extend from Bell Road Extension along a portion of an existing gravel driveway, a distance of approximately 1,675 feet, then over a new gravel driveway an additional distance of approximately 545 feet to the cell site. (Cellco Exh. 1, pp. 3-4, Tab 1; Cellco Exh. 6).

IV. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50P FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Section 16-50p of the Public Utility Environmental Standards Act ("PUESA"), Conn. Gen. Stat. §16-50g *et seq.*, sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (A) A public need for the facility and the basis of the need; (B) the nature of the probable environmental impact of the facility . . . , alone or

cumulatively with other existing facilities including a specification of every significant adverse effect, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (C) why the adverse effects or conflicts referred to in subdivision (B) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. A Public Need Exists for the Cornwall Facility

The first step in the review of the pending Application addresses the public need for the proposed facility. As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. The Federal Telecommunications Act of 1996 (the “Telecommunications Act”) emphasized and expanded on these aspects of the FCC’s 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications

industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. (Cellco Exh. 1, pp. 6-8; Council Adm. Notice 7). Most recently, President Barak Obama issued in Presidential Proclamation 8460, in which “cellular phone towers” were identified as critical infrastructure vital to national security. (Cellco Exh. 1, pp. 6-8; Council Adm. Notice 19).

Cellco currently experiences significant gaps in reliable wireless service along Routes 7 and 4 and area roadways in Cornwall between its existing Mohawk Mountain, Sharon 2, Cornwall 2 and Sharon North cell sites. (Cellco Exh. 1, pp. 8-9, Tab 7). These existing service problems must be resolved in order for Cellco to provide high-quality, uninterrupted and reliable wireless telecommunications service consistent with its FCC license and to meet the demands of its wireless telecommunications customers. The Cornwall Facility described above would provide for much needed coverage along significant portions of Route 7 and Route 4, as well as local roads in western portions of Cornwall and eastern portions of Sharon where service simply does not exist today. (Cellco Exh. 1, Tab 7).

As the Council is aware, Cellco holds licenses to provide PCS, cellular and LTE wireless services in Litchfield County, Connecticut and proposes to operate these frequencies at the Cornwall Facility. (Cellco Exh. 1, Tab 6). The PCS, cellular and LTE services Cellco plans to deploy, operate at different frequencies, and will allow customers to use the same cell site for voice and/or data services. By installing PCS, cellular and LTE antennas at the Cornwall Facility, Cellco can ensure that it has more capacity available to meet the growing demand of its customers for wireless services. (Cellco Exh. 1).

The record contains ample, written evidence and testimony that a 110-foot tower at the

Property would allow Cellco to achieve and maintain high quality reliable wireless telecommunications service without interruption. The Cornwall Facility would be incorporated into a network design plan, intended to provide Cellco customers with reliable wireless service along portions of Routes 7 and 4, as well as along local roads in western portions of Cornwall and eastern portions of Sharon where coverage is currently unreliable or non-existent. (Cellco Exh. 1).

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed facility and particularly the following factors:

1. Natural Environment and Ecological Balance

The proposed development of the Cornwall Facility has eliminated, to the extent possible, impacts on the natural environment. All Cornwall Facility improvements would be located within a 34' x 70' site compound. The long and narrow site compound and the introduction of two retaining walls will allow Cellco to maintain a level compound area while minimizing the total area of disturbance needed to construct the Cornwall Facility. (Cellco Exh. 6; TR1, pp. 13-14). Only 17 trees, 6 inch or greater diameter at breast height, would need to be removed to construct the site compound. (Cellco Exh. 6).

Access to the Cornwall Facility would extend from Bell Road Extension along an existing gravel driveway a distance of approximately 1,675 feet, then over a new gravel driveway extension an additional 545 feet to the cell site. The existing driveway is generally flat and will require some resurfacing and widening to accommodate Cellco's access requirements. (Cellco Exh. 1, Tab 1; Cellco Exh. 6).

The existing gravel driveway bisects a forested wetland system on the Property. An existing 24-inch culvert conveys flows from the wetland system north of the access drive to the system south of the access drive. (Cellco Exh. 1, Tab 12; TR1, pp. 21-24). Upgrades to this culvert crossing will result in approximately 400 square feet of temporary wetland impacts to the north of the access drive and approximately 1,000 square feet of permanent wetland impacts to the south of the access drive. (TR1, pp. 21-24). The existing roadway improvements in this area have been shifted to the south to eliminate the potential for impacts on what was identified as a sensitive wetland area to the north of the existing access drive. (TR1, p. 23). With appropriate construction restrictions, between March 1 and May 15, significant adverse impacts to this wetlands system would be avoided. (Cellco Exh. 1, Tab 12, TR1, pp. 22-25; TR2, pp. 42-44).

The westerly portion of the site access driveway will maintain an average grade of approximately 20%, with a maximum grade of 22%. (TR1, p. 14). Stormwater run-off along the westerly portion of the access drive will be diverted into and controlled in riprap protected swales along the side of the driveway. These swales will slow stormwater flows and direct all drainage to an energy dissipater (splash pad) on the Property before allowing the water to drain back into existing contours. (TR1, pp. 14-15). To avoid "wash-outs" of the steeper portions of the access driveway, Cellco plans to incorporate a reinforced mesh into the gravel driveway surface. (TR1, pp. 18-19). The reinforced mesh material would stabilize the gravel driveway service and prevent steeper portions of the access drive from washing out. (TR1, pp. 18-19). None of these improvements will adversely impact private properties to the south of the access drive. (TR1, p. 16).

2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed facility would be minimal or nonexistent.

First, the potential for the Cornwall Facility towers to fall does not pose an unreasonable risk to health and safety. The proposed tower would be designed and built to meet Electronic Industries Association (“EIA”) standards. Other than Cellco’s proposed equipment shelter there are no structures within the fall radius of the tower and the fall radius would remain entirely within the limits of the Property. The nearest off-site residence is located approximately 1,245 feet to the south of the Cornwall Facility. (Cellco Exh. 1, Tab 1; Cellco Exh. 6).

Second, worst-case potential public exposure to RF power density for operation of the Cornwall Facility at the nearest point of uncontrolled access (the base of each tower) would be 35.11% of the FCC standard. Power density levels would drop off rapidly as distance from the tower increases. (Cellco Exh. 1; Cellco Exh. 4, Resp. 6).

Overall, the nature and extent of potential, adverse public health and safety impacts resulting from construction and installation of the Cornwall Facility would be minimal or nonexistent.

3. Scenic Values

As noted in the Application, the primary impact of any tower is visual. Cellco’s site search methodology, described in the Site Search Summary, is designed in large part to minimize such visual impacts. As discussed above, wherever feasible, Cellco avoids construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near the search area. Cellco currently maintains antennas on four (4) existing towers, all within five miles of the

proposed Cornwall Facility. No existing non-tower structures of suitable height exist in the western portions of Cornwall and eastern portions in Sharon. (Cellco Exh. 1, Tab 9).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the site would be reduced to the greatest extent possible. Cellco explored the use of several alternative sites in the area. (Cellco Exh. 1, Tab 9).

The Property and the surrounding area are heavily-wooded, sparsely development and used for residential and recreation purposes. The Cornwall Facility would be located in the western portion of a 41 acre parcel, adequately buffered from all adjacent properties and recreational land uses. (Cellco Exh. 1, p. 3, Tab 1; Tab 10).

Cellco submitted a Visual Resource Evaluation Report prepared by VHB Inc. (“VHB Report”) as a part of the Application. Prior to preparing its report, VHB conducted several balloon floats at the Property during “leaf-on” and “leaf-off” conditions and field reconnaissance to assess visibility of the Cornwall Facility. (Cellco Exh. 1, Tab 10). VHB determined that the proposed Cornwall Facility tower would be partially visible above the tree canopy from only fourteen (14) acres, less than two-tenths of one percent of the two mile radius (8,042-acre) study area around the tower site. Areas where seasonal views are anticipated comprise an additional thirteen (13) acres and are located on the Property and in the immediate vicinity of other areas of year-round visibility. (Cellco Exh. 1, pp. 13-14, Tab 10). The 110-foot tower would not be visible from any abutting properties due to the presence of steep slopes and heavily wooded areas. (TR1, pp. 27-28 and 70). The tower would not be visible from the Housatonic State Forest, any Connecticut Blue Blazed Trails, the Appalachian Trail, the Pine Knob Loop Trail or the Mohawk

Trail. (TR1, p. 29). The most prominent area of year-round views are located nearly two miles east of the tower site off School Street. (Cellco Exh. 1, Tab 10).

4. Historical Values

As it does with all of its tower proposals, prior to filing the Application with the Council, Cellco requested that the State Historic Preservation Office (“SHPO”) of the Connecticut Historical Commission (the “Commission”) review the proposed facility and provide a written response. Based on his review of the information submitted by Cellco, the Deputy State Historic Preservation Officer determined that the development of a telecommunications facility at the Property would have “no effect” on historic, architectural or archaeological resources listed on or eligible for the National Register of Historic Places. (Cellco Exh. 1, p. 22, Tab 11). No evidence to the contrary was presented to the Council. Furthermore, Cellco has no reason to believe that there are any other impacts on historical values not addressed by the SHPO’s review.

5. Recreational Values

There are no recreational activities or facilities at the Property that would be impacted by development of the Cornwall Facility. The tower on the Property will not be visible from and will not adversely impact the use of the Housatonic Meadows State Park, the Housatonic River or any of the hiking trails associated with these recreation resources. (Cellco Exh. 1, pp. 13-14, Tabs 10 and 11; TR1, pp. 33-38).

6. Forests and Parks

There are no activities or facilities at the Property that would be impacted by development of the Cornwall Facility. (Cellco Exh. 1, Tabs 10 and 11). The tower on the Property will not be visible from and will not adversely impact the use of the Housatonic Meadows State Park,

Housatonic State Forest or the Housatonic River or any of the hiking trails associated with these resources. (Cellco Exh. 1, pp. 13-14, Tab 10; TR1, pp. 33-38).

7. Upper Housatonic Valley Natural Heritage Area

The Upper Housatonic Valley Natural Heritage Area (“UHVNHA”) was designated by Congress in 2006, to heighten appreciation of the region, preserve its natural and historic resources and improve the quality of life and economy of the area. (Cellco Exh. 4, Resp. 7). Through Public Act No. (“P.A.”) 09-221, the Connecticut General Assembly recognized the establishment of the UHVNHA. The UHVNHA extends from Kent, Connecticut to Lanesboro, Massachusetts. Nine towns in Connecticut are included in the UHVNHA including Kent, Warren, Sharon, Cornwall, Salisbury, Canaan, North Canaan, Norfolk and Colebrook. (Cellco Exh. 4, Resp. 7).

P.A. 09-221 requires each State agency, department, board or commission, to consider these heritage areas when developing “planning documents and processes” and permits these entities to “partner with the managing entities of such areas on projects concerning, but not limited to, environmental protection, heritage resource preservation, recreation, tourism and trail development”. (TR2, pp. 89-91). P.A. 09-221 also requires any revisions to the State Plan of Conservation and Development, made after October 1, 2009, to “take into consideration the protection and preservation of Connecticut Heritage Areas”.

As the State agency responsible for the siting of telecommunications towers throughout Connecticut including those nine Connecticut towns in the UHVNHA, the Council is responsible to review, as a part of its analysis of environmental effects, the impact a tower may have on the historic, cultural and natural resources within the UHVNHA. This analysis is a compliment to, but does not expand upon, the review and approval criteria that the Council currently considers in all

tower docket applications. The approval criteria set forth in C.G.S. § 16-50p(a) currently requires the Council to consider a facility's impact on the "natural environment" including but not limited to public health and safety, scenic, historic and recreational values.

The record in this docket contains ample evidence to support a finding by the Council that the proposal will not have an adverse effect on any of the historic, cultural and natural resources of the UHVNHA. For example, the Cornwall Facility tower will not be visible from any historic structure or resources in the area. (Cellco Exh. 1, Tab 10). The tower will not be visible from the Appalachian Trail or other hiking trails in and around the Housatonic State Forest and will not be visible from the Cornwall Covered Bridge. (Cellco Exh. 1, Tab 10; TR1, pp. 33-38).

8. Air and Water Quality

a. Air Quality.

The equipment at the site would generate no air emissions under normal operating conditions. During power outage events and periodically for maintenance purposes, Cellco would utilize a diesel-fueled back-up generator to provide emergency power to the Cornwall facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection ("DEP") Bureau of Air Management prior to installation of the proposed generator. (Cellco Exh. 1, p. 22).

b. Water Quality.

The proposed Cornwall Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private sewage system. Dean Gustafson, Professional Soil Scientist with VHB, Inc., conducted a field investigation and completed a Wetlands Delineation Report (the "Wetlands Report") for the Cornwall Facility.

Improvements to the existing portion of the access driveway will result in some temporary and some permanent impacts on wetlands located adjacent to the existing drive. (Cellco Exh. 1, Tab 12; Cellco Exh. 6). As a part of the overall project plan, all temporary impacts will be properly restored. The permanent impacts are occurring in previously disturbed areas adjacent to the existing access drive and will not likely result in adverse impacts to the wetlands' function or value. (Cellco Exh. 1, Tab 12). As such, development of the Cornwall Facility will not result in any adverse impacts on the quality of any nearby wetland resources. (Cellco Exh. 1, pp. 19-20, Tab 12; TR1, pp. 22-25).

9. Fish and Wildlife

As a part of its National Environmental Policy Act ("NEPA") Checklist, Cellco received comments on the Cornwall Facility from the U.S. Department of Interior, Fish and Wildlife Service ("USFWS") and the Environmental and Geographic Information Center of the DEP. The USFWS has determined that there are no federally-listed or proposed, threatened or endangered species or critical habitat known to occur in the Cornwall Facility project area. Likewise, according to the DEP, there are no known extant populations of Federal or State Endangered, Threatened or Special Concern Species at the Cornwall Facility. (Cellco Exh. 1, p. 22, Tab 11).

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the Cornwall Facility, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts "are not sufficient reason to deny the Application." Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the

benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from the proposed towers involves “scenic values.” As the record overwhelmingly demonstrates, the Cornwall Facility would have minimal impacts on scenic values in the area. (Cellco Exh. 1, pp. 13-14, Tab 10). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of the Cornwall Facility.

The limited aesthetic and environmental impacts of the proposed Cornwall Facility can be further mitigated by the sharing of the facility. Cellco has designed the 110-foot tower so that it could be expanded and shared by other carriers. (Cellco Exh. 1, p. 12; TR1, p. 64). During the course of its meeting with municipal officials in Cornwall and Sharon, Cellco agreed to provide access to the tower, at no cost, to the Town and to emergency service providers in the Town (TR1, p. 73).


In sum, the potential environmental impacts from the proposed Cornwall Facility would be minimal when considered against the benefits to the public. These impacts are insufficient to deny the Application. The site, therefore, satisfies the criteria for a Certificate pursuant to Connecticut General Statutes § 16-50p, and the Applicant’s request for a Certificate should be granted.

V. CONCLUSION

Based on the overwhelming evidence in the record, the Applicant has established that there is a need for the proposed Cornwall Facility and that the environmental impacts associated with the Application would be limited and outweighed by the benefits to the public from the proposed

facility and, therefore, requires that the Council approve the Application. Therefore, the Council should approve the Application as submitted.

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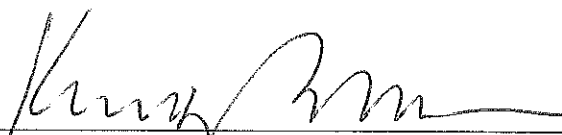
CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of August, 2010, a copy of the foregoing was sent,
postage prepaid, to:

Gordon M. Ridgeway, First Selectman
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