

<p><b>DOCKET NO. 428</b> – New Cingular Wireless PCS, LLC }  (AT&amp;T) application for a Certificate of Environmental }  Compatibility and Public Need for the construction, maintenance, }  and operation of a telecommunications facility located at one of }  two sites: Roxbury Tax Assessor Parcel ID #32-008 off of Route }  67, Roxbury, Connecticut, or 126 Transylvania Road, Roxbury, }  Connecticut.</p>	<p>Connecticut  Siting  Council  March 21, 2013</p>
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**Decision and Order**

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, maintenance, and operation of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes § 16-50k, be issued to New Cingular Wireless PCS, LLC (AT&T), hereinafter referred to as the Certificate Holder, for a telecommunications facility at Site A, located at Roxbury Tax Assessor Parcel ID #32-008 off of Route 67, Roxbury, Connecticut. The Council denies certification of Site B, located at 126 Transylvania Road, Roxbury, Connecticut.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council’s record in this matter, and subject to the following conditions:

1. The tower shall be constructed as a monopole, shifted 100 feet to the north of the proposed location and no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of AT&T and other entities, both public and private, but such tower shall not exceed a height of 170 feet above ground level. The height at the top of the Certificate Holder’s antennas shall not exceed 170 feet above ground level.
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of Roxbury for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
  - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, Certificate Holder portion of the access road, utility line, and landscaping; and
  - b) construction plans for site clearing, grading, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.
3. Prior to commencing construction of the AT&T portion of access road, the Certificate Holder shall submit to the Council a letter signed by the Roxbury Land Use Enforcement Officer who, pursuant to the condition in the Roxbury Inland Wetlands Commission permit dated September 2, 2010, shall be on the first day of construction of the landowner’s portion of the access road and who shall indicate that construction is underway.

4. The Certificate Holder shall follow the Eastern Box Turtle protective measures recommended by the Department of Energy and Environmental Protection letter dated May 10, 2012.
5. Prior to the commencement of operation, the Certificate Holder shall provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities' antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.
6. Upon the establishment of any new State or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
7. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
8. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed with at least one fully operational wireless telecommunications carrier providing wireless service within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
9. Any request for extension of the time period referred to in Condition 8 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of Roxbury. Any proposed modifications to this Decision and Order shall likewise be so served.
10. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
11. Any nonfunctioning antenna, and associated antenna mounting equipment, on this facility shall be removed within 60 days of the date the antenna ceased to function.
12. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.

13. The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v.
14. This Certificate may be transferred in accordance with Conn. Gen. Stat. §16-50k(b), provided both the Certificate Holder/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the Certificate Holder/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility.
15. The Certificate Holder shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this Decision and Order and a Development and Management Plan to be approved by the Council.
16. If the Certificate Holder is a wholly-owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the Certificate Holder within 30 days of the sale and/or transfer.

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in the Voices.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

**Applicant**

New Cingular Wireless PCS, LLC

**Its Representative**

Lucia Chiochio, Esq.  
Daniel M. Laub, Esq.  
Christopher B. Fisher, Esq.  
Cuddy & Feder LLP  
445 Hamilton Avenue, 14th Floor  
White Plains, NY 10601

Michele Briggs  
AT&T  
500 Enterprise Drive  
Rocky Hill, CT 06067-3900

**Party**

Town of Roxbury

**Its Representative**

Barbara Henry  
First Selectman  
Town of Roxbury  
P.O. Box 203  
Roxbury, CT 06783

**Party**

Town of Woodbury

**Its Representative**

Paul R. Jessell, Esq.  
Slavin, Stauffacher & Scott, LLC  
27 Siemon Company Drive, Suite 300W  
Watertown, CT 06795

Gerald Stomski  
First Selectman  
Town of Woodbury  
P.O. Box 369  
Woodbury, CT 06798

**Intervenor**





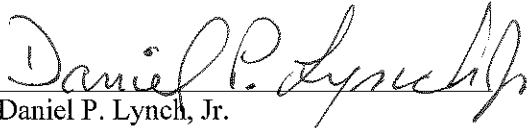
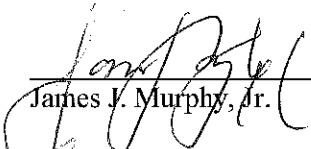
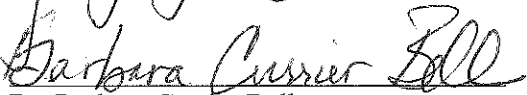
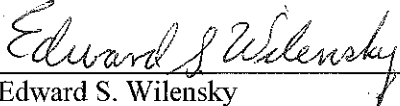
Bronson Mountain Farm Homeowners Association

**Its Representative**

John W. Knuff, Esq.  
Hurwitz, Sagarin, Slossberg  
& Knuff, LLC  
P.O. Box 112  
Milford, CT 06460

**CERTIFICATION**

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 428** – New Cingular Wireless PCS, LLC (AT&T) application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at one of two sites: Roxbury Tax Assessor Parcel ID #32-008 off of Route 67, Roxbury, Connecticut, or 126 Transylvania Road, Roxbury, Connecticut, and voted as follows to approve the proposed Site A, located at Roxbury Tax Assessor Parcel ID #32-008 off of Route 67, Roxbury, Connecticut, and deny certification of the proposed Site B located at 126 Transylvania Road, Roxbury, Connecticut:

<u>Council Members</u>	<u>Vote Cast</u>
 Robert Stein, Chairman	Yes
 Colin C. Tait, Vice Chairman	Yes
_____ Chairman Arthur House Designee: Michael Caron	Absent
 Commissioner Dan Esty Designee: Robert Hannon	Abstain
 Philip T. Ashton	Yes
 Daniel P. Lynch, Jr.	Yes
 James J. Murphy, Jr.	Yes
 Dr. Barbara Currier Bell	Yes
 Edward S. Wilensky	Yes

Dated at New Britain, Connecticut, March 21, 2013.