

WIGGIN AND DANA

*Counsellors at Law*

Wiggin and Dana LLP  
One Century Tower  
P.O. Box 1832  
New Haven, Connecticut  
06508-1832  
www.wiggin.com

Bruce L. McDermott  
203.498.4340  
203.782.2889 fax  
bmcdermott@wiggin.com

December 20, 2010

Honorable Daniel Caruso  
Chairman  
Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051

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CONNECTICUT  
SITING COUNCIL

Re: Docket 406

Dear Chairman Caruso:

Enclosed for filing in the above-captioned docket is the Proposed Findings of Fact of The United Illuminating Company ("UI").

If you or the Council have any questions about this UI filing, please call me.

Very truly yours,



Bruce L. McDermott

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**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

Application of The United Illuminating Company for a ) Docket # 406  
Certificate of Environmental Compatibility and Public )  
Need for the Construction, Maintenance, and Operation )  
of a Wireless Telecommunications Facility in Orange, )  
Connecticut ) December 20, 2010

**PROPOSED FINDINGS OF FACT**

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, The United Illuminating Company (“UI” or the “Company”) submits these proposed findings of fact.

**Introduction**

1. On September 7, 2010, in accordance with §§ 16-50g et seq. of the Connecticut General Statutes, as amended, and §§ 16-51j-1 et seq. of the Regulations of Connecticut State Agencies, as amended, UI submitted to the Connecticut Siting Council (the “Council”) an Application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility (the “Facility”) in Orange, Connecticut (the “Application”). (Hearing Exhibit 1, Application, p. 1.)<sup>1</sup>

2. UI is a specially chartered Connecticut corporation that provides electricity and energy-related services to more than 324,000 customers in seventeen cities and towns in southern Connecticut. (App., p. 2.)

3. UI proposes to construct the proposed telecommunications tower (the “Tower”) and a single-story equipment shelter (the “Equipment Shelter”, which together with the Tower, are the “Facility”) on a portion of an approximately 35-acre site located at 100 Marsh Hill Road in

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<sup>1</sup> For the Council’s convenience, all subsequent page references to Hearing Exhibit 1, which is UI’s Application, are made as “App., p. \_\_\_”. All subsequent references to exhibits attached to the application are made as App. Att. \_\_\_.”

Orange, Connecticut (the "Site"), on which UI's new Operations Center is being constructed. (App., p. 1.)

4. The proposed Facility will be used primarily by UI to facilitate internal communications between UI's Operations Center, UI's field crews and remote electric system devices in order to provide for the efficient operation and maintenance of the electric transmission and distribution systems within UI's service territory. (App., p. 1.)

5. Notice of the Application was published in the (i) The New Haven Register, a newspaper of general circulation in the Town of Orange and the Cities of Milford and West Haven, on August 27, 2010 and August 28, 2010, and (ii) in The Connecticut Post, a newspaper of general circulation in the Town of Orange and the Cities of Milford and West Haven, on September 3, 2010 and September 4, 2010. (Hearing Exhibit 4, Affidavit of Kathleen M. Shanley Regarding Signs Noticing Hearing, p. 2.)<sup>2</sup>

6. Notice of the Application was sent via certified mail to each person appearing of record as an owner of property that may be considered to abut the Property. A total of 33 notice letters were sent. The 33 letters included both abutting property owners as well as owners whose properties are located in the vicinity of the Site, but not necessarily adjacent to the Site, who UI thought might be interested in the Council's review of the Application. (Shanley Affidavit, pgs. 2, 3.)

7. Copies of the Application were sent by certified mail, return receipt requested, to municipal, regional, state and federal officials, pursuant to C.G.S. § 16-501(b). (App., p. 4.)

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<sup>2</sup> For the Council's convenience, all subsequent references to Hearing Exhibit 4, Affidavit of Kathleen M. Shanley Regarding Signs Noticing Hearing are made as "Shanley Affidavit".

8. On November 1, 2010, a sign, measuring 6' x 4' and providing a brief description of the Application and notice of the Council's public hearing, was erected at 100 Marsh Hill Road near the entrance to the Site. (Shanley Affidavit, pgs. 1, 2.)

9. Pursuant to C.G.S. § 16-50m, the Council, after providing due public notice thereof, held a public hearing on November 16, 2010 beginning at 3:00 p.m. and continued at 7:00 p.m. at the High Plains Community Center, 525 Orange Center Road, Orange, Connecticut. (Hearing Notice; 11/16/10 Hearing Transcript (afternoon), pgs., 1, 2; Hearing Transcript (evening), pgs. 1, 2.)<sup>3</sup>

10. The Council and its staff conducted a public field review of the Site and the location of the proposed Facility on November 16, 2010, beginning at 2:00 p.m. (Hearing Notice.)

11. Pursuant to Council instructions, on November 16, 2010, UI flew a red weather balloon approximately four feet in diameter at the Site from 7:30 a.m. to 5:00 p.m. to simulate the height of the proposed Tower. (11/16/10 Tr. (afternoon), p. 23.)

#### **Municipal Consultations and Agency Correspondence**

12. Pursuant to C.G.S. § 16-50l(e), UI filed copies of the draft Application and supplemental technical reports with the Town of Orange on June 5, 2010. Because the Site is located within 2,500 feet of the Cities of Milford and West Haven, copies of the municipal consultation information and associated technical reports were also sent to the Chief Elected Officials in the City of West Haven and the City of Milford. No recommendations or alternative sites for the proposed Tower were identified by the Town of Orange during this consultation. In addition, no comments on the proposed Tower were received from the Cities of West Haven and Milford. (App., pgs. 21, 22.)

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<sup>3</sup> For the Council's convenience, all subsequent references to the 11/16/10 Hearing Transcripts are made as "11/16/10 Tr. (afternoon), p. \_\_" or "11/16/10 Tr. (evening), p. \_\_".

13. The First Selectman of the Town of Orange, James Zeoli, spoke at the 11/16/10 public hearings in favor of the Application. (11/16/10 Tr. (afternoon), p. 7; 11/16/10 Tr. (evening), pgs. 3-7.)

14. The State of Connecticut Department of Environmental Protection (the "DEP") submitted comments on the proposed Facility on November 8, 2010. (Hearing Exhibit, Department of Environmental Protection Comments.)

15. No other agencies submitted comments on the Application. (Record.)

#### **Public Need**

16. UI owns and operates several radio systems that are necessary for the efficient, reliable, and safe operation of its electric system, including (i) the mobile radio systems, which allow electric system dispatchers and emergency response personnel to communicate with UI's field crews; (ii) the Connecticut Valley Electric Exchange ("CONVEX") radio system, which allows for emergency communications to UI's substations and CONVEX; and (iii) the power factor correction and recloser systems, which control and optimize power flow throughout UI's electric system. (App., p. 5.)

17. Construction of the proposed Tower will allow UI to consolidate these radio communications systems at the new Operations Center, which will enhance systems operations in order that UI better serve the public. (App., p. 5.)

#### **Site Description**

18. The Site, which is owned by UI and is situated adjacent to Exit 41 of Interstate 95, is comprised of two contiguous parcels that form a single tract of land. (App., p. 6.)

19. The Site is zoned Light Industrial District 2 per the Town of Orange Zoning Regulations. (App., p. 6.)

20. The Site is located within the Indian River watershed. (App., p. 6.)

21. Previously developed as a multi-plex cinema, which was demolished by UI in June 2009, the topography of the Site is moderate to mildly sloping. The eastern portion of the Site, dominated by the cinema development, is mildly sloping, consistent with parking areas and building pads. The topography within the undeveloped portion of the Site along the western boundary varies between mild to moderately sloping. (App., p. 6.)

22. Land uses in the vicinity of the Site include industrial, commercial (e.g. highway, hotel, restaurant, offices, etc.) and residential uses. (App., p. 6.)

23. The closest residence is approximately 940 feet from the proposed location of the Tower. (App., p. 6.)

24. The western portion of the Site, which is undeveloped, is protected by a conservation easement (the "Conservation Easement") and is characterized by shrubs, woodland and wetland areas. This area provides a forested buffer between the developed portion of the Site and nearby residences along Indian River Road. (App., p. 6.)

25. On October 6, 2009, the Orange Town Plan and Zoning Commission approved UI's application to construct the proposed Operations Center on the Site. (App., p. 6.)

26. The Operations Center will consist of a four-story office building, a parking garage and parking lot, a field crew training area, and a service and maintenance area comprised of a maintenance building, fueling station, covered truck parking, indoor storage and an outdoor storage area for utility equipment. (App., pgs. 6, 7.)

27. For security purposes, a small guard house will be located at a security checkpoint near the main entrance to the Operations Center. In addition, the Site will be secured by an

eight-foot high perimeter fence on three sides and a six-foot high decorative fence along Marsh Hill Road and the main entrance drive. (App., p. 7.)

28. The proposed Tower will be situated within the service and maintenance area between the outside storage area and the southwestern corner of the parking garage and will be constructed entirely within the footprint of the previously developed area of the cinema. (App., p. 7.)

29. The Conservation Easement, established as a condition of the Inland Wetlands and Watercourses Commission of the Town of Orange (the "IWWC") and the DEP at the time construction of the cinema was approved in 1993, provides that no buildings or improvements may be constructed within the easement area nor shall the natural conditions within the easement area be disturbed, except as required (i) pursuant to the DEP or IWWC approvals, (ii) to maintain the ponds or clean up the area, or (iii) to expand the parking area shown on the site plan approved by the IWWC. (App., pgs. 7, 8.)

30. UI does not intend to disturb any areas within the Conservation Easement either during construction of the Tower or in connection with its activities on the Site. (App., p. 8.)

#### **Tower Design and Equipment**

31. The Tower will consist of a new 100-foot high self-supporting three-legged lattice tower. (App., p. 8; 11/16/10 Tr. (afternoon), p. 42.)

32. At this time, UI intends to install up to ten antennas of various types, including dipole, omni-directional, and directional Yagi, on two of the three legs of the proposed Tower. (11/16/10 Tr. (afternoon), p. 42.)

33. The Tower and Equipment Shelter have been designed to accommodate additional antennas and equipment in order to allow for future expansion to serve UI's operational needs. (App., p. 9; 11/16/10 Tr. (afternoon), p. 42).

34. Lattice construction will allow UI to install additional antennas on the third leg of the Tower in the future. (11/16/10 Tr. (afternoon), pgs. 42-44.)

35. At the base of the Tower, UI will construct a single-story Equipment Shelter with dimensions of approximately 15' x 22' x 11' high to house UI's receiving, transmitting, processing and performance monitoring equipment, and the required heating and cooling equipment. (App., p. 8.)

36. The Equipment Shelter will be equipped with silent intrusion and systems alarms and UI personnel will be available on a 24-hour basis to receive and respond to incoming alarms. (App., p. 8.)

37. The Equipment Shelter will remain unstaffed except as required for periodic maintenance. (App., p. 8.)

### **Site Selection**

38. The location of the proposed Tower within the Site was selected carefully in order to avoid other properties or critical Central Facility buildings in the unlikely event of a tower collapse and to be in close proximity to the Equipment Shelter. (App., p. 9.)

39. The purpose of the Tower is to service the Operations Center located at the Site. (App., p. 1; 11/16/10 Tr. (afternoon), pgs. 18, 20.)

40. The location of UI's internal wireless communications equipment is constrained by the fact that the equipment must be located in close proximity to the Operations Center. (11/16/10 Tr. (afternoon), pgs. 19, 20.)



### **Tower Sharing**

41. The purpose of the proposed Tower is to host various types of UI communications equipment and the Tower will not transmit or receive signals for commercial or public purposes. (App., p. 10.)

42. UI has no plans to share the Tower with outside entities at this time, except as may be requested by the Town of Orange for its public safety antennas. (App., p. 10.)

43. UI's Site security requirements will limit access to the Site. (11/16/10 Tr. (evening), p. 15.)

44. At the 11/16/10 public hearing, First Selectman James Zeoli requested that UI permit the Town of Orange to locate its emergency response equipment on the Tower in the future if necessary. (11/16/10 Tr. (afternoon), p. 7.)

45. UI has agreed to provide the Town of Orange with space on the Tower for its emergency response equipment in the future upon request. (App., p. 10; 11/16/10 Tr. (afternoon), p. 19.)

### **Environmental Compatibility**

46. The proposed Tower will not have a significant adverse impact on the environment. (App., p. 11.)

47. The Site is not a wilderness area, wildlife preserve, National Park, National Forest, National Parkway, Scenic River, State Forest, State Designated Scenic River or State Gameland. (App., p. 22.)

48. No Federally regulated wetlands or watercourses or threatened or endangered species will be impacted by the proposed Tower. (App., p. 22.)

49. The Tower is not located within a 100 year or 500 year flood plain. (App., p. 22.)

50. Based on a review of the DEP Natural Diversity Database, the Tower will not impact any known occurrences of state-listed species or significant natural communities. (App., p. 23.)

51. The Site is not within an "Important Bird Area" as designated by the National Audubon Society. (Hearing Exhibit 2, Responses to Council's Pre-Hearing Interrogatories, dated October 22, 2010, Interrogatory CSC-13.)<sup>4</sup>

52. The proposed Tower will comply with the recommended guidelines of the United States Fish & Wildlife Service for minimizing the potential for impacts to bird species. (Responses to Interrogatories, CSC- 14.)

53. On November 8, 2010, the Wildlife Division of the DEP provided comments to the Council recommending reconsideration of the Tower's lattice design, which the DEP suggested would increase the likelihood of monk parakeet nesting. (Hearing Exhibit, DEP Comments.)

54. In response to the DEP's comments, UI notified the DEP that it will be able and willing to monitor the Tower for monk parakeet nesting activity. (11/16/10 Tr., pgs. 20-22.)

55. The State Historic Preservation Officer ("SHPO") determined that the proposed Tower will have no adverse effect on cultural resources eligible for or listed on the National Register of Historic Places. (App., p. 24; see also Responses to Interrogatories, CSC-5.)

56. Since the Tower and Equipment Shelter will be constructed entirely within the footprint of the area of the Site that previously was developed for a movie theater, impacts to the natural environment will be minimal. (App., pgs. 10, 13, 14.)

57. The Operations Center, including the proposed Tower, will not adversely impact wetlands and watercourses on-Site or off-Site. (App., p. 21.)

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<sup>4</sup> For the Council's convenience, all subsequent references to Hearing Exhibit 2, Responses to Council's Pre-Hearing Interrogatories, dated October 22, 2010 are made as "Responses to Interrogatories, CSC- \_\_\_".

58. UI will implement appropriate construction management practices and a soil erosion and control plan to ensure that no pollutants will be discharged to any nearby watercourse or wetlands areas or to area groundwater during the construction while the Site is being permanently established. (App., p. 21).

59. The maximum power density level for the antennas would be less than one percent of the lowest Maximum Permissible Exposure (MPE) for an uncontrolled environment. (App., p. 13.)

60. The operation of the proposed Tower at the Site will not cause any significant air, water, noise or other environmental impacts, or hazard to human health and the Tower will not create or emit any smoke, gas, dust or other air contaminants, noise, odors or vibrations or constitute a hazard to air navigation. (App., pgs. 13, 14.)

#### **Visual Impacts**

61. The visual impact of the proposed Tower is not significant. (App., p. 11.)

62. There are approximately thirty residences within 2,000 feet of the Tower. (11/16/10 Tr. (afternoon), pgs. 11, 12.)

63. The closest residence is located approximately 940 feet to the west of the proposed Tower. (11/16/10 Tr. (afternoon), pgs. 11, 12.)

64. Residences abut the Site on its west side along Indian River Road, but are separated from the Site by the Conservation Easement which serves as a buffer. (App., pgs. 11, 12.)

65. Year-round visibility is minimized by both the relatively low height of the proposed Tower and the intervening topography and vegetative screening. (App., p. 12.)

66. No views are anticipated from Town of Orange open space properties. (App., p. 12.)

67. The majority of year-round visibility associated with the proposed Facility occurs on the Site and its immediate vicinity (generally within approximately 0.25 mile), primarily to the north and east along Marsh Hill Road. (App., p. 12.)

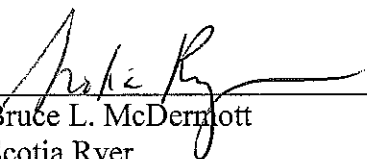
68. Approximately ten residential properties will have at least partial views of the proposed Tower and that most of these views would be distant (approximately one mile from the proposed Tower) and feature only the upper portion of the proposed Tower. (App., p. 12.)

69. Approximately three additional residential properties may have seasonal views of the proposed Tower from select portions of their respective properties. (App., p. 12.)

Dated at New Haven, Connecticut, this 20<sup>th</sup> day of December 2010.

Respectfully submitted,

THE UNITED ILLUMINATING COMPANY

By:   
Bruce L. McDermott  
Scotia Ryer  
Wiggin and Dana LLP  
265 Church Street  
New Haven, CT 06510  
(203) 498-4340  
(203) 782-2889 (fax)