

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

APPLICATION OF 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 IN ROXBURY, CONNECTICUT

DOCKET NO. 428

November 29, 2012

RESPONSES TO INTERROGATORIES OF BRONSON MOUNTAIN
FARM HOMEOWNERS' ASSOCIATION SET III

- Q1. Does AT&T contend that the road required to access the tower at Candidate B is not part of the proposed Candidate B "facility" within the meaning of Connecticut General Statutes 16-50i?
- A1. *AT&T objects to this question as it calls for a legal conclusion and is not factual in nature. Nevertheless, it should be noted that CGS 16-50i(6) defines "Facility" to include "such telecommunication towers, including associated telecommunications equipment, owned or operated by the state, a public service company or a certified telecommunications provider or used in a cellular system, as defined in the Code of Federal Regulations Title 47, Part 22, as amended, which may have a substantial adverse environmental effect, as said council shall, by regulation, prescribe." This same definition is reiterated in the Siting Council's Rules of Practice under Sec. 16-50j-2a(g). In addition, under Siting Council's Rules of Practice Sec. 16-50j-2a(g)(t) "Tower Site" means a contiguous parcel of property on which one or more CATV or telecommunications towers as defined in section 16-50j-2a of these regulations and associated equipment, if any, are or will be located." The crossing and access drive which are already locally approved will serve the entire parcel and will provide access for AT&T as well as the property owner for their use and enjoyment of the parcel. Siting Council review of Facility and a Tower Site does not negate approvals or entitlements already legally obtained through local municipal processes by a property owner/lessor to a telecommunications provider. As such not every aspect of the parcel is necessarily part of the Facility.*
- Q2. If Candidate B is approved and AT&T proceeds with construction of the road, the tower, and related equipment, will AT&T provide consideration or compensation to another party for construction of the required access road?
- A2. *No.*

- Q3. Considering AT&T's obligation to compensate the property owner of Candidate A for construction of the proposed access road pursuant to its lease, will AT&T now provide construction details of the road for the Council's consideration?
- A3. *The terms of AT&T's lease agreement for Site A includes compensation to be paid in stages to assure and induce completion of the road which the Town of Roxbury approved prior to AT&T entering into a lease agreement for a facility at the site. The property owner and their engineering consultants have on their own accord designed and obtained approvals for the crossing the access drive including an Inland Wetlands Permit, Driveway Permit and a Connecticut DoT Highway Permit. AT&T's consultants have not designed the approved access drive.*
- Q4. With reference to AT&T's response to Question 2 of the Association's Second Set of Interrogatories, and specifically the response's reference to Docket 314, is the Candidate A property in this Docket "currently undergoing subdivision development"? See Docket 314, Findings of Fact, attached as Exhibit 1, Finding No. 27.
- A4. *The property owner of the Site A facility has received entitlements permitting a wetland crossing, driveway development and State Highway access. Further AT&T understands that the access drive is designed and approved to allow for access to the parcel for AT&T's use as well as any and all future use and enjoyment of the balance of the parcel. Future development of the parcel is up to the discretion of the property owner.*
- Q5. Has the Town of Roxbury "approved [a] subdivision on the Candidate A property? Id.
- A5. *No, it is AT&T's understanding that the Town of Roxbury has issued an Inland Wetlands Permit and a Driveway Permit. The State of Connecticut Department of Transportation has issued a Highway Permit.*
- Q6. Other than Docket 314, which is not analogous to this Docket, please provide any precedent where the Council has declined to take jurisdiction over the environmental impact of a proposed access road merely on the basis that the property owner was to construct the road where (i) the applicant was required to compensate the owner for construction of the road, (ii) the road was not under construction at the time of application to the Council, (iii) no application for a subdivision or any other use had been submitted to or approved by the local planning and zoning commission, and (iv) the record pertaining to the local approval of the road was replete with references to a proposed cell tower.
- A6. *AT&T objects to the conclusory statement that Docket 314 is not analogous. Land use entitlements allowing for development of access to the parcel have been issued and in place. AT&T was asked by the Town of Roxbury to investigate the Site A property as an alternative location after a noticed public meeting reviewing the Technical Report for the Site B Candidate. Discussions with the land owner did not yield an agreement and negotiations were discontinued while AT&T evaluated its next steps. Subsequently, and without AT&T's participation, the property owner moved forward with an application to*

the Town to obtain local approval for the access drive to the property in an effort to make the property a viable candidate for a lease agreement with AT&T.

- Q7. The Application provides that approximately 122 trees will need to be removed at the Candidate A property for the installation of the last short portion of the access road, underground utilities, and the compound. Does AT&T agree that the plans submitted with the application indicate that approximately additional 75 trees will need to be removed for the construction of the balance of the road?
- A7. *Again, the property owner has the right to remove those trees and make those improvements with or without AT&T's facility. While the number cited appears possible, AT&T's engineers cannot attest to that figure.*
- Q8. Has AT&T investigated any multi-facility solutions to providing its desired coverage that may result in less overall visual and environmental impact than either of the two candidates?
- A8. *The area where service is needed in this application is a wide area of unreliable or no service. As noted in Section III(C) of the Application, multi-facility solution such as microcells or repeaters are better suited to smaller areas for fill in use and/or commercial in-building service and cannot provide adequate reliable service to this area where service is needed. Also, repeaters offer no added capacity in the network and require a line of site donor facility. With respect to distributed antennas systems ("DAS"), which may also be considered a "multi-facility" solution we note that these are generally lower power, low gain systems used in high traffic areas (i.e. capacity demand) which rely on a combination of fiber optics, transmitting antenna sites and a base station facility. The service requirements in this area of Roxbury relate to coverage on a macro level as opposed to a discrete system of multiple facilities.*
- Furthermore, regarding a multi-tower site solution, it is important to note that a multi-tower site combination in this area of the State would be inconsistent with the legislative findings set forth in the Public Utility Environmental Standards Act (PUESA) which states in relevant part that the proliferation of towers in the State should be avoided. A multi-tower site combination would introduce greater overall tower visibility as compared with one of the alternatives proposed in this Application (multiple tower sites create multiple visibility view sheds). Moreover, a multi-tower site combination would result in an unnecessary compounding of the construction, operating and maintenance costs associated with the needed facility. At lower heights, a multi-tower site configuration also reduces the viability of tower sharing as required by Section 16-50p and encouraged by Section 16-50aa of the Connecticut General Statutes.*
- Q9. In Docket 409, AT&T investigated a multi-facility solution to providing its desired coverage. Will AT&T provide similar analysis in this Docket?
- A9. *No. AT&T does not intend to provide a similar analysis in this Docket. Please see A8.*

Q10. AT&T has stated that it “requires a macro solution” to providing coverage to its existing coverage gap in Roxbury, CT. Is a “macro solution” equivalent to the “least expensive solution?”

A10. *Please see A8.*

Q11. The Application, at Page 20, discusses how the facility complies with the town’s zoning regulations. The table at pages 20-21 provides responses to some of the subparagraphs of section 5.11.10 of the Roxbury Zoning Regulations, but the table does not respond to all of the subparagraphs of 5.11.10, and does not respond to any of the other wireless regulations. Please provide responses to the remainder of the applicable regulations, including an analysis of multi-facility solutions, and the town’s location preferences as found in section 5.11.12.

A11. *In accordance with Section 16-50x(a) of Connecticut General Statutes (“CGS”), the Siting Council has exclusive jurisdiction over wireless telecommunications facilities. As such, many of the provisions of the Roxbury Zoning code provisions regulating wireless facilities are inapplicable. The analysis provided includes those portions of the zoning code relevant to site design. As for siting preferences included under 5.11.12¹, no municipal property was made available during the extended consultation processes and the Application indicates that neither the location of existing tower facilities in the area nor repeaters would provide service to the area of need.*

¹ Section 5.11.12 of the Town of Roxbury Zoning Code is as follows:

The following locations are ranked in order of preference for Tower sittings:

- a. The use of municipal lands, with the approval of the Town, which comply with other requirements of this Section 5.11 and where visual impact can be minimized and mitigated, shall be encouraged.
- b. Shared use (co-location) of existing Personal Wireless Service Facilities shall be encouraged.
- c. The use of Repeaters to provide Adequate Coverage without requiring new Tower(s) shall be encouraged.
- d. Clustering of Towers: Applications for Towers adjacent to Existing Towers shall be encouraged, providing the location is suitable (based on the criteria of this Regulation) for such an impact.

CERTIFICATE OF SERVICE

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

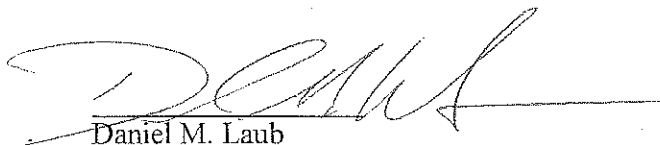
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