

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

APPLICATION OF NORTH ATLANTIC TOWERS, LLC
and NEW CINGULAR WIRELESS PCS, LLC (AT&T)
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR THE
CONSTRUCTION, MAINTENANCE AND OPERATION
OF A TELECOMMUNICATIONS TOWER FACILITY
AT ONE OF TWO SITES: 171 SHORT BEACH ROAD,
BRANFORD, OR 82 SHORT BEACH ROAD,
EAST HAVEN, CONNECTICUT

DOCKET NO. 427

November 1, 2012

APPLICANTS

NORTH ATLANTIC TOWERS, LLC and NEW CINGULAR WIRELESS PCS, LLC (AT&T)
POST HEARING BRIEF

Respectfully Submitted,

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PRELIMINARY STATEMENT

North Atlantic Towers, LLC (NAT) and New Cingular Wireless PCS, LLC (AT&T) (together the “Applicants”), by their attorneys, Cuddy & Feder LLP, respectfully submit this post hearing brief in support of the Application for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for a tower facility in Docket 427. The Application addresses the public need for a new tower facility to provide service to the western portion of Branford and the eastern portion of East Haven in the shoreline area along Route 142, Alps Road and the surrounding vicinity. Throughout the proceedings in this Docket, the Applicants provided data, testimony and otherwise responded to interrogatories and cross-examination providing the Council comprehensive analyses of the public need for new infrastructure in this part of Connecticut, the review of possible siting alternatives, and the potential environmental effects associated with each of the sites proposed in this Docket. Empirical data confirmed that a new tower facility is required to provide reliable wireless service in this area of the State. Further, that the location of the tower sites proposed in this Docket on either a commercial property or fire department do not present significant aesthetic, or environmental impacts to this part of the State. Accordingly, the Applicants request a Certificate for a new tower facility to meet the public need for wireless services be issued for one of the sites proposed in this Docket to serve this part of Branford and East Haven.

STATEMENT OF FACTS

I. AT&T's Need

AT&T's radiofrequency ("RF") engineers establish site search areas where new wireless facilities are needed to address the public's inability to access its wireless network. In this case, AT&T experiences a gap in coverage in western Branford and eastern East Haven in the shoreline area along Route 142, Alps Road and local roads and areas. A site search area was established by AT&T's RF engineers based on this documented gap in coverage. Applicants' Ex. 1, Pg.13, Tab 2. AT&T's coverage gap in this area of Branford and East Haven was further documented by drive-test data. Applicants' Ex. 2, Response No.8.

The public need for the facility proposed in this docket is also supported by the fact that wireless services have become essential to the public's health, safety and welfare. Applicants' Ex.1, Pg. 11. Indeed, the current White House Administration, The Congress and the Federal Communications Commission (FCC) have established the critical importance of access to wireless services for all Americans through a regulatory framework that encourages timely deployment of wireless infrastructure.¹ Applicants' Ex.1, Pg. 12-13. The importance of reliable service is demonstrated by the fact that approximately 70% of people depend on their wireless

¹ Presidential Proclamation No. 8460, 74 C.F.R. 234 (2009). Cong. Rec. H459 (Jan. 25, 2011), *available at* <http://www.whitehouse.gov/the-press-office/2011/01/25/remarks-president-state-union-address> (last revised Nov. 2, 2012). Specifically the President stressed that in order "[t]o attract new businesses to our shores, we need the fastest, most reliable ways to move people, goods, and information—from high-speed rail to high-speed Internet." Connecting America: The National Broadband Plan, Federal Communications Commission (2010), *available at* <http://www.broadband.gov/plan/>; See also:

FCC 11-51: Notice of Inquiry, In the Matter of Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting, *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0407/FCC-11-51A1.pdf.

WT Docket No. 08-165- Declaratory Ruling on Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance ("Declaratory Ruling"): Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 (2012), *available at* <http://gpo.gov/fdsys/pkg/BILLS-112hr3630enr/pdf/BILLS-112hr3630enr.pdf>; *see also* H.R. Rep. No. 112-399 at 132-33 (2012)(Conf. Rep.), *available at* <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt399/pdf/CRPT-112hrt399.pdf>.

services to make 9-1-1 calls and that approximately 26.6% households are now “wireless-only.”² Id. Cisco reported that in 2010, mobile data traffic alone was three times greater than all global Internet traffic in 2000.³ Id. These trends are expected to continue as the public increases reliance on wireless services in their daily lives. Applicants’ Ex. 1, Pg. 10-11. Thus, the proposed facility is needed to enable the public to access a reliable wireless network, including emergency calls and to be able to receive emails and text messaging from CT Alert CNS system. Id.

II. The Applicants’ Comprehensive Site Search

AT&T agreed to pursue this project jointly with North Atlantic Towers after conducting its own site search and finding no reasonable alternatives. As part of their search, the Applicants reviewed existing structures and determined that none of the existing structures or facilities in the area are suitable for providing reliable service to the identified coverage gap. Applicants’ Ex. 1, Pg. 16, Tab 2. AT&T is already planning to use an approved tower located at 123 Pine Orchard Drive in Branford (Docket No. 386) and an approved tower at Leetes Island Road in Branford (Docket No. 413) to provide service to eastern portions of Branford, outside of the identified coverage gap. Id. One potential rooftop facility was evaluated and unavailable due the property owner’s unwillingness to lease space to AT&T. Applicants’ Ex. 1, Tab 2; 7/10/12 Hr. Tr. 7:00pm, Pg. 27; Applicants’ Ex. 10.

Once it was determined that a new tower facility was needed to provide reliable service to the identified coverage gap, a search for tower sites was conducted. The search included separate

² Wireless 911 Services, FCC, *available at* <http://www.fcc.gov/guides/wireless-911-services>; CTIA Fact Sheet (2010), *available at* http://www.ctia.org/media/industry_info/index.cfm/AID/10323 *citing* Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January - June 2010, National Center for Health Statistics, December 2010 Fact Sheet.

³ Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2010–2015, February 1, 2011.

reviews by NAT and AT&T. Applicants' Ex. 1, Pg. 17, Tab 2. The Applicants reviewed several properties in and out of the search area, including several parcels suggested by the Town of Branford during the municipal consultation process. Id. The search, which was conducted over several years, resulted in a potential tower site at 171 Short Beach Road in Branford, which is the site of a commercial business with service trucks and a parking areas and a potential tower site at 82 Short Beach Road in East Haven, which is the location of a fire department. Id.

At the request of the Siting Council, the Applicants also reviewed two parcels on Briarwood Lane in Branford improved with multi-family developments and learned that the undeveloped area on these parcels, where a facility might be located, are dedicated open space areas pursuant to local conditions of approval for the existing multi-family improvements. Applicants' Ex. 17. The Applicants also investigated two adjacent parcels on Goodsell Road in Branford in response to a request by the owners of these parcels and determined that a facility at either parcel would be highly visible from the Branford Historic District and in close proximity to an existing AT&T facility. Applicants' Ex. 10.

The record in this proceeding demonstrates that the proposed Sites represent the only known available and appropriate siting options to reliably serve this area of the State. Applicants' Ex. 1, Pgs. 16-17, Tab 2; Applicants' Ex. 2; Ex. 10; Ex. 17.

III. The Applicants' Technical Consultation with the Towns of Branford and East Haven

In July of 2010, the Applicants filed a technical report with the Town of Branford which included specifics about the proposed site at 171 Short Beach Road. Applicants' Ex., Pg. 30, *See also* Technical Report bulk filed with Siting Council, Vol. 1. In response to follow up calls regarding the Branford Site Technical Report, the Branford First Selectman's office advised on

August 31, 2010 that the Technical Report was being reviewed by the Town's Telecommunications Committee. Applicants' Ex. 1, Pg. 30, Tab 6. Additional correspondence was sent to the Branford First Selectman on September 7, 2010, requesting a meeting to discuss the Applicants' Branford Site proposal in more detail. Id.

Thereafter, representatives from NAT and AT&T were invited by representatives of the Town's Telecommunications Committee to participate in a multi-carrier meeting with representatives from Verizon Wireless and T-Mobile. Applicants' Ex. 1, Pg. 30, Tab 6. This meeting was held on October 8, 2010. Representatives from the Town's Telecommunications Committee and Economic Development Office attended along with representatives of NAT and AT&T. Id. Discussions at this meeting centered on the Siting Council process, the needs of the carriers for providing service to the shore areas of Branford and current proposals by the carriers generally. Town representatives at this meeting did not have specific questions or comments regarding the proposed Branford Site facility. Id.

Subsequent to the October 8, 2010 meeting, the Applicants wrote to the Town of Branford on November 1, 2010, advising the Town that the Application was being assembled for submission and requesting that the Town provide comments, if any, on the proposal. Id. The Town of Branford did not provide any specific comments or preferences for purposes of Section 16-50gg in response to the Applicants' November 1, 2010 letter. Therefore, the Applicants assembled their Application for the Branford Site, published notice of intent to file on or about November 23, 2010 and submitted the required notice to abutters. Id.

The Town of Branford subsequently requested a community meeting which was held on November 22, 2010. Id. At this community meeting, representatives of the Applicants presented the details of the proposed Branford Site facility, including need, site selection and visibility

analyses and answered questions from members of the public and Town representatives, including representatives from the Town's Telecommunications Committee, in attendance. After the community meeting, in a letter dated November 23, 2010, the Town requested that the Applicants delay submission of their Application to the Siting Council so that the Town could assess and identify any potential alternatives. In response, the Applicants agreed to delay the filing of the Application. Applicants' Ex. 1, Pg. 31, Tab 6.

During this time, in correspondence dated December 6, 2011, December 22, 2011 and December 29, 2011, the Town of Branford requested information on the viability of alternative sites, including the Town-owned Orchard House property, which was previously reviewed by the Applicants. Id. The Applicants reviewed all suggested alternatives. While the Town-owned Orchard House property was a technically viable alternative, the Town of Branford would not execute a lease for this location. Id. Indeed, after initial comments on a lease agreement for the Town-owned Orchard House alternative, the Town of Branford ceased communications with NAT regarding this alternative. Applicants' Ex. 10.

The only other location suggested by the Town of Branford that was viable was the East Haven Riverside Volunteer Fire Department location, which is located outside of AT&T's search area. 7/10/12 Hr. Tr. 3:00pm Pgs. 48-39. This location became the alternative site candidate in this proceeding. Applicants' Ex. 1, Pg. 31, Tab 6. At that time, the Applicants evaluated the East Haven Riverside Volunteer Fire Department location at 82 Short Beach Road as a potential alternative site. NAT secured a lease for a proposed tower facility at the East Haven Site and the Applicants developed plans for a proposed facility. Id.

On June 14, 2011, the Applicants submitted a Technical Report detailing the East Haven Site facility to the Towns of East Haven and Branford. Applicants' Ex. 1, Pg. 31, Tab 6, *See*

also Technical Report bulk filed with Siting Council, Vol. 2. On August 15, 2011, representatives of the Applicants met with the East Haven Mayor, Town Planning & Zoning Administrator, Town Manager and the Fire Chief to discuss the proposed facility and review the Siting Council procedures. Applicants' Ex. 1, Pg. 31, Tab 6. At this meeting, the Town of East Haven requested that the Applicants coordinate an information session for the community. Id. Shortly after this meeting, on August 27, 2011, Hurricane Irene landed and caused significant damage to the East Haven community. Understanding the consequences of the hurricane, the Applicants deferred the municipal consultation process and coordination of the requested community meeting. Applicants' Ex. 1, Pg. 32.

In the fall of 2011, the Applicants continued the due diligence review of the East Haven Site facility. During this time, consultation with the State Historic Preservation Officer ("SHPO") resulted in a redesign of the proposed East Haven Site facility with a reduction in height to 103' above grade level (AGL). Id. After consultation with the SHPO and confirmation from the Federal Aviation Administration (FAA) that marking and/or lighting would not be required for the redesigned East Haven Site facility at a maximum height of 103' AGL, the Applicants resumed the municipal consultation that was interrupted by Hurricane Irene. Id.

Representatives of the Applicants contacted the East Haven Planning & Zoning Administrator and coordinated a noticed community meeting for March 15, 2012. Id. Details of the redesigned East Haven Site facility along with the FAA determination for the East Haven Site facility were forwarded to the Mayor of East Haven and the First Selectman of Branford on February 29, 2012. Id. At the March 15, 2012 community meeting, representatives of the Applicants presented the details of the proposed East Haven Site facility, including need, site selection and visibility and answered questions from members of the public in attendance. Id.

After the March 15, 2012 community meeting, the Applicants did not receive any other or additional comments on either of the proposed facility sites from East Haven or Branford. Id.

IV. The Applicants' Certificate Application, Parties & Intervenors & Pre-Hearing Filings

On April 23, 2012, the Applicants submitted their Application to the Siting Council for a Certificate to construct, maintain and operate a cellular telecommunications facility at one of two sites located at 171 Short Beach Road in the Town of Branford (Site A) or 82 Short Beach Road in the Town of East Haven (Site B). Applicants' Ex.1.

As set forth in the Application, the proposed Site A facility would consist of a 120- foot tall monopole, antennas and associated equipment within a fenced equipment compound in the rear of the parcel improved with a commercial building and paved parking area. Applicants' Ex. 1, Tab 4. AT&T's minimum required height at Site A in Branford is 120' AGL. Applicants' Ex. 1, Tab 1; Applicants' Ex. 2.

The proposed Site B facility would consist of a 103-foot tall monopole, antennas and associated equipment within a fenced compound in the rear of the property improved with the East Haven Riverside Volunteer Fire Department building and associated parking lot. Applicants' Ex. 1, Tab 5. In accordance with the SHPO no adverse impacts determination for Site B and the FAA no obstruction determination for Site B, the maximum height of the Site B facility is 103' AGL. Applicants' Ex. 1, Tab 5.

The facility at each proposed Site is designed to accommodate collocation by other carriers. Applicants' Ex. 1, Tabs 4A & 5A. The record reflects that a tower at Site A provides more coverage to Branford and fits better in AT&T's network. Additionally, a tower at site A would allow greater flexibility for co-location by other wireless carriers consistent with State policy set forth in Section 16-50p and 16-50aa of the Connecticut General Statutes.

Parties and intervenors admitted to the proceeding were Verizon Wireless, Sarah Pierson, the Town of Branford, Richard Moreland, Niki Whitehead, James Edward Berardi, Bruce H. Williams, Jr. and Daniel Criscuolo and Pamela Maki. On June 7, 2012, the Applicants submitted responses to Siting Council pre-hearing interrogatories, a copy of the letter to the Town of East Haven offering free rent on the proposed Site B facility and re-submission of the Visual Report for the proposed Site B facility. Applicants' Ex. 2; Ex. 3; Ex. 4. On July 2, 2012 the Applicants submitted responses to Intervenor Pierson's interrogatories and a copy of the Department of Energy & Environmental Protection's (DEEP) determination that the proposed Site A facility will not impact any extant populations of Federal or State Endangered, Threatened or Special Concern Species. Applicants' Ex. 6; Ex. 7. A public hearing was scheduled by the Council for July 10, 2012.

V. Public Hearings and the Applicants' Supplemental Submissions

On July 10, 2012, the Applicants raised a balloon at each of the proposed Sites and the Siting Council conducted an official site visit touring the proposed location of each tower Site, each proposed equipment compound area and viewed the properties surrounding each proposed Site. At the July 10, 2012 public evidentiary hearing, the Siting Council heard comprehensive testimony from the Applicants' panel of witnesses on the need for the facility, the investigation of sites and any environmental effects associated with construction of a tower at either proposed Site. The public hearing session was conducted on the evening of July 10, 2012.

Thereafter, the public hearing was adjourned to August 15, 2012. On August 7, 2012, the Applicants submitted responses to a second set of interrogatories from the Siting Council, responses to interrogatories from intervenor Moreland and responses to interrogatories from intervenor Whitehead. Applicants' Ex. 9; Ex. 11; Ex. 12. The Applicants also submitted

supplemental information regarding the search for sites, the proposed tower shift at Site B and noise studies for the proposed emergency back-up generators. Applicants' Ex. 10. At the August 15, 2012 continued public evidentiary hearing, the Siting Council heard additional testimony from the Applicants' panel of witnesses on the proposed tower designs at each Site and environmental effects of the proposed Sites. The public hearing was adjourned to September 11, 2012.

On August 31, 2012, the Applicants submitted responses to additional interrogatories from intervenor Moreland and responses to interrogatories from intervenor Berardi. Applicants' Ex. 13; Ex. 15. The Applicants also submitted supplemental information requested by the Siting Council. Applicants' Ex. 14. On September 4, 2012, the Applicants submitted responses to interrogatories from intervenor Criscuolo and submitted supplemental information regarding the properties in Branford improved with multi-family buildings that the Siting Council requested the Applicants to review. Applicants' Ex. 16; Ex. 17.

At the September 11, 2012 continued public evidentiary hearing, the Siting Council heard additional testimony regarding the need for the proposed facility and the limitations and system reliability constraints of certain tower design configurations. The public hearing was adjourned to October 2, 2012 for two intervenors that were unable to attend the September 11, 2012 hearing.

On September 24, 2012, the Applicants submitted responses to additional interrogatories from the Siting Council and supplemental information. Applicants' Ex. 18. At the October 2, 2012 continued public hearing, the Applicants' panel of witnesses provided additional testimony regarding the infeasibility of certain tower configurations at the proposed Site B due to the height

limitation at Site B and the additional height requirements for certain tower configurations at Site A. 10/2/12 Hr. Tr. Pg. 34-36.

The public hearing was closed on October 2, 2012 after all of the parties and intervenors were given a full and fair opportunity to present their direct cases and the Applicant rebutted same. Based on the testimony adduced from all parties and intervenors, including the Town's consultant, the gap in wireless services in this area of the State and the need for a new tower facility was confirmed.

POINT I

A PUBLIC NEED CLEARLY EXISTS FOR A NEW MONOPOLE TOWER FACILITY IN WESTERN BRANFORD AND EASTERN EAST HAVEN

Pursuant to Connecticut General Statutes (“CGS”) Section 16-50p, the Council is required to find and determine as part of any Certificate application, “a public need for the proposed facility and the basis for that need”. CGS § 16-50p(a)(1). In this Docket, AT&T provided coverage analyses and expert testimony that clearly demonstrates the need for a new tower facility to provide reliable wireless services to residents and the traveling public along Route 142 and surrounding shoreline areas and local roads in the western part of Branford and the eastern part of East Haven. Indeed, the application materials provided by AT&T fully demonstrate that a tower is needed in this area at a minimum height of 120’ AGL at Site A and at the permitted height of 103’ AGL at Site B to provide reliable wireless telecommunications service to the public. Applicants’ Ex. 1, Tab 6; Ex.2; Ex. 9.

The public need for a new tower facility to reliably serve this area of the State was also demonstrated by Intervenor Verizon’s evidence. Verizon Ex. 1; Ex. 2. In fact, the propagation plots submitted by the Town of Branford’s consultant and his testimony in this proceeding corroborate AT&T’s evidence that there is a gap in reliable service in this area of Branford and East Haven and a need for new infrastructure. Town of Branford Ex. 3. Moreover, AT&T’s evidence demonstrates that no other alternative technologies, such as distributed antenna systems (DAS), repeaters, or microcell transmitters, would reliably address the coverage needs in this area of Branford and East Haven given that the identified coverage gap spans thousands of acres and these alternative technologies would only provide service to limited, specifically defined areas. Applicants’ Ex. 1, Tab 3; 7/10/12 Hr. Tr. 3pm Pg. 57-60. In fact, the record reveals that

unlike a DAS system, the proposed facility will serve as a single dominant signal for emergency calls from the waterways allowing such calls to be route to the nearest Public Safety Answering Point, thereby eliminating potential response delays. Applicants' Ex. 9; 9/11/12 Hr. Tr. Pg. 113.

AT&T's evidence and expert testimony also clearly establish that alternative tower designs suggested by other parties would reduce the number of antennas at each Site and are not feasible configurations given the density of the population and service demands and would result in compromises to reliability of wireless service. Applicants' Ex. 9; Ex. 18; 7/10/12 Hr. Tr. 3pm Pg. 61-65; 9/11/12 Hr. Tr. Pg. 106-107; 10/2/12 Hr. Tr. Pg. 34-36. AT&T's evidence revealed that combining all of AT&T's technologies and frequencies into one multi-band antenna per sector, as suggested by others, would severely limit flexibility in optimizing the network, it would create combining losses, it may cause RF noise problems that would limit performance and it hampers the incorporation of future technologies and that such options did not exist for LTE as of yet. Id. Thus, as Mr. Wells testified, given the ongoing advancements in wireless technologies, such a tower and antenna configuration would necessarily limit the number of antennas able to be installed on any tower by AT&T and other carriers and would inhibit the provision of reliable wireless services. 7/10/12 Hr. Tr. 3pm Pg. 61-65; 9/11/12 Hr. Tr. Pg. 106-107; 10/2/12 Hr. Tr. Pg. 34-36.

Mr. Wells also testified that the suggestion to incorporate Multi-Carrier Power Amplifiers (MCPA) as a way to reduce the number of antennas was also not feasible given that there are no MCPAs that can accommodate all of AT&T's licensed spectrum and that it is unlikely that such MCPAs will be available in the near future. 9/11/12 Hr. Tr., Pg. 108. The testimony further established that any antenna flush-mount tower design would require multiple levels of antennas, thereby increasing the minimum height required for providing reliable service to the identified

coverage gap. Applicants' Ex. 18; 10/2/12 Hr. Tr. Pg. 34-36. Given the SHPO and FAA limitations at Site B which cap the tower height at 103' AGL, an antenna flush-mount design is clearly not a feasible option at Site B. Applicants' Ex. 18.

Importantly, no empirical evidence was offered by other parties or intervenors to rebut the evidence demonstrating the public need for a new tower in this part of the State by AT&T and Verizon. Based on the AT&T evidence and Intervenor Verizon's evidence and the lack of any evidence to the contrary, AT&T submits that the public need for a new tower facility in the western portion of Branford and the eastern portion of East Haven to provide coverage where adequate and reliable coverage does not exist today is simply not at issue in this Docket.

POINT II

THERE ARE NO AVAILABLE EXISTING STRUCTURES OR OTHER POTENTIAL TOWER SITES FOR THE PROPOSED WIRELESS FACILITY

The Applicants submitted significant evidence that there are no existing structures, or other viable alternative tower sites for providing reliable service to this area of western Branford and eastern East Haven. The Applicants identified and investigated all existing tower structures within four miles of the search area. Id. AT&T is currently using or proposing to use several of the existing towers to provide service to other areas of Branford and East Haven. Id. Additionally, the Applicants demonstrated that the only potential rooftop location was not available due to the unwillingness of the property owner to lease space for an AT&T facility. Applicants' Ex. 1, Tab 2; 7/10/12 Hr. Tr. 7pm Pg. 27; Ex. 10. No other "tall" structures exist in this area which would be suitable to provide the needed service. Applicants' Ex. 1, Tab 2.

The Applicants' search for sites, which was conducted over several years, included a comprehensive investigation of thirteen locations prior to the submission of the Application. Applicants' Ex.1, Tab 2; Ex. 10. Several of the potential tower sites investigated included locations suggested by the Town of Branford during the municipal consultation with Branford. Applicants' Ex. 1, Tab 2. As demonstrated by the Applicants' evidence and testimony, potential tower sites are limited given the single family residential uses in the area, parcels of land held by a land trust for open space and the proximity of Tweed New Haven airport. Id. In fact, the Applicants demonstrated that the one other potential alternative tower site, the Orchard House location owned by the Town of Branford, which was viable from a radio frequency perspective and appropriate for tower siting, was not made available by the Town of Branford itself. Applicants' Ex. 1, Tab 2; Ex. 10.

At the request of the Siting Council, the Applicants also investigated parcels on Briarwood Lane in Branford that are improved with three story multi-family buildings. Applicants' Ex. 17. Based on evidence provided by the Applicants and the Town of Branford, it was determined that Planning and Zoning Commission approvals issued for the improvements on these parcels include a condition restricting the undeveloped areas from development on each parcel. Applicants' Ex. 17; Town of Branford Ex. 7. Thus, these parcels were to be determined unavailable for the siting of a tower facility given both the restrictions and the underlying residential land use. Applicants' Ex. 17.

No other viable alternative sites were offered by other parties or intervenors and no party or intervenor presented any credible evidence to rebut the Applicant's evidence that there are no other viable alternative sites. Based on its comprehensive investigation of alternative sites and locations, the Applicants submit that there are simply no existing towers, structures or other more viable alternatives sites than the two proposed tower sites in this proceeding for the siting of the needed tower facility.

POINT III

THE PROPOSED TOWER FACILITY PRESENTS NO SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS

Pursuant to CGS Section 16-50p, the Council is required to find and determine as part of a Certificate application any probable environmental impact of a facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forest and parks, air and water purity, fish and wildlife, distance to schools and commercial child care centers and facility design. The Applicants respectfully submit that a facility at one of the Sites presented in this Docket will have no significant adverse environmental effects on the resources listed in Section 16-50p of the General Statutes.

1. Potential Visual Effects

Potential visibility was assessed within an approximate (2) two mile radius of each candidate location using a sophisticated computer based, predictive view shed model coupled with in-field analysis and photographic simulations of a tower at each location. Neither proposed Site is located within 250 feet of a school or commercial child day care center. Applicants' Ex.9.

a. Site A: 171 Short Beach Road, Branford

The record in this Docket demonstrates that a facility at the proposed Site A location in Branford will have no significant adverse visual impacts. Applicants' Ex. 1, Tab 4C. The SHPO determined that the proposed facility will not have any visual impact on historic resources. Applicants' Ex. 1, Tab 4D. The majority of year round visibility of a facility at Site A will occur along Short Beach Road in the immediate vicinity of Site A and over open water on the Long Island Sound. Applicants' Ex. 1, Tab 4C. Year-round visibility on Long Island Sound accounts for approximately 99% of the year-round viewshed. Id.

With respect to alternative tower designs, Mr. Libertine testified that a monopine design for the facility at Site A may be appropriate for near views, but may stand out more than a traditional monopole facility from views that are further away. 10/2/12 Hr. Tr. Pg. 32. The record demonstrates that any facility design that included exterior flush-mounted antennas or interior flush-mounted antennas for the facility at Site A would have operational impacts and at a minimum require additional tower height to accommodate AT&T, Verizon and other carrier's antenna and equipment requirements. Applicants' Ex. 18; 10/2/12 Hr. Tr. Pg. 34-36. In fact, the height of the facility at Site A would need to increase approximately 30 feet to 150 feet AGL to accommodate both AT&T and Verizon. 10/2/12 Hr. Tr. Pg. 21-22. The evidence also showed that a facility design that included internal flush-mounted antennas would result in a diameter of approximately four feet at the top of the facility. Applicants' Ex. 18; 10/2/12 Hr. Tr. Pg. 22-23. Accordingly, the Applicants have opposed any required modification of the facility to such a configuration as suggested by the Town of Branford.

b. Site B: 82 Short Beach Road, East Haven

The record in this Docket demonstrates that a facility at the proposed Site B location in East Haven will have no significant adverse visual impacts. As shown in the record in this Docket, the overall height of the proposed facility at Site B is limited 103 feet AGL in accordance with both the SHPO no effect determination for this facility and the Federal Aviation Administration ("FAA") no obstruction determination for this facility. Applicants' Ex.1, Tabs 5A & 5B. The SHPO determined that only a 103' tall facility at Site B would not have an adverse impact on the Branford Electric Railway District. Applicants' Ex. 1, Tab 5D. The FAA determined that a 103' tall facility at Site A would not require marking and lighting. Applicants' Ex. 1, Tab 5A; Applicants' Ex. 9, Tab 2.

The majority of year round visibility of a facility at Site B would occur in the immediate vicinity of the Site and over open water on the Long Island Sound. Applicants' Ex. 1, Tab 5C; Ex.4. Year-round visibility on Long Island Sound accounts for approximately 94% of the year-round viewshed. Id. Limited year-round views of the proposed Site B facility are anticipated in select portions of the Shoreline Greenway Trail and portions of the Farm River State Park. Applicants' Ex. 2. The seasonal views from Farm River State Park include several small areas just south of Route 142; a picnic area located approximately 550' southwest of the proposed facility currently comprised of single table and benches set within a small clearing; and along a relative high point of an established hiking trail located roughly 200' south of the picnic area. Id. Year-round views of the proposed Site B facility are anticipated over open marsh areas within the Park that are located approximately 1,500' and 2,000' southeast and southwest of the tower location, respectively. Id. These areas are typically inaccessible via the established hiking trail system within the Park. Id. No views are anticipated from the hiking trail leading up to Beacon Hill or the Short Beach Trail section along the salt marsh. 7/10/12 Hr. Tr. Pg. 23-24.

The location of the facility on the proposed Site B parcel was shifted within the parcel approximately 45 feet to the east so that views of the facility from across Short Beach Road could be further mitigated by the existing fire house building. Applicants' Ex. 10, Tab 4; 8/15/12 Hr. Tr. Pg. 26-27. With respect to tower design, Mr. Libertine testified that a monopine designed facility at Site A may provide some screening given that the overall height is 103 feet. 10/2/12 Hr. Tr. Pg. 31. Mr. Libertine also noted that the height restriction would necessitate a monopine without the approximately 7-foot taper at the top, resulting in a "flat-top" monopine. 8/15/12 Hr. Tr. Pg. 30-31; 10/2/12 Hr. Tr. Pg. 32-33; Applicants' Ex. 9. The record in this proceeding

demonstrates that an antenna flush-mounted design at Site B is not technically feasible given the additional height required and the height restriction at Site B. Applicants' Ex. 18.

2. Potential Impacts to the Natural Environment

As clearly demonstrated in this Docket, potential impacts to the natural environment from a facility at either Site A in Branford or Site B in East Haven are not significant.

i. Wetlands and Watercourses

No wetlands were delineated within 100 feet of the proposed facility compound at Site A in Branford or Site B in East Haven. Applicants' Ex. 1, Tabs 4C & 5C; Ex. 10 Tabs 3 & 4. At both proposed Sites, existing paved driveways and parking areas will be used for access. Id. Therefore, no additional paving or impervious surface area is needed at either proposed Site. Id. The development of either proposed Sites will not cause any adverse impacts on wetland resources. Utilization of appropriate soil erosion and sedimentation controls as well as suitable construction techniques will be implemented. Id.

ii. Wildlife

The Department of Energy & Environmental Protection (DEEP) determined that the proposed facility at either proposed Site will not impact any extant populations of Federal or State Endangered, Threatened or Special Concern Species. AT&T Ex. 1, Tab 5B; Applicants' Ex. 3. The record demonstrates that the proposed facility at Site A or Site B complies with the United States Fish and Wildlife Service guidelines for minimizing potential impacts to bird species. Applicants' Ex. 2, Tab 7. In addition, both the proposed Branford Site A and East Haven Site B are located at least two miles from the nearest "Important Bird Area" as designated by the National Audubon Society. Applicants' Ex.1, Tabs 4B & 5B; Applicants' Ex. 3. Thus,

the Applicants respectfully submit that the proposed facility will not significantly impact wildlife or any ecological balance in this area of Branford or East Haven.

iii. Clearing and Grading

At both proposed Sites, the location of the tower compound utilizes existing paved driveways and parking areas for facility access drives. Applicants' Ex. 1, Tabs 4A & 5A; Ex 10, Tabs 3 & 4. At Site A in Branford, a facility would require the removal of approximately 12 trees and some minor grading of the compound area. Applicants' Ex. 1, Tab 4A. A facility at Site B in East Haven would require localized tree trimming. Applicants' Ex. 15, Tab 1. The appropriate foundation design at Site B will likely include a caisson foundation. 8/15/12, Hr. Tr. Pg. 70-71; 9/11/12 Hr. Tr. Pg. 128.

iv. Coastal Consistency

The record in this Docket demonstrates that a facility at either proposed Site will not have a significant adverse impact on any of the resources defined within the Connecticut Coastal Management Act: water quality; coastal water circulation patterns; natural erosion patterns; natural or existing drainage patterns; coastal flooding; visual quality; essential wildlife, finfish or shellfish habitat; or tidal wetlands, beaches and dunes, rocky shorefronts and bluffs and escarpments. Applicants' Ex.1, Tabs 4B & 5B.

3. Back-Up Power

As set forth in the record in this proceeding, the proposed facility at either Site will be equipped with both back-up battery and an AT&T emergency generator to maintain facility operations in the event of a commercial power outage. Applicants' Ex. 1, Tabs 4A & 5A; Ex. 10. The diesel generator will maintain operations for approximately 48 hours. Id. At each site, the emergency generator was located to minimize impacts to adjoining properties to the greatest

extent practical. Id. AT&T and Verizon have both stated that they would prefer their own generators as compared with a shared generator for operational flexibility.

4. Facility Design

The Applicants established through empirical data and expert testimony that the proposed facility at Site A or Site B will not have a significant adverse aesthetic or environmental impact. The Applicants also demonstrated that some of the suggested facility designs, particularly tower designs that would necessarily reduce the number of antennas each carrier could deploy, would impact the provision of reliable wireless service. Applicants' Ex. 9; Ex. 18; 7/10/12 Hr. Tr. 3pm Pg. 61-65; 9/11/12 Hr. Tr. Pg. 106-107; 10/2/12 Hr. Tr. Pg. 34-36. Thus, the Applicants respectfully submit that any facility design that would compromise the provision of reliable wireless services through the reduction of the number of needed antennas is not warranted to mitigate aesthetic or environmental impacts and that a monopole, as proposed, meets the criteria for approval under Section 16-50p of the Connecticut General Statutes. To the extent that the Council seeks to require a tower design modification, a monopine is the only option that both carriers have endorsed in this Docket.

CONCLUSION

The Applicants have demonstrated a public need for and lack of any significant adverse environmental effects associated with a tower facility at either Site A in Branford or Site B in East Haven. The evidentiary record contains no evidence challenging the public need for the tower to provide reliable wireless services in and around this part of the State. Moreover, the record demonstrates that the proposed facility will not have any significant adverse environmental effects on documented resources in this part of the State. For the reasons set forth in this brief and as more fully evidenced by the record in this Docket, a Certificate should be issued to North Atlantic Towers for a facility at one of the proposed Sites.

CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of the foregoing was sent electronically and by overnight mail to the Connecticut Siting Council and:

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