

JESSE A. LANGER

PLEASE REPLY TO: Bridgeport
E-Mail Address: jlanger@cohenandwolf.com

September 15, 2011

VIA FEDERAL EXPRESS and ELECTRONIC MAIL

Ms. Linda L. Roberts
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

**Re: Docket No. 417 – Application by T-Mobile Northeast LLC
for a Certificate of Environmental Compatibility and Public
Need for a Telecommunications Facility at Moose Hill Road
in the town of Guilford, Connecticut**

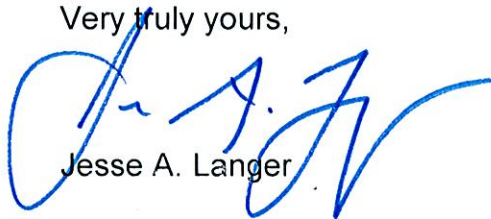
Dear Ms. Roberts:

With regard to the above-referenced docket, I have enclosed an original and twenty (20) copies of the following items:

1. Post-Hearing Brief of Applicant; and
2. Draft Proposed Finding of Fact

Please contact me with any questions.

Very truly yours,



Jesse A. Langer

JAL:lcc
Enclosures

cc: Service List

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY T-MOBILE
NORTHEAST LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR A TELECOMMUNICATIONS FACILITY
LOCATED AT MOOSE HILL ROAD IN THE
TOWN OF GUILFORD, CONNECTICUT

DOCKET NO. 417

Date: September 15, 2011

**POST-HEARING BRIEF OF
APPLICANT T-MOBILE NORTHEAST LLC**

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, T-Mobile Northeast LLC ("T-Mobile") submits this post-hearing brief in support of the above-captioned application. This brief addresses (1) the public need for this telecommunications facility; (2) the lack of environmental impact of the proposed facility; and (3) the facility's consistency with the legislative mandate to avoid the unnecessary proliferation of towers in the State of Connecticut ("State").¹

I. BACKGROUND

On May 13, 2011, T-Mobile filed with the Connecticut Siting Council ("Council") an application for Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a 110 foot stealth monopole wireless telecommunications facility ("Facility") at Moose Hill Road, Guilford, Connecticut

¹ T-Mobile submits its Proposed Findings of Fact contemporaneously with this Post-Hearing Brief.

("Property"), pursuant to General Statutes § 16-50 *et seq.* ("Application"). (*Hearing Exhibit 1, Application at p. 1; 7:00p.m. Transcript ["7:00p.m. Tr."] at p. 8.*)²

T-Mobile proposes to construct the Facility in the southwestern portion of an undeveloped 163 acre parcel, owned by Leete Associates, INC., known as Moose Hill Road, Guilford, Connecticut, and designated as Map 66, Lot 64 in the Town of Guilford's Tax Assessor's Records. (*App. at pp. 1-2, 9, 17; App. Ex. C; 7:00 Tr. at pp. 7-8.*)

The Facility would consist of a 2,500 square foot compound, which would sit within a 3,000 square foot area leased by T-Mobile. An 8 foot high chain link fence would secure the equipment at the Facility. Vehicular access to the Facility would extend from Moose Hill Road along an existing gravel driveway. T-Mobile would improve the existing gravel drive so as to provide a continuous 12 foot wide gravel access to the proposed Facility. Utility service would run from an existing transformer on the Property. (*App. at pp. 1-2, 10; App. Ex. C; Scott Chasse Pre-Filed Testimony ["Chasse"] at p. 3; 7:00 Tr. At pp. 7-8.*)

II. A SIGNIFICANT PUBLIC NEED EXISTS FOR THE FACILITY

General Statutes § 16-50p (a) (3) (A) mandates that the Council "shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine . . . [that] a public need for the facility and the basis of the need" The record amply demonstrates that there is a significant public need for the Facility.

² For the Council's convenience, all subsequent page references to Hearing Exhibit 1, which is T-Mobile's application, shall be made as "App. at p. ___." All subsequent references to exhibits attached to the Application shall be made as "App. Ex. ___."

There is a coverage gap in T-Mobile's network within the area surrounding the Facility. The proposed Facility would be an integral component of T-Mobile's wireless network in the Town of Guilford ("Town"). It would remedy the existing gap in coverage in this area of the Town, specifically along Route 146, Moose Hill Road, Old Quarry Road, and Corncrib Road, just south of interstate 95, as well as the surrounding areas and the Amtrak rail line that passes through the area. (*App. at pp.-5-6; App. Ex. H, J; Pre-Filed Testimony of Scott Heffernan ["Heffernan"] at pp. 4; T-Mobile's Responses to the Council's First Set of Interrogatories ["T-Mobile First Interrog. Resp."].*)

To provide effective coverage in this area, T-Mobile must mount its antenna array at 107'9" above grade level ("AGL"). This position would allow T-Mobile to minimize the number and height of future telecommunications facilities in this area and provide coverage in conjunction with its co-location on the Verizon Medlyn Farm facility (Docket No. 413) at a height of 80' AGL. Further, the antenna height would enable T-Mobile to overcome the existing topography and mature vegetation and provide coverage in these areas of the Town. (*App. at pp. 4,10; App. Ex. C, H; Heffernan at pp. 4-6.*)

Additionally, Guilford Emergency Services intends to co-locate on the Facility, if approved, as such a co-location would provide "critical radio coverage" for the Town's various public safety agencies. (*App. at p. 9, App. Ex. R; 3:00 p.m. Tr. at pp. 5-9. Pre-filed Testimony of Raymond Vergati ["Vergati"] at pp. 7-8*)

The record establishes that the Facility would provide much needed coverage for T-Mobile's network and the Town's Emergency Services. The Facility, therefore, would meet a significant public need for improved wireless telecommunications in the Town.

III. THE FACILITY WOULD HAVE A MINIMAL ENVIRONMENTAL IMPACT

In addition to demonstrating a public need for the Facility, T-Mobile must identify “the nature of the probable environmental impact . . . including a specification of every significant adverse effect . . . whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning, the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife” General Statutes § 16-50p (a) (3) (B).

T-Mobile conducted a comprehensive environmental analysis of the Facility, which is attached to the Application as Exhibit K (Wetlands Report), Exhibit N (Visual Resource Evaluation Report), Exhibit O (Coastal Consistency Analysis) and Exhibit Q (NEPA Compliance Documentation). State and Federal authorities provided substantive responses (Exhibit O). T-Mobile also submitted materials regarding the impact of telecommunications facilities on migratory birds. The environmental analysis concluded that the Facility would not impact adversely the natural resources of the State. The record is replete with evidence demonstrating that the Facility would have a minimal environmental impact on the surrounding areas, and would not conflict with any environmental policies of the State.

A. The Facility Would Not Have A Significant Impact On Any Species, Habitats Or Other Protected Areas.

The Property is not designated as a wilderness area and it is not located in any areas identified as a wildlife preserve or in a U.S. Fish and Wildlife Service National Wildlife Refuge. Nor would the Facility would not affect threatened or endangered species or designated critical habitats. Additionally, the proposed Facility would not

affect any National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Game lands. (*App. at pp. 15-17; App. Ex. Q; Pre-Filed Testimony of Ashley Bonavenia DeCabia ["DeCabia"] at p. 3 -5.*)

As a component of its analysis under the National Environmental Policies Act, T-Mobile retained experts to conduct a survey of the Eastern Box Turtle population in and around the site of the Facility. The survey did not detect any turtles within the vicinity of the proposed Facility. The Connecticut Department of Environmental Protection concurred with the results of the survey and stated that T-Mobile should employ standard protocols for the protection of wetlands during the course of construction and that all silt fencing should be removed after soils are stable to avoid restricting reptile and amphibian movement between uplands and wetlands. (*App. at p. 16; App. Ex. Q and K; DeCabia at pp. 3-4.*)

The Facility would be designed to minimize any impact on migratory bird species. The Facility would comply with the United States Fish and Wildlife Service interim guidelines because it would be well under 199 feet and without guy wires. Additionally, the Facility would not be located in a nominated or existing "important bird area." (*App. at 16; App. Ex. C, Q; DeCabia at p. 4; Gustafson pp. 6-7.*)

B. The Facility Would Not Have A Significant Impact On Any Historical or Architectural Resources of the State.

The proposed Facility would not impact any recognized districts, sites, buildings, structures or objects of significance in American history, architecture, archeology, engineering or culture as listed on the National Register of Historic Places. On February 16, 2011, the State Historic Preservation Office ("SHPO") determined that the Facility would not have an adverse impact on any such resources if the following

requirements are satisfied: (1) the monopole is painted medium gray brown; (2) the antennas are flush mounted; and (3) the monopole does not exceed 110 feet. T-Mobile incorporated all of these recommendations into the proposal for the Facility. (*App. at p. 19; App. Ex. C, O and Q; DeCabia at p. 5.*)

Moreover, the Facility would not affect any Native American religious sites. T-Mobile consulted with two Native American tribes – the Mashantucket Pequot Tribe and the Narragansett Indian Tribe – because they might have had interests impacted by the construction, operation and maintenance of the Facility. Both of the Tribes confirmed that they do not have any interests that would be impacted by the Facility. (*App. at p. 19; App. Ex. Q; DeCabia at p. 6.*)

Lastly, T-Mobile conducted an aeronautical study in accordance with the regulations promulgated by the Federal Aviation Administration. Based upon that study, the proposed Facility would not require marking or lighting. (*App. at p. 25; App. Ex. S.*)

C. The Facility Would Not Have A Significant Impact On Any Wetland Systems or Coastal Resources.

The construction, maintenance and operation of the Facility would not have an adverse impact on any wetland system. There is a narrow forested wetland system, associated with an intermittent watercourse, located on the southwestern portion of the Property. The proposed compound would be approximately 115 feet east from that wetland system and would have no adverse impact on that system. The proposed improvements to the existing gravel driveway would require an extension of the existing culvert, which would result in a minor disturbance to the wetland system. The implementation of the mitigation measures recommended by VHB would minimize any impact of this minor disturbance and, accordingly, the minor disturbance would not

result in an adverse impact on the wetland system.³ (*App. at pp. 17-18; App. Ex. B, K; Pre-Filed Testimony of Dean Gustafson ["Gustafson"] at pp. 3-4.*)

T-Mobile performed a coastal consistency analysis to confirm that the Facility would comply with the Connecticut Coastal Management Act, General Statutes § 22a-90 *et seq.* The Facility would not impact any coastal resources. There are no coastal resources located on or near the Property. The nearest coastal resource consists of tidal wetlands located 1,000 feet south of the Facility. (*App. at p. 19; App. Ex. O.*)

D. The Facility Would Not Have A Significant Visual Impact On The Surrounding Area.

Existing topography and mature vegetation would reduce some of the potential visual impacts of the proposed Facility on the surrounding areas. The average height of the tree canopy is at least sixty-five feet within a two mile radius of the Facility ("Study Area"). (*App. at pp. 12; App. Ex. N; Pre-Filed Testimony of Paul Lusitani ["Lusitani"] at pp. 5-8.*)

The proposed Facility would be designed with a stealth configuration to limit any potential visual impact. In accordance with the SHPO's opinion and meaningful discourse with the Committee, T-Mobile would design the Facility so that (1) the monopole is painted medium gray-brown to blend with the bark color of adjacent trees; (2) the antennas are installed with flush mounts; and (3) the monopole does not exceed 110 feet AGL. (*App. at pp.13-19; App. Ex. C and N; Lusitani at pp. 5-8.*)

The areas from which the Facility would be at least partially visible year round comprise approximately 1,072 acres, which is a small percentage of the 8,053 acre

³ The Facility would have no impact on water flow, water quality, or air quality and would comply with relevant noise regulations. The Facility would not be located within a flood plain. (*App., p. 20; App. Ex. K and Q; Gustafson at p. 14*)

Study Area. Most of these views are distant open water views from the Long Island Sound, with some views in the immediate vicinity of the Site. The open water views would have a minimal visual impact and would not impact any coastal resources. These views would be distant and would be limited to the very upper portion of the Facility, which would be difficult to discern above the tree canopy. Areas of seasonal visibility would comprise approximately 54.2 additional acres. These views would be within the general vicinity of the proposed Facility (approximately 0.66 miles). (*App. at 13; App. Ex. N. Lusitani at pp. 5-6; T-Mobile First Interrog. Resp.; Post-Hearing Filings.*)

The Facility would not have an adverse visual effect on historic, architectural, or archeological resources listed on or eligible for the National Register of Historic Places. This determination is consistent with the SHPO's conclusion. The Facility would not be visible year round from Route 146. The Facility will not be visible at all from the Westwoods Trail system. (*App. pp.13-19; App. Ex. N; Lusitani at p. 6.*)

E. Approval of T-Mobile's Application Would Comport With Existing Decisional Law.

Ultimately, the design and location of the Facility would minimize the Facility's environmental impact while addressing the coverage discrepancies in the area. The existing case law supports the approval of T-Mobile's application for a certificate as several Court decisions have affirmed the issuance of certificates for similar facilities and projects that involved comparable or greater environmental impacts than that proposed in the present application. *See generally Westport v. Connecticut Siting Council*, 47 Conn. Sup. 382, 797 A.2d 655 (2001), *Aff'd*, *Westport v. Connecticut Siting Council*, 260 Conn. 266, 796 A.2d 510 (2002); *Nobs v. Connecticut Siting Council*, No. CV 980492714S, 2000 WL 675643 (Conn. Super. Ct. April 28, 2000).

Thus, any environmental impacts associated with the Facility would be limited. The Facility would also eliminate the need for additional facilities in this area of the Town, thereby reducing the cumulative environmental impact on the Town.

IV. A CERTIFICATE SHOULD ISSUE FOR THE PROPOSED FACILITY TO AVOID THE UNNECESSARY PROLIFERATION OF TOWERS

The Connecticut legislature has determined that the sharing of towers to avoid the unnecessary proliferation of towers is in the public interest. General Statutes § 16-50aa. General Statutes §16-50p (b) (1) (A) requires the Council to consider the feasibility of tower sharing to avoid the unnecessary proliferation of telecommunications facilities. "The sharing of facilities is encouraged, if not required by General Statutes §16-50p (b) (1) (A)." *Nobs*, 2000 WL 675643, at *2 n.1.

Certification of the proposed Facility would be in the public interest. There are no other existing facilities or structures in this area from which wireless carriers could co-locate. The Facility, however, would provide co-location opportunities for public safety communications systems and three telecommunications carriers, which would limit the proliferation of telecommunications facilities.

Specifically, the Town has participated in this matter and would locate a whip antenna and a microwave dish at a centerline of 77' AGL, and another whip antenna at the top of the tower at a centerline of approximately 115' AGL. This position would enable Guilford Emergency Services to provide much needed coverage along Route 146 and the surrounding area. Therefore, approval by the Council would be consistent with the legislative mandate to avoid the unnecessary proliferation of towers. (*App. at p. 8; App. Ex. J, R; Vergati at pp. 2-6; 3:00 Tr. at pp.7-8, 16-17.*)

V. CONCLUSION

The record amply supports the approval of a certificate for the Facility. The Facility is necessary to provide adequate wireless and emergency services coverage in this area of the Town. T-Mobile has demonstrated that the Property is the best location for a telecommunications facility which would address the coverage issues in this area with the least amount of environmental impact. T-Mobile requests that the Council issue a certificate for the Facility, reflecting in its Decision and Order, consistent with General Statutes § 16-50x, that such approval satisfies and is in lieu of all local and state approvals and certifications.

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

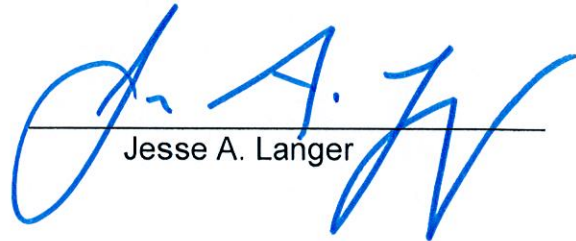
By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing was delivered by Electronic Mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

N/A



Jesse A. Langer

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY T-MOBILE
NORTHEAST LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR A TELECOMMUNICATIONS FACILITY
LOCATED AT MOOSE HILL ROAD, IN
THE TOWN OF GUILFORD, CONNECTICUT

DOCKET NO. 417

Date: September 15, 2011

THE APPLICANT'S PROPOSED FINDINGS OF FACT

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, T-Mobile Northeast LLC ("T-Mobile") submits these proposed findings of fact.

Introduction

1. On May 13, 2011, T-Mobile filed with the Connecticut Siting Council ("Council") an application for Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a 110 foot stealth monopole wireless telecommunications facility ("Facility") at Moose Hill Road, Guilford, Connecticut ("Property") pursuant to General Statutes § 16-50g *et. seq.* ("Application"). (*Hearing Exhibit 1, Application at p. 1; 7:00 p.m. Transcript ["7:00 p.m. Tr."] at p. 8.*)¹

2. The Facility would sit within a 3,000 square foot area leased by T-Mobile, located in the southwestern portion of the Property, which is an undeveloped 163 acre parcel owned by Leete Associates, Inc. ("Site"). (*App. at p.2; App. Ex. C.; Pre-Filed Testimony of Scott M. Chasse ["Chasse"] at p.2; 7:00 p.m. Tr.at pp. 7-8.*)

¹ For the Council's convenience, all subsequent page references to Hearing Exhibit 1, which is T-Mobile's Application, shall be made as "App. at p. ___." All subsequent references to exhibits attached to the Application shall be made as "App. Ex. ___."

3. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on August 18, 2011, beginning at 3:00p.m., and continued to 7:00 p.m., at the Guilford Community Center, 32 Church Street, Guilford, Connecticut. (*Hearing Notice; 3:00 p.m. Transcript ["3:00 p.m. Tr."] at p. 2.*)

4. The Council and its staff conducted a field review of the Site on August 18, 2011, at 2:00 p.m. (*Hearing Notice.*)

5. T-Mobile conducted a balloon float, with a balloon five feet in diameter, at a height of 110 feet, at the Site from 11:40 a.m. to 6:00 p.m., on August 18, 2011, in accordance with the Council's instructions. (*Pre-Hearing Conference Notice; 7:00 p.m. Tr. at p. 33.*)

Need

6. In amending the Communications Act of 1934 with the Telecommunications Act of 1996, the United States Congress recognized the important public need for high quality telecommunications services throughout the United States. The purpose of the Telecommunications Act of 1996 was to "provide for a competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans." H.R. Conf. Rep. No. 104-458, 206, 104th Cong., Sess. 1 (1996). The Telecommunications Act of 1996 expressly preserved State and/or local land use authority over wireless facilities, placed several requirements and legal limitations on the exercise of that authority, and preempted State or local regulatory oversight of radio frequency emissions as set forth in 47 U.S.C. § 332(c)(7). In doing so, Congress sought a balance between the public interest in deployment of wireless services and

legitimate areas of State and/or local regulatory control over wireless infrastructure. (App. at p. 5; 3:00 p.m. Tr. at pp. 4-6; 7:00 p.m. Tr. at p. 4.)

7. There is a coverage gap in T-Mobile's network in the areas surrounding the Site. (App. at pp. 5-6; App. Ex. H, J; Pre-Filed Testimony of Scott Heffernan ["Heffernan"] at p. 4; 3:00p.m. Tr. at p.4.)

8. The Facility would be an integral component of T-Mobile's wireless network in the Town of Guilford ("Town"). The Facility would remedy the existing gap in coverage in this area of the Town, specifically along Route 146, Moose Hill Road, Old Quarry Road and Corncrib Hill Road, south of Interstate 95, as well as the surrounding areas and the Amtrak rail line that passes through the area. (App. at pp. 5-6; App. Ex. H, J; Heffernan at p. 4; T-Mobile's Responses to the Council's First Set of Interrogatories ["T-Mobile First Interrog. Resp."].)

9. Guilford Emergency Services intends to co-locate on the Facility, if approved, as such a co-location would provide "critical radio coverage" for the Town's various public safety agencies. (App. at p. 9, App. Ex. R; 3:00 p.m. Tr. at pp. 5-9, Pre-filed Testimony of Raymond Vergati ["Vergati"] at pp. 7-8)

Coverage

10. To provide effective coverage in the area of the proposed Facility and along the shoreline, T-Mobile must mount its antenna array at 107'9" above grade level ("AGL"). This position would allow T-Mobile to minimize the number and height of future telecommunications facilities in this area of the Town. (App. at p. 10; App Ex. C, H; Heffernan at p. 5.)

11. An antenna array at 107'9" AGL would allow T-Mobile to provide coverage to the coverage objective, in conjunction with T-Mobile's co-location on the Verizon Medlyn Farm facility (Docket No. 413) at a height of 80 feet AGL. (*App. at p. 4; App. Ex. H; Heffernan at pp. 4-5.*)

12. The Town would locate a whip antenna and a microwave dish at a centerline of 77 feet AGL, and another whip antenna at the top of the Facility at a centerline of approximately 115 feet AGL. This position would enable Guilford Emergency Services to provide much needed coverage along Route 146 and the surrounding area. (*App. Ex. R; 3:00 Tr. at pp.7-8, 16-17.*)

13. Repeaters, microcell transmitters, distributed antenna systems and other types of transmitting technologies are not alternative, feasible deployment technologies because of the geography, terrain and nature of the coverage objective. (*App. at p. 7.*)

Site Search

14. There are no existing towers, transmission line structures or other structures of a suitable height or location in this area of the Town that would be suitable to remedy the existing coverage gap. (*App. at p. 8; App. Ex. J; Vergati at pp. 2-6.*)

15. After determining that there were no existing structures suitable for co-location, T-Mobile conducted a site analysis of properties within the area to identify the best possible location to address T-Mobile's coverage need. (*App. at pp. 8-9; App. Ex. J; Vergati at pp. 2-6; Heffernan at pp. 4-5.*)

16. When selecting a site, T-Mobile considers which properties would address its coverage needs and minimize environmental impacts. (*App. at pp. 8-9; App. Ex. J; Vergati at pp. 2-6.*)

17. T-Mobile conducted a site analysis of properties within the area to identify the best possible location to address T-Mobile's coverage need in the area. None of the parcels, other than the Property, considered by T-Mobile were suitable sites. (*App. at pp. 8-9; App. Ex. I, J; Vergati at pp. 3-7; T-Mobile First Interrog. Resp.*)

18. In conducting its site search, T-Mobile assessed a number of parcels in the area of the Property. These parcels are not suitable sites for a telecommunications facility because they are too far from the coverage objective to provide adequate coverage, the owner failed to respond to the inquiry, and/or overlapping coverage would result. (*Vergati at pp. 3-6; T-Mobile First Interrog. Resp.; 3:00p.m. Tr. at pp. 74-76.*)

19. T-Mobile's proposed Site would address its coverage objective, specifically along Route 146, Moose Hill Road, Old Quarry Road and Corncrib Hill Road, south of Interstate 95, as well as the surrounding area and the Amtrak rail line that passes through the area. (*App. at pp. 5-6; App. Ex. H, J; Heffernan at p. 4; T-Mobile First Interrog. Resp.*)

20. The Property is superior to other parcels in the area. The Property is 163 acres with excellent screening from mature trees. T-Mobile would have to remove only 2 trees to construct the Facility. The Facility would not have an adverse impact on the wetland system located on the Property. (*App. at pp. 2, 8-9; App. Ex. J and K; Vergati at pp. 6-7; Chasse at p. 2; Pre-Filed Testimony of Dean Gustafson ["Gustafson"] at pp. 3-4; 7:00p.m. Tr. at pp. 7-8.*)

The Site

21. T-Mobile proposes to construct the Facility at the Site located in the southwestern portion of the Property, which is an undeveloped 163 acre parcel of land

commonly known as Moose Hill Road, and is identified as Assessors Tax Map 66, Lot 64. (*App. at pp. 1-2; App. Ex. C; Chasse at p. 2; 7:00 p.m. Tr. at pp. 7-8.*)

22. The Facility would accommodate T-Mobile and the equipment of three other wireless carriers, as well as the Town's Emergency Services equipment. (*App. at p. 9; App. Ex. C; 3:00 p.m. Tr. at p. 37-38.*)

23. The Facility would accommodate the antennae and equipment of T-Mobile at an antenna centerline of 107'9" AGL, flush mounted to the Facility, and three other telecommunications carriers at antenna centerlines of 97'9", 87'9" and 77'9" AGL. The monopole would be painted medium gray brown to match the bark of nearby trees. (*App. Ex. C; Chasse at p. 3; 3:00 p.m. Tr. at p. 38.*)

24. The Facility would consist of a 2,500 square foot fenced compound area, which would sit within the 3,000 square foot area leased to T-Mobile. (*App. at pp. 1, 10; App. Ex. C; Chasse at p. 3; 7:00 p.m. Tr. at p. 8.*)

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

26. Vehicular access to the Facility would extend from Moose Hill Road along an existing gravel access. T-Mobile would improve the access so that it would consist of a continuous 12 foot wide gravel access. (*App. at pp. 2, 10; App. Ex. C; Chasse at p. 3; 7:00 p.m. Tr. at pp. 7-8.*)

27. Utility service would run from an existing utility demarcation on the Property. No water or sanitary facilities would be required and, once built, the Facility

would generate minimal traffic because T-Mobile, or any other carrier, would only need to visit the Site approximately once a month to perform routine maintenance and inspection. (*App. at pp. 8-11, 20; App. Ex. C.*)

28. The estimated cost of the proposed Facility is approximately \$185,000. The duration of the construction would be approximately fifteen weeks, with an additional two weeks for Facility integration and system testing. (*App. at p. 26.*)

Municipal Consultation

29. On December 24, 2009, T-Mobile submitted a technical report to the Town regarding the Facility pursuant to General Statutes § 16-50I (e). The technical report included specifics about the Property, the Facility, the site selection process and the environmental effects of the Facility. (*App. at p. 23; App. Ex. R; Bulk Filing; Vergati at p. 7.*)

30. On January 21, 2010, T-Mobile met with the First Selectman, the Honorable Joseph Mazza; the Town Planner, George Kral; a representative of the Town's Emergency Services and other staff members, to discuss the proposed Facility. (*App. at p. 26; Vergati at p. 7.*)

31. On June 7, 2010 T-Mobile met with the Guilford Land Trust ("Trust") to discuss the Facility. On July 29, 2010, T-Mobile conducted an additional balloon float to confirm the lack of visual impact on the nearby Westwoods Trail system. T-Mobile invited the Trust to observe the balloon float. (*Application at p. 23-24; App. Ex. N and R; Vergati at pp. 7-8.*)

32. On September 23, 2010, T-Mobile consulted with the Scenic Road Advisory Committee ("Committee") regarding the Facility. The Committee thereafter

informed T-Mobile and the State Historic Preservation Office (“SHPO”) that it would not oppose the Facility if the Facility was 110 feet AGL with a stealth design. (*App. at pp. 23-24; App. Ex. R; Vergati at pp. 7-8.*)

Environmental Considerations

33. The Property is not designated as a wilderness area and it is not located in any areas identified as a wildlife preserve or in a U.S. Fish and Wildlife Service National Wildlife Refuge. (*App. at p. 15; App. Ex. Q; Pre-Filed Testimony of Ashley Bonavenia DeCabia [“DeCabia”] at p. 3.*)

34. The Facility would not affect threatened or endangered species or designated critical habitats. (*App. at p. 16; App. Ex. Q; DeCabia at p. 4.*)

35. T-Mobile retained experts to conduct a survey of the Eastern Box Turtle population in and around the site of the Facility. The survey did not detect any turtles within the vicinity of the proposed Facility. The Connecticut DEP concurred with the results of the survey and stated that T-Mobile should employ standard protocols for the protection of wetlands during the course of construction and that all silt fencing should be removed after soils are stable to avoid restricting reptile and amphibian movement between uplands and wetlands. (*App. at p. 16; App. Ex. Q and K; DeCabia at pp. 3-4.*)

36. The Facility would be designed to minimize any impact on migratory bird species. The Facility would comply with the United States Fish and Wildlife Service interim guidelines because it would be well under 199 feet and without guy wires. (*App. at 16; App. Ex. C, Q; DeCabia at p. 4; Gustafson pp. 6-7.*)

37. The Facility would not be located in a nominated or existing “important bird area.” (*Gustafson, at p. 6.*)

38. The proposed Facility would not affect any National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Game lands. (*App. at pp. 17; App. Ex. Q; DeCabia at p. 5.*)

39. The proposed Facility would not impact any recognized districts, sites, buildings, structures or objects of significance in American history, architecture, archeology, engineering or culture as listed on the National Register of Historic Places. On February 16, 2011, the State Historic Preservation Officer ("SHPO") determined that the Facility would not have an adverse impact on any such resources if the following requirements are satisfied: (1) the monopole is painted medium gray brown; (2) the antennas are flush mounted; and (3) the monopole does not exceed 110 feet. T-Mobile incorporated all of these recommendations into the proposal for this Facility. (*App. at p. 19; App. Ex. N, O and Q; DeCabia at p. 5.*)

40. The proposed Facility would not affect any Native American religious sites. T-Mobile consulted with two Native American tribes – the Mashantucket Pequot Tribe and the Narragansett Indian Tribe – because they might have had interests impacted by the construction, operation and maintenance of the Facility. Both of the Tribes confirmed that they do not have any interests that would be impacted by the Facility. (*App. at p. 19; App. Ex. Q; DeCabia at p. 6.*)

41. There is a narrow forested wetland system, associated with an intermittent watercourse, located on the southwestern portion of the Property. The proposed compound would be approximately 115 feet east from that wetland system and would have no adverse impact on that system. The proposed improvements to the existing gravel driveway would require an extension of the existing culvert, which would result in

a minor disturbance to the wetland system. The implementation of the mitigation measures recommended by VHB would minimize any impact of this minor disturbance and, accordingly, the minor disturbance would not result in an adverse impact on the wetland system. (*App. at pp. 17-18; App. Ex. B, K; Gustafson at pp. 3-4.*)

42. The Facility would have no impact on water flow, water quality, or air quality and would comply with relevant noise regulations. (*App. at p. 20.*)

43. The Facility would not impact any coastal resources. The nearest coastal resource consists of tidal wetlands located 1,000 feet south of the proposed Facility. (*App. at p. 19; App. Ex. O.*)

44. The Facility would not be located within a flood plain. (*App. at p. 14; App. Ex. K, Q.*)

45. According to an aeronautical study conducted by T-Mobile, in accordance with the regulations promulgated by the Federal Aviation Administration, the proposed Facility would not require marking or lighting. (*App. at p. 25; App. Ex. S.*)

46. The Facility's maximum emissions levels would be approximately 9.5137 percent of the safety criteria adopted by the Federal Communications Commission. (*App. at p. 15, App. Ex. P.*)

Visibility

47. Existing topography and mature vegetation would reduce some of the potential visual impacts of the proposed Facility on the surrounding areas. The average height of the tree canopy is at least sixty-five feet within a two mile radius of the Facility ("Study Area"). (*App. at pp. 12; App. Ex. N; Pre-Filed Testimony of Paul Lusitani ["Lusitani"] at pp. 5-8.*)

48. The Property is a large, undeveloped 163 acre parcel and the Facility would be shielded with excellent screening from mature vegetation. (*App. at p. 11-13; App. Ex. B, N; Lusitani at 7.*)

49. The proposed Facility would be designed with a stealth configuration to limit any potential visual impact. In accordance with the SHPO's opinion and meaningful discourse with the Committee, T-Mobile would design the Facility so that (1) the monopole is painted medium gray-brown to blend with the bark color of adjacent trees; (2) the antennas are installed with flush mounts; and (3) the monopole does not exceed 110 feet AGL. (*App. at pp.13-19; App. Ex. C and N; Lusitani at pp. 5-8.*)

50. The areas from which the Facility would be at least partially visible year round comprise approximately 1,072 acres, which is a small percentage of the 8,053 acre Study Area. Most of these views are distant open water views from the Long Island Sound, with some views in the immediate vicinity of the Site. (*App. at p. 13; App. Ex. N; Lusitani at p. 5; T-Mobile First Interrog. Resp.; Post-Hearing Filings.*)

51. The open water views would have a minimal visual impact and would not impact any coastal resources. These views would be distant and would be limited to the very upper portion of the Facility, which would be difficult to discern above the tree canopy. (*App. p. 13; App. Ex. N; Lusitani at p. 6; Post-Hearing Filings.*)

52. Areas of seasonal visibility would comprise approximately 54.2 additional acres. These views would be within the general vicinity of the proposed Facility (approximately 0.66 miles). (*App. at p. 13; App. Ex. N; Lusitani at p. 7; T-Mobile First Interrog. Resp.*)

53. The Facility would not have an adverse visual effect on historic, architectural, or archeological resources listed on or eligible for the National Register of Historic Places. This determination is consistent with SHPO's conclusion. The Facility would not be visible year round from Route 146. The Facility will not be visible at all from the Westwoods Trail system. (*App. pp.13-19; App. Ex. N; Lusitani at p. 6.*)

Tower Sharing

54. The Facility would provide co-location opportunities for municipal public safety communications systems and three telecommunications carriers, which would limit the proliferation of telecommunications facilities. (*App. at p. 9; App. Ex. C; 3:00 p.m. Tr. at pp. 38.*)

Dated at Bridgeport, Connecticut this 15th day of September, 2011.

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

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing was delivered by Electronic Mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

N/A



Jesse A. Langer