

STATE OF CONNECTICUT

SITING COUNCIL

\* \* \* \* \*

NEW CINGULAR WIRELESS PCS, LLC \* APRIL 30, 2013  
 \* (3:40 p.m.)  
 \*

APPLICATION FOR A CERTIFICATE OF \*  
 ENVIRONMENTAL COMPATIBILITY AND \*  
 PUBLIC NEED FOR THE CONSTRUCTION, \* DOCKET NO. 409A  
 MAINTENANCE AND OPERATION OF A \*  
 TELECOMMUNICATIONS FACILITY \*  
 LOCATED AT 8 BARNES ROAD, \*  
 CANAAN, CONNECTICUT \*  
 \*

\* \* \* \* \*

BEFORE: ROBIN STEIN, CHAIRMAN

BOARD MEMBERS: Larry Levesque, PURA Designee  
 Robert Hannon, DEEP Designee  
 Philip T. Ashton  
 James J. Murphy, Jr.  
 Dr. Barbara Currier Bell

STAFF MEMBERS: Robert Mercier, Siting Analyst  
 Melanie Bachman, Staff Attorney

APPEARANCES:

FOR THE APPLICANT, NEW CINGULAR WIRELESS PCS, LLC:

CUDDY & FEDER LLP  
 445 Hamilton Avenue, 14th Floor  
 White Plains, New York 10601  
 BY: CHRISTOPHER B. FISHER, ESQUIRE  
 LUCIA CHIOCCHIO, ATTORNEY

FOR THE PARTY, PATTY AND GUY ROVEZZI:

PATTY AND GUY ROVEZZI (Pro Se)  
30 Barnes Road  
Falls Village, Connecticut 06031

FOR THE PARTY, CANAAN INLAND WETLANDS AND  
CONSERVATION COMMISSION:

ELLERY W. SINCLAIR, CHAIRMAN  
Canaan Inland Wetlands and  
Conservation Commission  
77 Main Street  
Canaan, Connecticut 06840

FOR THE PARTY, CANAAN PLANNING AND ZONING  
COMMISSION:

FREDERICK J. LASER, CHAIRMAN  
Canaan Planning and Zoning Commission  
77 Main Street  
Canaan, Connecticut 06040

FOR THE PARTY, MARC ROSEN AND SUSAN PINSKY:

MARC ROSEN AND SUSAN PINSKY (Pro Se)  
Barnes Road  
Falls Village, Connecticut 06031

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1 . . .Verbatim proceedings of a hearing  
2 before the State of Connecticut Siting Council in the  
3 matter of an application by New Cingular Wireless PCS,  
4 LLC, held at the Lee H. Kellogg School, 47 Main Street,  
5 Falls Village, Connecticut, on April 30, 2013 at 3:40  
6 p.m., at which time the parties were represented as  
7 hereinbefore set forth . . .

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CHAIRMAN ROBIN STEIN: Good afternoon  
everybody. I'd like to call to order a meeting of the  
Connecticut Siting Council today, Tuesday, April 30,  
2013 at approximately 3:40 p.m. My name is Robin Stein  
and I'm Chairman of the Connecticut Siting Council.

Other members of the Council present are  
Mr. Hannon, who is the designee from the Energy and  
Environmental -- the Department of Energy and  
Environmental Protection; Mr. Levesque, the designee  
from the Public Utilities Regulatory Authority; Mr.  
Ashton; Senator Murphy; Dr. -- Dr. Bell -- did I get  
everybody?

Members of the staff present are Melanie  
Bachman, Staff Attorney; Robert Mercier, our Siting  
Analyst. Gail Gregoriades is the court reporter and

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1 Aaron DeMarest our audio technician.

2 This hearing is held pursuant to the  
3 provisions of Title 16 of the Connecticut General  
4 Statutes and of the Uniform Administrative Procedure Act  
5 upon a motion to reopen the final decision on an  
6 application from New Cingular Wireless PCS, LLC for a  
7 Certificate of Environmental Compatibility and Public  
8 Need for the construction, maintenance, and operation of  
9 a telecommunications facility to be located at 8 Barnes  
10 Road in Canaan, also known as Falls Village, Connecticut.  
11 This motion to reopen was filed with the Council and the  
12 parties and intervenors to the original proceedings on  
13 February 15, 2013. During a public meeting of the  
14 Council held on March 7, 2013, the Council reopened the  
15 docket pursuant to Connecticut General Statute, Section  
16 4-181a, Subsection b, and specifically limited this  
17 hearing to the Council consideration of changed  
18 conditions, revised tower site location and modified  
19 facility.

20 As a reminder to all, off-the-record  
21 communication with a member of the Council or a member of  
22 the Council staff upon the merits of this application is  
23 prohibited by law.

24 The parties and intervenors to the

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1 proceedings are as follows: New Cingular Wireless PCS,  
2 LLC, both Attorneys Fisher and Chiocchio from the law  
3 firm of Cuddy and Feder. And we have the party of Patty  
4 and Guy Rovezzi; and also the Canaan Inland Wetlands and  
5 Conservation Commission and their representative Ellery  
6 Sinclair; and the Canaan Planning and Zoning Commission  
7 and their representative Frederick -- the Chairman Mr.  
8 Laser.

9 We will proceed in accordance with the  
10 prepared agenda, copies of which are available here.  
11 Also available here are copies of the Council's Citizen's  
12 Guide to Siting Council Procedures, and those are  
13 somewhere on the side -- yes, behind the gentleman with  
14 the camera.

15 At the end of this afternoon's session, we  
16 will recess and resume again at 7:00 p.m. The 7:00 p.m.  
17 hearing will be reserved for the public to make brief  
18 oral statements into the record.

19 I wish to note that parties and  
20 intervenors, including their representatives and  
21 witnesses, are not allowed to participate in the public  
22 comment session.

23 I also wish to note for those of you who  
24 are here and for the benefit of your friends and

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1 neighbors who will be unable to join us for the public  
2 comment session, that you or they may send written  
3 statements to the Council within 30 days of today's date,  
4 and such written statements will be given the same weight  
5 as if spoken at the hearing.

6 If necessary, party and intervenor  
7 presentations may continue after the public session if  
8 time remains.

9 A verbatim transcript will be made of this  
10 hearing and deposited with the Town Clerk's Office in  
11 Canaan for the convenience of the public.

12 First, is there any public elected  
13 official who wishes to speak at this time? Okay.

14 I'll go to the motions. We have a motion  
15 to make Marc Rosen and Susan Pinsky a party to this  
16 proceeding, they're abutters of the site. Do I have a  
17 motion?

18 MR. JAMES J. MURPHY, JR.: So moved.

19 MR. PHILIP T. ASHTON: Second.

20 CHAIRMAN STEIN: I have a motion and a  
21 second. All those in favor, signify by saying aye.

22 VOICES: Aye.

23 CHAIRMAN STEIN: Opposed? The motion --  
24 any abstentions? The motion carries.

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1 I also have a motion from the Inland  
2 Wetlands and Conservation Commission for the sharing of  
3 duties for cross-examination. Do you want to -- Attorney  
4 Bachman, do you want to comment?

5 MS. MELANIE BACHMAN: Thank you, Mr.  
6 Chairman.

7 Just this afternoon the Inland Wetlands  
8 and Watercourses and Conservation Commission filed a  
9 motion to have the opportunity for their members to be  
10 able to share duties in cross-examining the Applicant. I  
11 certainly would recommend that the Council approve the  
12 motion subject to any objection from the Applicant.

13 MR. MURPHY: Mr. Chairman, I'll move  
14 approval of their motion as outlined in their motion as  
15 to how they're going to divide their duties when it comes  
16 to cross-examination.

17 CHAIRMAN STEIN: Okay. We have a motion.  
18 Do we have a second?

19 MR. ASHTON: Second.

20 CHAIRMAN STEIN: Is there any objection?  
21 All those in favor of the motion, signify by saying aye.

22 VOICES: Aye.

23 CHAIRMAN STEIN: Opposed? Abstentions?  
24 The motion carries.

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1 I wish to call your attention to those  
2 items shown on the hearing program marked Roman Numeral  
3 I-D, Items 1 through 57. Does the Applicant or any party  
4 or intervenor have any objection to the items that the  
5 Council has administratively noticed? Hearing and seeing  
6 no objection, the Council hereby administratively  
7 notices these existing documents, statements, and  
8 comments.

9 Will the Applicant present its witness  
10 panel for the purposes of taking the oath.

11 MS. LUCIA CHIOCCHIO: Thank you, Chairman.  
12 Lucia Chiocchio from Cuddy and Feder on behalf of the  
13 Applicant.

14 I'll start to my right, Mr. David Vivian,  
15 Site Acquisitions; Mr. Tony Wells, RF Engineer; to my  
16 immediate left is Mr. Peter Perkins, Site Civil Engineer;  
17 to his left Mr. Matt Gustafson, environmental; and Mike  
18 Libertine, also environmental and visual.

19 CHAIRMAN STEIN: Would you please rise in  
20 order for the staff attorney to administer the oath.

21 MS. BACHMAN: Please raise your right  
22 hand.

23 (Whereupon, the Applicant's witness panel  
24 was duly sworn in.)



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1 MS. BACHMAN: Thank you.

2 CHAIRMAN STEIN: Attorney Chioocchio, would  
3 you please begin by numbering the exhibits of the filings  
4 you've made and making requests to administratively  
5 notice and verifying your exhibits.

6 MS. CHIOCCHIO: Yes. We have five  
7 exhibits as identified in the hearing program under Roman  
8 Numeral II-B, 1 through 5.

9 And I will ask my witnesses a series of  
10 questions in order to verify those exhibits. I'll start  
11 with -- we'll start with David Vivian on your end -- did  
12 you prepare and help in the preparation of the exhibits  
13 as identified?

14 MR. DAVID VIVIAN: David Vivian. Yes.

15 MR. ANTHONY WELLS: Tony Wells. Yes.

16 MR. PETER PERKINS: Peter Perkins. Yes.

17 MR. MATTHEW GUSTAFSON: Matthew Gustafson.

18 Yes.

19 MR. MICHAEL LIBERTINE: Mike Libertine.

20 Yes.

21 MS. CHIOCCHIO: Do you have any  
22 corrections or updates to the -- to any of the  
23 information contained therein?

24 MR. VIVIAN: David Vivian. No.

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1 MR. WELLS: Tony Wells. No.

2 MR. PERKINS: Peter Perkins. No.

3 MR. M. GUSTAFSON: Matthew Gustafson. No.

4 MR. LIBERTINE: Mike Libertine. No.

5 MS. CHIOCCHIO: Is the information  
6 contained in the exhibits identified true and accurate to  
7 the best of your knowledge?

8 MR. VIVIAN: David Vivian. Yes.

9 MR. WELLS: Tony Wells. Yes.

10 MR. PERKINS: Peter Perkins. Yes.

11 MR. M. GUSTAFSON: Matthew Gustafson.

12 Yes.

13 MR. LIBERTINE: Mike Libertine. Yes.

14 MS. CHIOCCHIO: And do you adopt this as  
15 your testimony today in this proceeding?

16 MR. VIVIAN: David Vivian. Yes.

17 MR. WELLS: Tony Wells. Yes.

18 MR. PERKINS: Peter Perkins. Yes.

19 MR. M. GUSTAFSON: Matthew Gustafson.

20 Yes.

21 MR. LIBERTINE: Mike Libertine. Yes.

22 MS. CHIOCCHIO: We ask that the Council  
23 accept the Applicant's exhibits.

24 CHAIRMAN STEIN: Do any of the parties or

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1 intervenors object to the admission of these documents?  
2 Hearing and seeing none, these exhibits are admitted.

3 (Whereupon, Applicant Exhibit Nos. 1  
4 through 5 were received into evidence as full exhibits.)

5 CHAIRMAN STEIN: We'll now begin cross-  
6 examination by starting with the staff. Mr. Mercier.

7 MR. ROBERT MERCIER: Thank you. I'd like  
8 to begin with the field review today and spend some time  
9 on the roadway as we -- as we went up to the site. I  
10 guess my first question -- since the Docket 409 decision,  
11 the original proposal before us, was there any -- any  
12 changes to the design of the tower access road from  
13 Barnes Road up to the cabin location or is that pretty  
14 much the same?

15 MR. PERKINS: No, there were several  
16 changes. We changed the profile to more closely match  
17 the existing terrain rather than improving the geometry.  
18 And this resulted in much less cuts and fills and  
19 contained the roadway work within a 30-foot right-of-  
20 way.

21 There was also -- associated with the  
22 relocation of the compound there's an extension of the  
23 road from the cabin to the new location.

24 MR. MERCIER: Okay. For the -- for the

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1 portion of the road from Barnes Road up to the cabin area  
2 were there any -- since I guess you changed the profile  
3 of the existing road were there corresponding changes in  
4 the terrain design?

5 MR. PERKINS: Yes.

6 MR. MERCIER: And what types of changes  
7 were made? Can you characterize the proposed drainage  
8 features for --

9 MR. PERKINS: Yeah. We generally narrowed  
10 the drainage ditches. We used the new profiles, new  
11 grades in the calculations. And in areas we switched  
12 from a trapezoidal drainage section to a V-shaped  
13 drainage section. We removed some of the larger level  
14 spreaders and riprap dams and replaced them with a  
15 vegetated mat material for energy dissipation at the  
16 swale outlets.

17 MR. MERCIER: Okay, so -- so going up the  
18 road there's a swale on the uphill side and several  
19 discharge points, is that correct?

20 MR. PERKINS: That's correct.

21 MR. MERCIER: Okay. And at the discharge  
22 points there's a -- I think you called it a grass type  
23 mat. Is that the pyra mat?

24 MR. PERKINS: That's right.

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1 MR. MERCIER: What is that exactly? Can  
2 you describe that feature?

3 MR. PERKINS: It's a synthetic woven  
4 material with topsoil in it and -- which then you can  
5 plant seed, you can order seed in it, or you can plant  
6 seed to match the native vegetation. And the combination  
7 of the roots and geo-synthetic mesh provide a resistance  
8 to erosion and energy dissipation of the water.

9 MR. MERCIER: How long does the -- I guess  
10 if you seed it, how long does it take to have vegetation  
11 established?

12 MR. PERKINS: I don't have that exact  
13 information, but it would be a growing season.

14 MR. MERCIER: What's the advantage of this  
15 type of mat over the previous level spreaders?

16 MR. PERKINS: It requires less space.

17 MR. MERCIER: The water that, you know,  
18 collects in the swales during a storm event -- first of  
19 all, the road is gravel, is that -- for the entire --  
20 from Barnes Road up to the cabin, is that correct?

21 MR. PERKINS: That's correct.

22 MR. MERCIER: Okay. So would there be  
23 infiltration into the road itself from a water event or a  
24 storm?

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1 MR. PERKINS: Yes, it would.

2 MR. MERCIER: And water that runs into the  
3 swales are they controlled -- is the velocity of water  
4 controlled in any way through check dams or anything or  
5 is that just directly into the swale right to this mat?

6 MR. PERKINS: The swales are also lined  
7 with a vegetated material to dissipate its energy along  
8 its length and provide erosion resistance.

9 MR. MERCIER: Has AT&T used this  
10 application somewhere else, in a similar setting?

11 MR. PERKINS: I -- I -- I don't know that.  
12 We have not used this product for AT&T.

13 MR. MERCIER: Okay. As for yourself,  
14 where have you used this type of product? Is it  
15 specifically designed for steeper type terrain?

16 MR. PERKINS: Yes. It's designed to  
17 increase the sheer resistance of soil.

18 MR. MERCIER: Now at the discharge  
19 locations you said there was the mat. Is it -- I'm not  
20 sure if you said this -- is it sized appropriately for  
21 the length of swale and velocity or --

22 MR. PERKINS: Yes.

23 MR. MERCIER: Okay. Now at the field  
24 review up near the cabin there's two culverts shown on

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1 your plans. Can you just describe what the intent of  
2 those are?

3 MR. PERKINS: Yes. The cabin has a  
4 circular driveway with -- so it has -- from the existing  
5 gravel road there's two entrances to the physical cabin.

6 MR. MERCIER: So it's basically just to  
7 provide access? It --

8 MR. PERKINS: Right. It's -- right. So  
9 if we had a vegetated swale along the edge of the road,  
10 we didn't want vehicles driving through that swale, so we  
11 proposed a pipe and then the vehicles could drive over  
12 the pipe.

13 MR. MERCIER: Back to the vegetated swales  
14 for a second, is there also any kind of riprap in there  
15 or is that just -- is it fresh dirt with some cobble or  
16 something, native stone with this mat thrown on top of  
17 it?

18 MR. PERKINS: That's right, it's a native  
19 base and brought in gravel material to form the shape of  
20 the swale, and then this material is put on top of it.  
21 There are some riprap outfalls at the compound at the  
22 very top --

23 MR. MERCIER: Mmm-hmm --

24 MR. PERKINS: -- there's a location where

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1 we use riprap instead of the vegetated material.

2 MR. MERCIER: Okay. I -- I guess we'll go  
3 from the cabin up to the tower. From the cabin there's  
4 kind of an existing logging path. Do you know the  
5 approximate width of that?

6 MR. PERKINS: I'd estimate it between  
7 eight to ten feet.

8 MR. MERCIER: And that approaches a  
9 cleared area up there I believe --

10 MR. PERKINS: That's correct --

11 MR. MERCIER: -- for deer hunting -- the -  
12 - that section of roadway that ascends to the clearing  
13 from the cabin, do you know the approximate grade of  
14 that?

15 MR. PERKINS: Yeah, it's about eighteen --  
16 there's a short section of 20 percent and a section of 18  
17 percent. And then across the top of the hill it's nine  
18 and a half percent before it starts to descend.

19 MR. MERCIER: Now the road up at I guess  
20 the crest of the hill, is that also proposed to be 12  
21 feet wide?

22 MR. PERKINS: That's what we're proposing  
23 at this point.

24 MR. MERCIER: Okay. And will that also



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1 have these vegetated swales?

2 MR. PERKINS: Where they're needed, yes.

3 MR. MERCIER: Okay. And the only riprap  
4 discharge outlets I guess for any type of swale is over  
5 at the compound?

6 MR. PERKINS: Yes.

7 MR. MERCIER: The current road that goes  
8 from Barnes Road up to the cabin, do you know the  
9 approximate width of that?

10 MR. PERKINS: I'd say that varies between  
11 10 and 15 feet.

12 MR. MERCIER: And its current surface?

13 MR. PERKINS: Is gravel.

14 MR. MERCIER: Gravel. You can also say  
15 exposed ledge?

16 MR. PERKINS: And exposed ledge, yes.

17 MR. MERCIER: Now as you -- as you  
18 resurface the road, do you intend to blast out the ledge,  
19 chip it, or leave it as is and just pour stone on top of  
20 it?

21 MR. PERKINS: We plan to follow the  
22 existing profile as closely as possible. If there are a  
23 small outcrop that sticks up and can be chipped off, it  
24 will be chipped off. There will be no blasting. And

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1 then the rest of the construction of the road we'll be  
2 spreading and compacting of the gravel surface.

3 MR. MERCIER: Okay. Do you know what --  
4 obviously the grade of the road varied as we went up, but  
5 do you know the steepest portion of the existing road and  
6 what the grade was?

7 MR. PERKINS: The steepest portion of the  
8 existing road is about 35 to 38 percent.

9 MR. MERCIER: And after improvements, what  
10 would be the steepest portion of the improved road?

11 MR. PERKINS: Thirty percent.

12 MR. MERCIER: Do you know how -- what  
13 length that would entail?

14 MR. PERKINS: I have a breakdown. The  
15 road is about 5,000 feet long. Less than or equal to 20  
16 percent is 3,900 feet, between 20 and 23 percent is 96  
17 feet, between 23 and 26 percent is 950 -- 960 feet, and  
18 between 26 and 30 is 255 feet.

19 MR. MERCIER: Now during the construction  
20 of the project if it was approved, would you do the road  
21 first and then get the tower construction equipment up  
22 there or would it be in kind of a rough form and then get  
23 the tower equipment up there?

24 MR. PERKINS: Yeah, the road would be

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1 rough formed, and the installation of drainage, erosion  
2 and sedimentation control features would go in. Then  
3 they would access the site. And then the last thing they  
4 would do would be to finish the driving surface and the  
5 swales and the drainage features.

6 MR. MERCIER: And what types of trucks  
7 need to actually get up the road, flatbeds, concrete  
8 trucks? What type of equipment?

9 MR. PERKINS: Yes. Bulldozers, excavation  
10 equipment, rubber tired vehicles. Delivery vehicles,  
11 maybe trailers. Delivery vehicles for -- single axle  
12 delivery vehicles like cement trucks.

13 MR. MERCIER: The existing curves, I mean  
14 is enough space for a turn radius or do you anticipate  
15 additional clearing beyond -- along the curve to allow  
16 trucks to drive around?

17 MR. PERKINS: In the final condition some  
18 of the curves will be widened to accommodate off-tracking  
19 of vehicles as they negotiate a turn. Those widened  
20 areas will be roughed in at the beginning like I said so  
21 that the construction vehicles can make their access.

22 MR. MERCIER: Were those sections shown on  
23 the plans as widened curves, I guess you called it, with  
24 associated clearing?

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1 MR. PERKINS: Yes, they are, but they  
2 don't show up too well. For instance, if you look at Tab  
3 2, Sheet C-02A --

4 MR. MERCIER: Okay --

5 MR. PERKINS: -- and that shows Barnes  
6 Road. And as you move down the page or up station, you  
7 come to the first turn. And if you look on the outside  
8 of that turn, there's a -- there's a line that represents  
9 -- a semi-circle that represents the edge of the road and  
10 then another space and another semi-circle before you see  
11 the contour start to slope back to form the ditch. If  
12 you follow that outer semi-circle around the curve, you  
13 see it reaches a point where it tapers back into the edge  
14 of the road.

15 MR. MERCIER: Okay. And -- and for  
16 erosion control there are you just reseeding or do you  
17 anticipate any problem? I see exposed dirt or areas of  
18 exposure. What -- what would you do there to restore  
19 that?

20 MR. PERKINS: That's a permanent widening  
21 of that curve for vehicles to negotiate, so it will be  
22 there for the construction access and it will be a  
23 permanent part of the road --

24 MR. MERCIER: Okay --

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1 MR. PERKINS: -- outside of that would be  
2 the designed ditch for drainage.

3 MR. MERCIER: Let's see -- in the -- in  
4 the winter do you -- do you propose to have access during  
5 snow events?

6 MR. PERKINS: The road is not proposed to  
7 be plowed in the winter.

8 MR. MERCIER: So if there was any type of  
9 electricity loss, you know, you'll burn through your  
10 generator I assume and just leave it until the next time  
11 you can get up there to refuel it? Is that correct?

12 MR. PERKINS: It's my understanding that  
13 AT&T makes arrangements on an as-needed basis.

14 MR. VIVIAN: Yeah, this is David Vivian.  
15 Yes, if there were an outage and we ran out of fuel or we  
16 were running into that kind of a long-term situation, at  
17 that point we would make arrangements to clear and  
18 refuel.

19 MR. MERCIER: Okay. Back to -- back to  
20 the swales, what type of maintenance do you need yearly  
21 or every couple of years? Do you anticipate a lot of  
22 debris washing into these?

23 MR. PERKINS: There is no pre-defined  
24 maintenance. It's as on an as-needed basis.

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1 Theoretically, they're -- as existing, the swales are  
2 designed to function without maintenance. However, you  
3 can have perhaps a tree fall across it, in which case you  
4 may have to reestablish the drainage.

5 MR. MERCIER: Okay. So I assume -- you  
6 know, there's periodic maintenance of the tower for other  
7 purposes. So at that time is someone looking at these  
8 erosion controls?

9 MR. VIVIAN: Well the most regular  
10 attendants once the tower is operational would be the RF  
11 technicians, and they'd mostly be just clearly so that  
12 they could access the site themselves. If they do  
13 notice, but -- you know, they're not wetland scientists  
14 or anything, but if they do notice a significant amount  
15 of erosion, they may make note of that on their -- on  
16 their site report.

17 MR. MERCIER: Thank you. I read through  
18 the CEQ comments and they had a note here about, you  
19 know, the access road going into the forested areas  
20 further east on Cobble Hill and they're concerned about  
21 forest fragmentation. Do you anticipate any changes in  
22 the forest canopy due to the 12-foot road that's proposed  
23 for the section from say the clearing out to the tower  
24 site? I guess how much clearing do they do along the

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1 road? And do you think it will open up the canopy  
2 significantly?

3 MR. LIBERTINE: Well as Peter had said,  
4 the road in that area varies between eight and ten feet,  
5 and maybe a little bit wider in some locations. It  
6 certainly has been used and has been cleared to some  
7 degree in the past. Certainly some additional trees are  
8 going to have come down, but it looks like the plan has  
9 been to minimize that to the greatest extent possible.  
10 So certainly there would be a narrow corridor where  
11 select trees would come down, but I don't think it  
12 substantially creates an open canopy since several trees  
13 are going to remain of substantial size, 12-inch, 14-inch  
14 dbh and in that area as well, and some much larger, up to  
15 two feet in dbh. So the idea was to avoid it as much as  
16 possible, but there are some tight locations that are  
17 obviously going to have to be opened up slightly.

18 MR. MERCIER: Is it possible -- is it  
19 possible to design a narrower road along that crest or do  
20 you need the full 12 feet, you know, for truck access,  
21 you know, to try to preserve some of the trees along  
22 there?

23 MR. PERKINS: I would think that you're  
24 going to need the 12 feet for the construction equipment,

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1 just to get it in there. Taking another look at some  
2 kind of, you know, micro design for construction, maybe  
3 going around -- snaking around trees and then making the  
4 permanent road narrower, I -- that might be possible.

5 MR. MERCIER: Okay.

6 MR. PERKINS: That might also cause more  
7 damage to the ground.

8 MR. MERCIER: What were the tree heights  
9 along the crest of Cobble Hill? We -- I think we --

10 MR. LIBERTINE: They vary. It's primarily  
11 an Oak forest up there, but there is a 40 to 50 foot  
12 range of mature trees. Some are a little bit smaller  
13 than that and some are a little bit taller, but  
14 generally, 45 feet is probably a good average height.

15 MR. MERCIER: Okay. I'd like to talk  
16 about the visibility diagrams for a moment -- I think  
17 that's Tab 4 -- north of the proposed site there's Under  
18 Mountain Road, which shows it's in -- within a year-round  
19 view and I guess across the road it's a seasonal view, is  
20 that correct?

21 MR. LIBERTINE: That's true, yes.

22 MR. MERCIER: So if you're a traveler,  
23 whether a biker or a driver in a car, what's your  
24 orientation as you're driving down that road?



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1                   MR. LIBERTINE: If you're going from --  
2 generally from I guess the Route 63 end and heading  
3 northbound, Cobble Hill is not really -- it certainly  
4 would be in your viewscape if you were to turn your left  
5 shoulder and look 45 degrees or more. Primarily Cobble  
6 Hill becomes more of a prominent feature on the landscape  
7 if you're traveling in what I would call I guess in a  
8 southeasterly direction, more from the Route 7 end and  
9 coming down towards Route 63, and it's a little bit more  
10 in the view.

11                   What happens on that road is that there's  
12 a great deal of over-story on the southern portion of the  
13 road, and then it opens up into some agricultural fields  
14 where there are some homes and larger I guess probably  
15 older farmsteads. And it's -- I wouldn't say it's  
16 unique, but certainly as the road -- as you travel down  
17 the road, on the southern side of the road it tends to  
18 drop into the field, so there are some open vistas to the  
19 ridgeline. As you move to the north side -- the road is  
20 fairly well lined with trees, but again you can see --  
21 see through those over the open fields. But as you move  
22 north into most of those yards and certainly upslope, it  
23 becomes much more heavily wooded, so it's kind of a  
24 transition area just because I think of the nature of how

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1 that road was cut in there.

2 MR. MERCIER: Okay. And then -- so say  
3 you were driving to the northwest, is your orientation of  
4 the view -- will the tower be in front of you or off to I  
5 guess the left?

6 MR. LIBERTINE: It would be -- it would be  
7 fairly well off to your left. Certainly, I don't want to  
8 underestimate the fact that if you were doing a Sunday  
9 drive and looking around, you certainly would be able to  
10 see the profile of the hill, but it's -- it's not in your  
11 direct line of sight. You'd certainly have to look off  
12 in that distance to get that viewscape.

13 MR. MERCIER: Now is that also the case if  
14 you're traveling in the opposite direction toward the  
15 southeast?

16 MR. LIBERTINE: No, not as much. It's a  
17 little bit more in your peripheral because you're  
18 generally heading in the direction of Cobble Hill, so  
19 it's somewhat in your foreground, still off to the side,  
20 but certainly is more of a -- again I'd use the word  
21 prominent feature in that direction.

22 MR. MERCIER: Okay. Now traveling down  
23 Barnes Road that's near Photo Location 13 on your  
24 visibility map, I guess traveling southward towards

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1 Cobble Hill, would there be a direct view right along  
2 that section to the brook -- Wangum Brook?

3 MR. LIBERTINE: There -- there is -- as  
4 you turn off of Under Mountain Road and were to head  
5 south towards -- directly towards Cobble Hill, it drops  
6 slightly in elevation off of Under Mountain Road and  
7 there is a direct view in front of you of Cobble Hill.  
8 As you start down the road, that viewscape tends to  
9 become a little bit steeper. So actually the profile of  
10 the tower would start to drop until it hits the tree  
11 line and then disappears as you get close to the hill  
12 itself.

13 MR. MERCIER: Are there a few homes along  
14 that stretch of Barnes Road?

15 MR. LIBERTINE: There are a few homes as  
16 you first leave Under Mountain. And then my recollection  
17 is that it's fairly open on the south side of the road  
18 where there are again more agricultural fields, and it's  
19 a little bit more wooded with a bit Cobble off to the  
20 northwest. I don't believe -- I don't believe there are  
21 -- if -- if there are, it's a smattering of homes, but  
22 again it's more closer to the intersection with Under  
23 Mountain Road.

24 MR. MERCIER: I guess in looking at your

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1 aerial view, it appears there's a cleared area as you  
2 said towards the east side, and it appears like there's a  
3 home or some structure there. If it was a home, do you  
4 believe they would have a clear view of the tower?

5 MR. LIBERTINE: Yes. If we're talking  
6 about I guess what we'd say would be southeast of the  
7 intersection, yeah, it's a fairly large homestead. I'm  
8 assuming that's part of that larger farm and cultivated  
9 fields. But yes, certainly from that general area there  
10 are some views.

11 MR. MERCIER: Looking at -- let's see --  
12 Photo Locations 4 and 5, that area of town, it's shown as  
13 Huntsville on this topographic map as part of your  
14 visibility analysis, I see numerous -- it looks like  
15 structures, you know, on the map and also on the aerial.  
16 It appears these structures are in the yellow shaded  
17 year-round area --

18 MR. LIBERTINE: Correct --

19 MR. MERCIER: -- however, the  
20 corresponding -- in the analysis it only counted one  
21 residence in that particular region. So I don't know if  
22 you have any other information --

23 MR. LIBERTINE: That --

24 MR. MERCIER: -- as to the number of homes

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1 in that particular location --

2 MR. LIBERTINE: It may --

3 MR. MERCIER: -- that would have year-  
4 round views?

5 MR. LIBERTINE: That may have been my  
6 interpretation driving by. It looked like there were  
7 several out-buildings associated with one larger  
8 property, and so I counted it as one residential  
9 property. It could be that -- could there be multiple  
10 families living in those structures? It's possible, but  
11 it did look more like barn and out-buildings with a  
12 residence associated with it, and I think that's why we  
13 tallied it in that manner.

14 Also what happens in that very area is --  
15 one of the limitations we have with these maps is --  
16 oftentimes what I try to do is show the area if we're  
17 calling it year-round, that's the primary view, but  
18 obviously there are locations within those areas that may  
19 only be a seasonal view, and it's possible that we  
20 tallied it in that way as well where we may have included  
21 a seasonal within an area that may be depicted on this  
22 map as seasonal -- or year-round.

23 What happens is right in that general  
24 area, around Photographs 4 and 5, is once you hit the

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1 crest of that hill, it becomes heavily wooded and starts  
2 to drop right out of view, so it's -- it's really right  
3 on that cusp. If you're familiar with that area,  
4 essentially if you're coming from the south into town,  
5 you are -- essentially you have Cobble Hill in front of  
6 you right when you hit the crest of the hill and as you  
7 come down.

8 MR. MERCIER: I guess in that area, and  
9 maybe for a homework assignment, at some point just take  
10 another look at it --

11 MR. LIBERTINE: Sure --

12 MR. MERCIER: -- and tell me what you  
13 think.

14 MR. LIBERTINE: Yeah, we can do that.

15 MR. MERCIER: Thank you. Also looking at  
16 your topographic map here of visibility, north of the  
17 site along Canaan Mountain, you know, north of Under  
18 Mountain Road there's quite a bit of open space shown.  
19 Do you know of any -- any maintained hiking trails by any  
20 groups that go up onto those higher elevations of Canaan  
21 Mountain?

22 MR. LIBERTINE: There are no Blue Blaze  
23 Trails that we're aware of that we could find. Certainly  
24 there could be local trails that are used. It's

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1 certainly a fairly, you know, rugged profile. You can  
2 certainly -- actually you could look across from the road  
3 as we drove up to the site today and could see that  
4 particular ridgeline. So I'm sure that there are some  
5 trails that are along that, but we weren't aware of any  
6 that are again either in the Blue Book or on the local  
7 websites or advertised as such.

8 MR. MERCIER: Okay.

9 MR. LIBERTINE: But being -- but being  
10 protected open space, my guess is that there probably are  
11 some trails on that.

12 MR. MERCIER: Okay. I guess -- also my  
13 question pertains to the area south of Cobble Hill,  
14 there's a large section of the Housatonic State Forest.  
15 Do you know of any maintained hiking trails through there  
16 that go to any vistas or anything like that?

17 MR. LIBERTINE: Again, nothing that we  
18 could find that was published anywhere. But again, not  
19 being from the area, it would not surprise me if there  
20 are some informal trails that certainly provide access  
21 into those areas.

22 MR. MERCIER: I guess I have a question in  
23 regards to the Council's questions, responses 6 through  
24 10, it's the FCC auction that was held in this area.

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1       Could you just briefly summarize what the intent of the  
2       auction is or was?

3                       MR. WELLS:  The general intent, my  
4       understanding, is it was to provide funds for basically  
5       unserved areas for broadband to use.

6                       MR. MERCIER:  So broadband you mean like  
7       3G service, video uploads and things of that nature?

8                       MR. WELLS:  Yes.  They didn't explicitly  
9       talk about 3G, but that's generally about the speeds that  
10      they were discussing, is what you would achieve with the  
11      current 3G services.

12                      MR. MERCIER:  Are you familiar with how  
13      the -- I'm looking behind Tab 3 of your Motion to Reopen,  
14      the highlighted census blocks -- now this was determined  
15      by the FCC as unserved areas for this particular 3G  
16      service?

17                      MR. WELLS:  That is correct.

18                      MR. MERCIER:  I guess I'm not -- I'm not  
19      sure why there's like a gap between the two particular  
20      groups of census blocks.  Is the whole area unserved or  
21      just they determined that these specific areas were  
22      extremely limited?

23                      MR. WELLS:  Yeah, I'm a little unclear  
24      myself because I would consider those areas between --



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1 between the north and south census blocks as unserved as  
2 well. But gathering the data is certainly a difficult  
3 task for arguably a third-party, which the FCC is. While  
4 there's certainly some expertise in communications there,  
5 they cover a wide range of expertise, and to get a  
6 nationwide map with some kind of granularity and accuracy  
7 for a number of carriers, and as the Council I think  
8 themselves have found through trying to maintain the  
9 Connecticut Siting Council database, it can be a  
10 challenge. And then -- so they have to rely on other  
11 parties. And in this case they used the -- a roaming --  
12 what was the -- I forgot the name of that -- oh, yeah,  
13 the American -- the American Roamer Data. So it's -- it  
14 -- it's less than ideal, but given the magnitude of the  
15 task, I think it's the best they could come up with.

16 So I think probably the short answer is  
17 it's probably not that accurate. I would certainly  
18 consider that unserved. But given the magnitude of what  
19 the FCC had to do and the information available, I think  
20 they did the best they could, but I think, as I said,  
21 anybody driving around there or experience with that area  
22 would probably consider that unserved as well.

23 MR. MERCIER: Okay, thank you. The -- so  
24 the intent of your -- of this particular modified site is

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1 it to provide service to these -- I'll just call them FCC  
2 unserved areas -- or is that secondary?

3 MR. WELLS: That overlaps with our  
4 coverage objectives. It's -- it's -- that's not how the  
5 search ring was designed, but I think it just further  
6 serves to substantiate the need for the site by a third-  
7 party.

8 MR. MERCIER: I have a question regarding  
9 Interrogatory 16 -- Council Interrogatory 16, and that  
10 was about the other properties, the Dean and the -- I  
11 think it's the Hutchkinson properties, also called the  
12 southern -- the potential southern location --

13 (pause - tape change)

14 MR. MERCIER: Those -- those properties  
15 seem to high elevations. I think one was almost over a  
16 thousand feet -- I lost my notes, so I can't -- I think  
17 with antennas, one of the -- it was at -- almost  
18 approximately 1,175 feet high on the side of -- it looks  
19 like a ridgeline there -- I guess my question is why --  
20 why doesn't the propagation extend down 126 to the -- to  
21 the west?

22 MR. WELLS: If -- if you look at the  
23 intervening terrain between those sites and the map and  
24 Route 126, I mean while the elevation may be high -- and

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1 I don't have the exact elevations either -- but the  
2 elevation is probably relatively high, but also you look  
3 at the hills between those sites and Route 26, and that's  
4 some significant elevation as well --

5 MR. MERCIER: So --

6 MR. WELLS: -- and they go either --  
7 either skimming through the top and bending down in or  
8 just trying to drill through dirt with RF --

9 MR. MERCIER: Alright --

10 MR. WELLS: -- and it just doesn't happen.

11 MR. MERCIER: Okay, thank you. I have no  
12 further questions at this time.

13 CHAIRMAN STEIN: Thank you. We'll now  
14 continue with questions from the Council. Senator  
15 Murphy.

16 MR. MURPHY: First off -- thank you, Mr.  
17 Chairman. First off, Mr. Perkins, in follow up to the  
18 question about the use of the mat, you indicated you've  
19 never used them for AT&T. Have you ever used them at  
20 all?

21 MR. PERKINS: Yes, we've used them for  
22 civil -- other civil projects.

23 MR. MURPHY: What type of projects?

24 MR. PERKINS: Industrial sites, commercial

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1 sites.

2 MR. MURPHY: With this type of a steep  
3 grade or --

4 MR. PERKINS: I'd have to research the  
5 exact grades where we've used these before and get back  
6 to you.

7 MR. MURPHY: Well in some places these are  
8 pretty healthy grades. You listed them off the top of  
9 your head --

10 MR. PERKINS: Some commercial sites like a  
11 Home Depot are sometimes located up on hills and the  
12 drainage falls off the backside of their property.

13 MR. MURPHY: But in those -- in that type  
14 of an incident though, I take it that the use of them  
15 would not be in conjunction with road access or travel  
16 access?

17 MR. PERKINS: Generally not, no. They're  
18 used just for handling drainage.

19 MR. MURPHY: Just drainage and not in  
20 conjunction with travel, okay.

21 Mr. Wells, in reference to the questions  
22 about the unserved areas and you indicated that you  
23 differ as to what the studies might indicate as to what  
24 is serviced and unserved?

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1 MR. WELLS: I don't disagree given the  
2 source, but even the FCC --

3 MR. MURPHY: Explain yourself, given the  
4 source? Is there something wrong with the source or is  
5 there a limitation with the source?

6 MR. WELLS: Yes. Well even if -- if you  
7 look at our response to Question 7, probably -- if I read  
8 that -- probably my best explanation is to read that,  
9 which comes from the FCC, which says some commenters  
10 observed that American Roamer Data relies in reporting by  
11 existing providers and therefore may tend to over-report  
12 the extent of the existing coverage. While we intend to  
13 be as accurate as possible in determining the extent of  
14 the coverage, we recognize that perfect information is  
15 not available. And they go into a little more detail,  
16 but they've basically taken maps that are available and -  
17 - you know, we've -- we've seen coverage maps from  
18 marketing, from various sources, and it's not -- it's not  
19 engineering data --

20 MR. MURPHY: It's -- it's akin to a  
21 hearing sometimes where we hear the coverage that you  
22 might give as an expert in that field and people come in  
23 and give us the coverage that the salesmen are giving to  
24 their prospective customers, and there's quite a

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1 difference.

2 MR. WELLS: Yeah, it -- it can be two  
3 different sources.

4 MR. MURPHY: Right.

5 MR. WELLS: You know, one is an intent to  
6 say, you know, this is our market where we're covered,  
7 and the other is, okay, this is at what level we're  
8 covering it from an engineering perspective.

9 MR. MURPHY: And you mentioned the source  
10 as being the FCC and the American Recovery Data I think.  
11 Do you consider them, on a whole, reliable? Would you  
12 rely on them in testimony?

13 MR. WELLS: Not -- not when describing any  
14 -- not when describing a coverage gap in any detail for  
15 any carrier.

16 MR. MURPHY: Alright. You'd actually  
17 prefer to do your own work is what I'm gathering --

18 MR. WELLS: Excuse me --

19 MR. MURPHY: -- I think I understand --

20 MR. WELLS: -- I'm sorry, I didn't hear -  
21 -

22 MR. MURPHY: You'd prefer to do your own  
23 work really?

24 MR. WELLS: Thank you. I'd -- I would

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1 prefer to do our own work as well.

2 MR. MURPHY: Alright -- okay. My -- my --  
3 I guess the bottom line -- the question I really want to  
4 ask is, you know, when 409 was before the Council, it  
5 seemed obvious that there were a number of real concerns  
6 about this application as it moved down the road and  
7 there was discussion about alternatives, a two-tower  
8 solution and what have you. And the site we have before  
9 us in 409A, to the best of my knowledge at least, never  
10 surfaced until sometime down the road quite a while  
11 thereafter. So my question is why didn't this site that  
12 now seems to be so appropriate, surface earlier? And I  
13 know that, Mr. Wells, there is a difference in the  
14 coverage between this site and the others. But really --  
15 what I'm really interested in is why didn't we see this  
16 earlier?

17 MR. WELLS: The site represents a fairly  
18 significant compromise from an RF engineering standpoint.  
19 It -- it certainly provides a good deal of coverage and  
20 will enhance coverage in the area in some critical areas,  
21 but at the outset, honestly, it's not something I would  
22 have proposed initially given where we are. I think in  
23 recognizing what compromises we have to make at this  
24 point or we may need to have to make, I think it's the

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1 best we can do. And RF doesn't always run -- doesn't  
2 always make the final decisions. You know, if we were in  
3 an RF vacuum and all that mattered was what I thought,  
4 then, you know, we would probably go -- we would stick  
5 with the original site and this would not be the  
6 compromised site. But you know, it is significantly  
7 better than what we have now. I think --

8 CHAIRMAN STEIN: I just want to follow up.  
9 Is the compromise based on the -- moving the location or  
10 is it based on reducing the height or is it both?

11 MR. WELLS: Both. Both are substantial.  
12 More the movement of the site because we're going toward  
13 the back of the hill now and reaching over into east --  
14 or west of the site. You know, there's -- there's  
15 blockage from the hill itself because we're moved to the  
16 west.

17 MR. MURPHY: So let me ask the panel then,  
18 is the reason that this particular site didn't surface  
19 before just because of the difference in the RF  
20 calculations?

21 MR. WELLS: That's my -- I'll let other  
22 members of the panel step in, but honestly, if -- if --  
23 and the Council had asked us to look, as you said, at  
24 two-site solutions and whatever else we could find --



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1 MR. MURPHY: There were other proposals -

2 -

3 MR. WELLS: Sure. And at that time if  
4 real estate had come to me and said okay here's -- here's  
5 a site, what do you think, I would say this leaves a  
6 pretty substantial gap --

7 MR. MURPHY: So you're telling --

8 MR. WELLS: -- and is not a replacement -

9 -

10 MR. MURPHY: -- you're telling me they  
11 didn't come to you and ask RF for this particular site  
12 that we have before us today?

13 MR. WELLS: I don't remember honestly.  
14 They -- they very well may have because there were a lot  
15 of solutions we were looking at --

16 MR. MURPHY: Right --

17 MR. WELLS: -- I don't remember  
18 particularly if they did or not. Maybe Dave remembers,  
19 but again, if they did, my response would have been that  
20 we're taking too much of a sacrifice and not interested.

21 MR. MURPHY: So in essence what you're  
22 telling me is that, all things being equal, you're  
23 willing to bite the bullet with this site now?

24 MR. WELLS: I'm sorry?

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1 MR. MURPHY: All things being equal,  
2 you're willing to bite the bullet with this site now --

3 MR. WELLS: Yes --

4 MR. MURPHY: -- from your testimony --  
5 thank you.

6 MR. WELLS: Twenty years of marriage has  
7 taught me a few things -- (laughter).

8 MR. MURPHY: I think I have nothing else,  
9 Mr. Chairman.

10 CHAIRMAN STEIN: Mr. Ashton.

11 MR. ASHTON: Thank you. A couple of  
12 miscellaneous questions just to pick up threads that  
13 occurred to me when Mr. Mercier was talking. In the  
14 winter you're not going to plow the road. Would it be  
15 possible or likely that you'd use a track vehicle to get  
16 access in the event it's snowbound?

17 MR. VIVIAN: It would be possible to  
18 access the site. I don't know specifically what AT&T has  
19 in their inventory, but they would hire -- hire out --

20 MR. ASHTON: Well you could -- could you  
21 not rent a vehicle --

22 MR. VIVIAN: Correct --

23 MR. ASHTON: -- if the need arose?

24 MR. VIVIAN: -- yes. We have -- we have

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1 cell techs that routinely have to service ski slope --

2 MR. ASHTON: Okay, so this is not an  
3 unusually formidable situation, is that fair to say?

4 MR. VIVIAN: That's fair to say.

5 MR. ASHTON: Okay.

6 DR. BARBARA C. BELL: Can I ask a follow-  
7 up question?

8 MR. ASHTON: Yeah, go ahead, you're right  
9 here.

10 DR. BELL: Just -- just following up on  
11 that question and referring back to your answer to Mr.  
12 Mercier, when you answered Mr. Mercier's question, the  
13 way I understood it maybe was different from the subject  
14 you're talking about now. The way I understood it was  
15 that you did not plan to plow the road regularly, but if  
16 there -- so that perhaps you would not do a monthly  
17 generator test the way you might normally do because the  
18 road would not be planned. But if there was a kind of  
19 outage and you really needed to get fuel to that  
20 compound, you would plow the road on an as-needed basis.  
21 Is that a fair paraphrase of what you said to Mr.  
22 Mercier?

23 MR. VIVIAN: That's a fair paraphrase,  
24 yes.

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1 DR. BELL: Okay. So you would not go  
2 immediately to a track vehicle such as Mr. Ashton  
3 suggested. You would simply plow the road?

4 MR. VIVIAN: Well that's what -- we're --  
5 we're now talking about two different scenarios. If  
6 we're talking about a power outage where we need to get  
7 diesel fuel up to the cell site, that's one thing. When  
8 I was speaking to Mr. Ashton, I was thinking more in  
9 terms of sort of routine maintenance site visits, and  
10 then it would be like, you know, a snowmobile or whatever  
11 for a cell tech accessing the site.

12 DR. BELL: I see. So you -- you -- if you  
13 needed to get up there on a routine basis, you would go  
14 to a track vehicle perhaps?

15 MR. VIVIAN: Right. But also judging --  
16 cell techs, they're going to avoid it at all cost.

17 DR. BELL: Okay, thank you. That  
18 clarifies it.

19 MR. ASHTON: You just mentioned testing  
20 the generator. Can that be done remotely?

21 MR. WELLS: Yes, it can.

22 MR. ASHTON: Okay. So you don't have to  
23 be on site to run a quick test?

24 MR. WELLS: Not -- it needs to be set up

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1       according --

2                       MR. ASHTON:   Right --

3                       MR. WELLS:   -- but no -- yeah, there's --

4                       MR. ASHTON:   With a SCADA system of some

5       kind?

6                       MR. WELLS:   Yes, correct.

7                       MR. ASHTON:   Okay.   So that's not a driver

8       to get access to it --

9                       MR. WELLS:   No --

10                      MR. ASHTON:   -- refueling might be another

11       story?

12                      MR. WELLS:   It's much easier to implement

13       SCADA --

14                      MR. ASHTON:   Okay --

15                      MR. WELLS:   -- than worry about plowing

16       that driveway.

17                      MR. ASHTON:   Mr. Perkins, I -- I think you

18       were talking about mats and whether they'd been used

19       before and whatnot.   Have these mats, to your knowledge,

20       been used along riverbanks to stabilize them?   Or Mr.

21       Gustafson, maybe you know?

22                      MR. M. GUSTAFSON:   I'm -- I am not aware

23       of their use in any stream or river restoration or

24       stabilization of banks.

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1 MR. ASHTON: I can't testify -- (laughter)  
2 -- okay, so neither of you know.

3 Mr. Libertine, in the table of visibility  
4 from 13 locations, just behind Tab 4 three or four pages,  
5 you indicate year-round visibility or not at all, but you  
6 don't give any indications to the extent of visibility.  
7 Are these -- where they're visible is it generally  
8 subject to being cut off by the trees? In other words,  
9 it's only that portion of the tower that would be above  
10 the trees?

11 MR. LIBERTINE: What we tried to do there  
12 -- because that's a very good question and that's one  
13 again --

14 MR. ASHTON: That's why I asked it.

15 MR. LIBERTINE: Yeah. One of the -- one  
16 of the -- when you look at the map, all it tells you is  
17 it visible or is it not --

18 MR. ASHTON: Right --

19 MR. LIBERTINE: -- so what we tried to do  
20 is to provide a mix and then let the photographs do  
21 essentially the characterization. But to answer your  
22 question as simply I guess as I can, there are some  
23 locations primarily to the east, northeast where the --  
24 Under Mountain Road is a good example where the profile

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1 of the tower is 30 feet, maybe more in some cases, and a  
2 little bit less above the tree line, so you don't have a  
3 backdrop. Because of where we are on that ridgeline,  
4 there's very little opportunity to establish some type of  
5 a backdrop with the mountain. And in some cases you do  
6 get treetop views, and that's more as you start to move  
7 towards the south. It's a small overall footprint of  
8 visibility, but where you do see it, because it's  
9 essentially near the top of a ridgeline, you are  
10 eclipsing the trees at that height of 130 feet --

11 MR. ASHTON: Okay --

12 MR. LIBERTINE: -- so I guess I would  
13 characterize it as, yes, 20 to 30 feet, a little bit more  
14 in a few places where it does go above the tree line.

15 MR. ASHTON: Mr. Gustafson and Mr.  
16 Perkins, I'm not sure who's carrying the ball, maybe you  
17 both are, these drainage areas on the road that are --  
18 are they storage areas for runoff?

19 MR. PERKINS: No, they're not storage  
20 areas. It's more of conveyance.

21 MR. ASHTON: Well you used the term  
22 outlet. And my -- in my mind that would imply that the  
23 area would have -- act as a sponge, if I may, to hold  
24 some runoff and then go through the outlet. Would it

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1 accelerate or decelerate or not affect the rate of flow  
2 on a slope?

3 MR. PERKINS: The -- as compared to what?

4 MR. ASHTON: The present circumstances.  
5 You have a road up there --

6 MR. PERKINS: It would slow the flow  
7 compared to compacted gravel. It would accelerate the  
8 flow compared to say the natural terrain, the forest  
9 ground, the forest floor --

10 MR. ASHTON: Yeah, but there is a road  
11 through there already --

12 MR. PERKINS: That's correct --

13 MR. ASHTON: Okay, so let's --

14 MR. PERKINS: -- so this would be an  
15 improvement to what's there now.

16 MR. ASHTON: It would be an improvement to  
17 what is there now?

18 MR. PERKINS: It would -- it would slow  
19 the flow compared to what's there now.

20 MR. ASHTON: Okay. Could those areas be  
21 made into a modest detention basis, which would really  
22 put a brake on the flow?

23 MR. PERKINS: It is possible. There's all  
24 levels of design. In the preliminary design we looked at



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1 many possibilities. We could put bars at some short  
2 distance all the way down the swale --

3 MR. ASHTON: Well I was thinking where the  
4 outlets are. If you raise the outlet and/or made it  
5 impervious -- made it pervious rather and not impervious,  
6 you could -- take a downpour, it would back up into the  
7 swale and then be released slowly -- more slowly over a  
8 period of hours. Is that fair?

9 MR. PERKINS: We could do that, but -- and  
10 we did design -- or tried to design some of those, but  
11 they typically tend to exceed the 30-foot right-of-way  
12 limit. So this was a compromise between a perfect  
13 solution let's say of an infiltrator and staying within  
14 the 30-foot easement.

15 MR. ASHTON: You're worried then about a  
16 backup of drainage water getting outside your 30-foot  
17 right-of-way, is that fair to say?

18 MR. PERKINS: No, I'm saying that to  
19 design a proper retention basin, the size of the level  
20 spreader would -- adjacent to the roadway would go  
21 outside the grading required -- to create that level  
22 spreader would go outside the 30-foot right-of-way.

23 MR. ASHTON: But we're not talking a  
24 hell's canyon dam here, are we?

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1 MR. PERKINS: No.

2 MR. ASHTON: We're talking something quite  
3 low and modest?

4 MR. PERKINS: That's right.

5 MR. ASHTON: Your easement does or does  
6 not give you rights to flood off the right-of-way?

7 MR. PERKINS: The -- to my knowledge, the  
8 easement does not state anything specific about drainage.  
9 It states that the right-of-way can be used for any  
10 purpose that a roadway or highway would be used. My  
11 interpretation means vehicular access, storm drain,  
12 utilities, and that kind of thing --

13 MR. ASHTON: Well --

14 MR. PERKINS: -- so I might interpret  
15 that, but --

16 MR. ASHTON: Well I know what you might  
17 interpret -- (laughter) -- but I -- I can make a  
18 different interpretation too.

19 Maybe Attorney Chiocchio would be able to  
20 respond to that point orally or in writing, I don't know  
21 -- I don't know whether you've read the easement or not.  
22 It's a legal question.

23 MS. CHIOCCHIO: It is a legal question,  
24 but I -- I think what we're saying here is that it's not

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1 an issue with our current design of the access drive,  
2 that, you know, it wouldn't result in any kind of  
3 overflow or flooding outside of the 30-foot right-of-  
4 way.

5 MR. ASHTON: Yeah, we're -- we're not  
6 talking either about a Northfield Mountain pump storage  
7 plant up here -- or a Canaan Mountain pump storage plant  
8 up here. But it would seem to me that in the practice of  
9 building roads, be it for a cell site or a residence up  
10 here, if you're going to expand the road to allow for  
11 construction of residences, certainly the Inlands and  
12 Water Commission of Falls Village would be very  
13 interested in what can be done to decelerate and break  
14 and slow down the runoff, delay it. You know, the  
15 hundred-year storm is not necessarily a 24-hour storm.  
16 It can be a terrific downpour in a very short period of  
17 time. And that's where something like water bars or what  
18 have you would help a little bit.

19 A question. Mr. Perkins, do you know what  
20 the depth of the rock is in much of this area?

21 MR. PERKINS: It -- it varies from zero to  
22 over 20 inches.

23 MR. ASHTON: Okay, it's fairly shallow --

24 MR. PERKINS: It's --

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1 MR. ASHTON: -- is that fair to say?

2 MR. PERKINS: To my knowledge it's fairly  
3 shallow.

4 MR. ASHTON: So you're -- if you get a  
5 heavy rain, right now before any development occurs,  
6 there's likely to be sheet flow off that site, is that  
7 fair to say?

8 MR. PERKINS: It's fair to say that.  
9 That's occurring today.

10 MR. ASHTON: Okay -- okay.

11 MR. PERKINS: I have a response to your  
12 earlier question about these mats being used for rivers -  
13 -

14 MR. ASHTON: A riverbank.

15 MR. PERKINS: A riverbank yes. You've  
16 refreshed my recollection that these are typically not  
17 used in river environments due to the fluctuating water  
18 level. So they're not used in areas that flood like  
19 that.

20 MR. ASHTON: Would -- well --

21 MR. PERKINS: So they're not -- they're  
22 not acceptable protection for scour for bridges. You  
23 would have to use riprap for scour.

24 MR. ASHTON: Yeah, I understand that. I'm

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1 chairman of a flood control agency.

2 The mat would allow or would not allow for  
3 vegetation to grow through it?

4 MR. PERKINS: It does allow for vegetation  
5 to grow through.

6 MR. ASHTON: Okay. So it does offer a  
7 means, does it not, to stabilize the surface while that  
8 surficial vegetation restores?

9 MR. PERKINS: That's correct.

10 MR. ASHTON: Okay. And that could be used  
11 on any bank where runoff drainage is a potential issue?

12 MR. PERKINS: It could be, yes.

13 MR. ASHTON: Okay. And it's a  
14 commercially available product?

15 MR. PERKINS: That's correct.

16 MR. ASHTON: And are you aware -- you or  
17 maybe Mr. Gustafson -- and I don't want to ignore him,  
18 he's the environmental -- has the environmental  
19 background -- in road work for bank stabilization for  
20 cuts, for fills, is this the kind of material that would  
21 be used?

22 MR. PERKINS: Yes, this -- this is the  
23 kind of material that would be used for road --

24 MR. ASHTON: I see. Can I get a yes out

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1 of Mr. Gustafson -- (laughter) --

2 MR. M. GUSTAFSON: Yes, or -- or a similar  
3 comparable.

4 MR. ASHTON: Okay. I wanted to make sure  
5 he had a chance here. So that the issue of runoff is  
6 manageable given -- to at least match roughly what is  
7 there now? Is that fair to say?

8 MR. PERKINS: I would say that's a fair  
9 statement.

10 MR. ASHTON: And the design of the road  
11 can be made to reflect runoff and offer a modicum of  
12 control where -- even where there's shallower soils?

13 MR. PERKINS: I would say that's also  
14 true.

15 MR. ASHTON: And sediment would be  
16 retained in the area by these -- by these swales insofar  
17 as any sediment -- you know, sediment falling every day?

18 MR. PERKINS: Yes.

19 MR. ASHTON: Okay.

20 MR. PERKINS: It would resemble -- the  
21 leak offs could resemble the leak offs that exists  
22 today.

23 MR. ASHTON: Okay. Thank you, Mr.  
24 Chairman, I have no further questions.

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1                   CHAIRMAN STEIN: Thank -- thank you. Dr.  
2 Bell.

3                   DR. BELL: Thank you, Mr. Chair. I'd like  
4 to ask one question about simple statements that are in  
5 the application materials or the answering of questions.  
6 Regarding tree height, in the visual analysis, Mr.  
7 Libertine, you used 65 feet as the typical canopy height  
8 in measuring what people can and can't see. But in Mr.  
9 Gustafson's report on the flora, which is behind one of  
10 the tabs, he says that the typical canopy is 40 to 50  
11 feet high. And I'm wondering how you would reconcile  
12 those two figures?

13                   MR. LIBERTINE: Certainly. The -- the 40  
14 to 50 feet average height that was discussed in the flora  
15 survey report is specific to the site itself, so we're  
16 really talking about the top of Cobble Hill. And when we  
17 were up there, as you can see, we have some stunted  
18 growth up there just because of thin soils and the  
19 environment itself. What we try to do when we're doing  
20 the visibility study is we're taking into account a two-  
21 mile study area, so we're taking an average tree height  
22 that encompasses essentially everything around the  
23 vicinity. So -- granted there are some mature trees at  
24 the top of Cobble Hill and most likely at the top of some

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1 of the other high points in the region that have a  
2 similar geology and a surficial soil element to it where  
3 they're probably in that 40 to 50-foot range. But as you  
4 get into the lower areas around town and some large  
5 blocks of forest here, those tree heights are probably in  
6 the 75-foot range. So we use a general average  
7 throughout again a two-mile study areas. So I won't say  
8 it's apples to oranges, but in this case we're talking,  
9 you know, 40 to 50 feet on these high elevations with  
10 rocky soils versus what's going on within the entire  
11 region if you will.

12 DR. BELL: Okay, thank you. I understand.  
13 Keeping with this theme, if you -- if you reduce the  
14 height of the tower to 120 feet, you're getting closer to  
15 the canopy --

16 MR. LIBERTINE: Mmm-hmm --

17 DR. BELL: -- among other things, but how  
18 would you react to a stealth application at the height of  
19 120 feet?

20 MR. LIBERTINE: Well it's a good question.  
21 I've done a lot of thinking over a couple of years on  
22 this because recognizing this is a bit of a challenging  
23 site just because of the height that's required and the  
24 tree height at the top and the prominence of the hill



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1 from certain perspectives in the region -- and I think we  
2 discussed this in 409 -- even at 120 feet, I think the  
3 idea of doing something which I'll call more -- maybe one  
4 of the common options, which is to consider some type of  
5 a tree or monopine, it doesn't really work for a couple  
6 of reasons; (1) we're still -- from those locations where  
7 this can be seen, those few spots do have a -- you know,  
8 it's fairly significantly above the tree line as I said  
9 earlier, probably 30 feet on average in some of those  
10 locations, so that's going to be fairly bulky on the  
11 horizon and won't really fit. We also have primarily an  
12 Oak deciduous forest on the ridgeline, so -- that's not  
13 so say there aren't a few Pine trees or firs in the area,  
14 but they're not as prevalent certainly on top of the  
15 hill. So when we start talking about that particular  
16 type of a stealth option, I'm not sure that necessarily  
17 really fits from a contextual standpoint.

18 These days, unfortunately, using what we I  
19 guess traditionally call close contact arrays is fairly  
20 limiting from an RF perspective and usually requires  
21 going up another 10 feet to try to achieve the same  
22 coverage -- and these days I'm not sure even if that  
23 could be done, so Mr. Wells may want to join in  
24 afterwards -- so I'm not sure what we would call the

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1 traditional brown stick really would work here as well.  
2 And again, that would be a much thinner profile because  
3 we're not going to have the full array of antennas at the  
4 top, but I'm not sure that could really work from a  
5 technological standpoint here.

6 The -- the one thing that I've always felt  
7 would work in the right instance out here would be some  
8 type of a fire lookout tower. The problem we have here  
9 is that we have a relatively small footprint of  
10 visibility. And again, Mr. Ashton asked me the ten-  
11 thousand dollar question, which was the character of the  
12 views, and in a few locations where it can be seen, it's  
13 going to be 30 feet above the tree line. And again, are  
14 there fire towers that stuck that far above the tree  
15 line? I'm sure historically they were dotted all over  
16 Connecticut, but usually they were within that 15 to 20  
17 foot range just above the trees. So it may still appear  
18 a bit bulkier to accommodate, you know, that.

19 So when we talk about stealth, I guess the  
20 easy answer is in this particular situation, I'm not sure  
21 a stealth option is really going to be an overall  
22 benefit. There are a few locations certainly where we're  
23 just at tree line or just slightly above where a tree  
24 would probably work, but in other locations it would

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1 probably stick out even more so than a traditional steel  
2 tower.

3 DR. BELL: Okay, thank you. The --  
4 switching to another topic, the argument is made about  
5 wildlife, that much of the species of interest might be  
6 down in the wetland areas and not in the uplands on top  
7 of Cobble Hill. I understand that point. The only  
8 wildlife that we could comment on being up at the top of  
9 Cobble Hill then would be birds and maybe perhaps  
10 migratory birds. Now in the materials that you  
11 submitted, you say that there are no important bird areas  
12 here, which is an Audubon classification. But my  
13 question is -- I'm certainly aware that you've done avian  
14 resource studies using different programs that assess the  
15 presence of migratory birds in various areas. And I'm  
16 wondering if you have done that in an informal way but  
17 not submitted it to us or could do that with some of the  
18 additional avian resource studies or programs that you  
19 know about that could give us more information on birds  
20 in this area?

21 MR. LIBERTINE: You're right, we have  
22 looked at it in a very informal way. We have not put  
23 together what you're typically used to seeing. We  
24 certainly could do that before the next hearing. But we

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1 did take a look at several of the sources that we  
2 typically do, and that is for migratory pathways, hawk  
3 watch areas --

4 DR. BELL: Eagle areas --

5 MR. LIBERTINE: -- Eagle watch -- which  
6 coincidentally now the focus seems to be more on --  
7 rather than on the Eagle observation points, they're now  
8 looking more at nesting opportunities. That data is not  
9 readily available, but I think that will be coming. But  
10 yes, we certainly could put that together specific to the  
11 site. Now we had I believe back in 2010 -- but we can  
12 certainly make sure that there are updates that we can  
13 provide that to you folks.

14 DR. BELL: Okay, great --

15 MR. LIBERTINE: We don't know of any that  
16 are of significance right in the study area or within our  
17 particular site area. The only other species that you  
18 didn't mention I know that has come up before is  
19 Rattlesnake. And I'm not sure how old the data is or if,  
20 you know, the Rattlesnake is still using that, you know,  
21 mountain in general. Certainly it's the type of habitat  
22 that you would expect to have seen historically. But  
23 what we normally do is if there is even an opportunity  
24 for a species of concern or even if it's not a listed

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1 species but just that we know there are going to be the  
2 use of some type of wildlife, protective measures  
3 typically go in during construction -- well  
4 preconstruction and during construction, including sweeps  
5 of the area, putting in protective measures, really  
6 incorporating a lot of erosion and sedimentation control  
7 measures that can also double for protecting wildlife.  
8 Contractor awareness programs, we're actually doing a few  
9 right now for some facilities that you folks approved in  
10 the past that had actually listed species at the site.

11 So there are other things that can be done  
12 to make sure that you're not directly impacting those  
13 species. The fact is it's a very small footprint of what  
14 we would be disturbing that would be a new disturbance.  
15 Certainly the road needs upgrading, but the road is  
16 essentially there. So we think about more or less the  
17 50-by-50 foot -- or maybe let's call it a 75-to-75 foot  
18 area that's going to be used for development, and that  
19 area can be protected in a similar -- well there's  
20 literally -- maybe not hundreds, but certainly tens of  
21 acres of similar habitat, you know, right in that  
22 immediate area. So there are things that can be done  
23 with all species to ensure that you're not having a  
24 direct impact in mortality of even individuals, let

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1 alone, you know, communities.

2 DR. BELL: Thank you for that --

3 MR. LIBERTINE: I'm sorry --

4 DR. BELL: -- extension of that answer --

5 MR. LIBERTINE: -- I went long, but I  
6 guess to answer your question, we will update this and  
7 make sure --

8 DR. BELL: -- but if you could go back to  
9 updating the bird sources --

10 MR. LIBERTINE: Certainly --

11 DR. BELL: -- that would be great. I have  
12 some questions to ask Mr. Wells about the transformation  
13 order, that's the FCC order that you were talking about  
14 with Mr. Mercier. When we talk about coverage here --  
15 normally when we talk about coverage and coverage gaps  
16 and so forth, we're talking about signal strength in a  
17 given area. And that's what your propagation maps are  
18 based on, correct?

19 MR. WELLS: Usually, yes.

20 DR. BELL: Yeah. So that's the 74 db or  
21 the 82 db or the greater than, that kind of thing,  
22 right?

23 MR. WELLS: dBm to be precise --

24 DR. BELL: dBm, I'm sorry --

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1 MR. WELLS: -- as I always -- that's one  
2 thing I always beat up on my guys about is dB -- it's  
3 dBm. But to be rigorous, it is dBm. A subtle  
4 difference.

5 DR. BELL: Okay. But that's not what the  
6 FCC is talking about. Am I correct on that?

7 MR. WELLS: When you're talking about --

8 DR. BELL: When they're talking --

9 MR. WELLS: -- in their determinations --

10 DR. BELL: -- when they are making that  
11 map that you were looking at with Mr. Mercier with the  
12 red area showing unserved area, and they used the term  
13 unserved, they don't mean unserved in terms of signal  
14 strength, do they?

15 MR. WELLS: Not rigorously, but it derives  
16 from that. You have to start at signal strength, because  
17 if you're not getting signal strength into the area, then  
18 you're certainly not going to provide 3G equivalent  
19 services. So -- and I don't know the details -- and I  
20 guess I should look a little more deeper into this  
21 American Roamer Data, but I suspect they gather this from  
22 marketing materials from carriers is what I suspect they  
23 do, which is based on a rough approximation of signal  
24 strength. Again not engineering data, but signal -- some

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1 -- some level of signal strength data. So while  
2 rigorously you could say that yeah it's not signal  
3 strength, it really has to derive from there at some  
4 point because if you're not getting signal into the area,  
5 you're out of luck. And given the -- I would say the  
6 over-optimistic view of coverage, that it is more likely  
7 to be dependent on rough approximations of signal  
8 strength than to go to the next layer, which would be  
9 real signal to noise ratio. And that's another more  
10 detailed plot. And for the FCC or anybody to gather  
11 signal to noise ratio type of information for all  
12 carriers across the country with any granularity would be  
13 just a phenomenal task.

14 DR. BELL: I understand what you're  
15 saying. I think what I'm asking is on the basis that I -  
16 - I did read the FCC guidelines on the subject, which is  
17 partly quoted in the answer to Question No. 7, but not  
18 fully quoted, and as far as I can see, they really do not  
19 refer to signal strength. They simply refer to 3G or  
20 better level of service, and they used the terms EVDO,  
21 for evolution and digital optimization, and they use the  
22 other terms that we're used to for 3G service -- or  
23 really 3.5 service I would say, but my point simply is  
24 that they don't refer to signal strength. And so if I



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1 were honestly looking at this from a non-RF expert point  
2 of view, I would say you can't derive any information  
3 about coverage from these maps. The only information I  
4 can derive is what level of service, which is a  
5 completely different definition of service than the one  
6 that we have, so I'm asking you does that seem to you to  
7 be a fair characterization for a layperson who is just  
8 reading these documents?

9 MR. WELLS: Well I think two things if I  
10 understand where you're coming from is (1) I think you're  
11 probably right -- to compare our SSI levels of dBm and  
12 make some correlation between the FCC levels, that would  
13 certainly be difficult for a number of reasons, and  
14 probably some of those that you state. There are other  
15 reasons for that, but that's probably part of it.

16 But -- but No. 2, I guess if -- if we're  
17 talking service levels and in the need for an area, I  
18 think the FCC determination does represent a need for  
19 service in the area, be it 3G perhaps, but that is part  
20 of our -- certainly part of our service objective and  
21 beyond certainly because everything these days is data,  
22 which, you know, 3G is kind -- is a representation of  
23 data. And it's -- even voice is going to be represented  
24 even more fully in the future through voice over IP. So

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1 when you're talking service level, it is -- as I said  
2 before, I wouldn't -- I wouldn't characterize it as a  
3 completely accurate representation, but it is further  
4 evidence that there are problems in this area. And maybe  
5 to your point not to the dBm level, but certainly there  
6 are service level -- service issues in this area.

7 DR. BELL: I -- I understand what you're  
8 saying and I think I would agree that there's -- they're  
9 identifying service issues, but I guess -- let's see,  
10 I'll think of an analogy here so we can get away from 3G  
11 and EVDO and UMTS and all that kind of stuff -- the way I  
12 see it is -- let's say that service were defined as -- in  
13 some public safety way and we wanted to say that there  
14 was adequate service in an area, and we could compare it  
15 to saying we want to have a lifeguard at the beach, so  
16 I'll make the analogy between having a lifeguard on the  
17 beach and having a certain level of signal strength to  
18 ensure that -- that would be like having a lifeguard  
19 sitting in a chair at the beach, okay, coverage, in one  
20 case coverage is signal strength and in the other case  
21 coverage of a lifeguard being able to see a swimmer in  
22 danger. Now it seems to me that the FCC really isn't --  
23 in this -- in my analogy they're talking about really not  
24 having the type of -- the regular type lifeguard at the

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1 beach who swims out to save the swimmer, they're talking  
2 about having a lifeguard at the beach with -- who has jet  
3 skis, and they're saying our -- according to us the  
4 lifeguard with the jet ski is serving the public need for  
5 safety at the beach but not -- they're not talking about  
6 the conventional lifeguard that we think of at all,  
7 they're thinking about a guy -- he might not even be able  
8 to swim, but he -- and he might have a boat instead of  
9 jet skis, but if he has the boat and he has the jet skis,  
10 then that's their definition of level of service. That's  
11 -- does that analogy make sense?

12 MR. WELLS: Yeah, I think so, but a couple  
13 of things with that. Is (1) as I stated at the outset,  
14 the FCC is an approximation, No. 1, and I wouldn't rely  
15 on that data, nor did we rely on that data to determine  
16 our coverage level, even for voice. And I think  
17 certainly in the previous hearing and in the maps  
18 submitted in this hearing we represent -- we have -- we  
19 have shown some very significant gaps in coverage,  
20 whether it's voice or 3G or 4G or any kind of coverage,  
21 and the lack of -- and several dropped calls in this  
22 area. So regardless of the FCC data, there are -- there  
23 are significant problems in the area. And -- and No. 2 -  
24 -

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1 COURT REPORTER: I have to stop you one  
2 minute.

3 (pause - tape change)

4 CHAIRMAN STEIN: We're going to break now  
5 and we're going to come back at 7:00. And I need all of  
6 dinner to try to understand the analogy probably --  
7 (laughter).

8 MR. CHRISTOPHER B. FISHER: Chairman, I  
9 was just going to offer on -- to conclude that one last  
10 remark, that we --

11 CHAIRMAN STEIN: Okay, if we can conclude  
12 it, that -- that would be fine.

13 MR. FISHER: We can certainly -- we can  
14 certainly address this as attorneys in some kind of  
15 brief, a post-hearing brief, but to step back just for a  
16 minute, if I can, in assisting, the FCC's program isn't  
17 how they judge coverage in terms of these FCC license  
18 carriers. This is a unique program to determine whether  
19 or not they wanted to fund and essentially stimulate  
20 areas for development in rural America where they could  
21 identify where there was a service issue. And they used  
22 whatever data they did to determine whether or not people  
23 would be eligible to receive funds to build  
24 infrastructure. I think what the FCC assumed would be

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1 that if you were a recipient of the funds, you would have  
2 to make a proposal and come probably before an agency  
3 like the Siting Council and go through the more detailed  
4 information that Tony normally provides.

5 DR. BELL: I -- I do understand that it's  
6 for a special purpose, but I -- I'm dealing with two  
7 different definitions of service, unserved in one sense  
8 in one program and served or unserved in another sense in  
9 the usual type of application that we get. And I'm just  
10 trying to point out that it seems to me that it's a  
11 question, that these are really pretty different  
12 definitions of service.

13 MR. FISHER: Just look at it this way, the  
14 FCC was really just trying to determine where there might  
15 be areas in the country that were as a broad issue not  
16 served with 3G service and trying to determine are those  
17 eligible areas for us to give you money to build  
18 infrastructure. They were not trying to look at this and  
19 look at it at a level of an AT&T network design in making  
20 that decision.

21 DR. BELL: No, they're -- they're  
22 different.

23 MR. WELLS: But the levels also coincide  
24 for 3G service, and the levels that we depict for our

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1 plots are 3G service. So you know, your analogy of the  
2 lifeguard, I mean it happens that's the same standard to  
3 use to make the call because UMTS is used to make that  
4 call. So in this particular case, the analogy of the  
5 lifeguard being able to -- your jet ski versus going out  
6 and swimming, you know, it happens to be the same level  
7 of competency. In this case the lifeguard would need to  
8 be able to swim and use that jet ski. And it happens  
9 that those two criteria happen to be the same here, and  
10 is what we applied for, the neg 74 and 82 dBm criteria.  
11 So in this case it is the same.

12 CHAIRMAN STEIN: Okay. I'm going to try  
13 to regain control here -- (laughter) -- you submitted the  
14 information on the FCC, so -- for whatever reason you  
15 submitted it, but we are -- we're going to break now and  
16 we're going to resume the public comment session at 7:00  
17 p.m.

18  
19 (Whereupon, the hearing adjourned at 5:16  
20 p.m.)

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