

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 LOCATED IN  
BRIDGEWATER, CONNECTICUT

DOCKET NO. 437

AUGUST 7, 2013

NEW CINGULAR WIRELESS PCS, LLC ("AT&T")  
POST HEARING BRIEF

Respectfully Submitted,

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## PRELIMINARY STATEMENT

New Cingular Wireless PCS, LLC (“AT&T”), by its attorneys Cuddy & Feder LLP, respectfully submits this post-hearing brief in support of its application for a Certificate of Environmental Compatibility and Public Need (“Certificate”) in Docket No. 437. AT&T’s Application addresses the public need for a new tower facility so that wireless carriers may provide their services to residents, visitors and travelers along State Routes 67 and 133 and local roads and areas in the Town of Bridgewater. Throughout the proceedings in this Docket, AT&T provided data, testimony and otherwise responded to matters raised by the Siting Council in the Docket to give the Council a full and complete picture of the public need for reliable service in this part of Bridgewater. AT&T proposed a candidate (“Candidate”) facility and provided the potential environmental effects associated with the proposed tower facility. Further, that while there are some impacts associated with the proposed Candidate facility, these impacts can be appropriately mitigated and do not outweigh the demonstrated public need for a Facility in this area of Bridgewater. As such, AT&T is requesting a Certificate for a new tower facility to meet the public need for wireless services in this area of Bridgewater.

## STATEMENT OF FACTS

### **I. AT&T's Need & Comprehensive Site Search**

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 Bridgewater along State Routes 67 and 133 and local roads and areas. AT&T Ex. 1, pp. 8-9., Tab 1. Thus, AT&T's RF engineers established a site search area (SR1252) based on this documented gap in coverage AT&T Ex. 1, pp. 8-9, Tab 1. In addition, AT&T's coverage gap in this area of Bridgewater was further documented by drive-test data. AT&T Ex. 1, Tab 1.

AT&T began its search for sites by identifying all existing and approved sites in Bridgewater and surrounding towns as shown on the existing coverage map and list of neighboring sites included in the Application. AT&T Ex. 1, pg. 11, Tabs 1 & 2. AT&T also searched the Siting Council database to identify other existing or proposed wireless sites outside of its site search area. AT&T Ex. 1, pg. 11-12. AT&T currently maintains a number of existing facilities on surrounding wireless sites in proximity to the site search area and other structures were analyzed and determined not to be viable alternatives for providing service to AT&T's identified coverage gap. Wells, AT&T Ex. 1, pp. 11-12, Tab 1. Once it was determined that a new tower facility was needed to provide coverage in this part of Bridgewater, AT&T investigated numerous properties within the site search area, AT&T Ex. 1, pg. 11 - 12, Tab 2. In total, AT&T investigated a total of thirty-one (31) locations. AT&T Ex. 1, pg. 11-12, Tab 2.

Representatives for AT&T initially investigated the use of an existing State of Connecticut Department of Transportation tower located near the proposed site along Second Hill Road. AT&T Ex. 1, pg. 12, Tab 2. This site was ultimately discounted as a viable candidate

given the small size of the tower, the small parcel of land on which it was located, and its location in an open area between two proximate residential homes. AT&T Ex. 1, p. 12, Tab 2. Ultimately AT&T identified the Candidate at 111 Second Hill Road as one which could host a facility and provide reliable service to the targeted coverage area. AT&T Ex. 1, p. 12, Tab 2.

## **II. AT&T's Technical Consultation with the Town of Bridgewater**

A technical consultation process regarding the proposed Candidate facility with the Town of Bridgewater was commenced in February 2011. As part of that consultation, the Town expressed its preference to have the Application brought in to the Siting Council for consideration with the then pending Docket 412 for a facility at Wewaka Brook Road in Bridgewater and waived further consultation. As part of an ongoing dialogue, the Town of Bridgewater was advised of planned balloon floats at the 111 Second Hill Road tower site. AT&T Ex. 1, p. , Tab 7. Due to funding priorities, AT&T could not submit the application until this year, 2013.

During the course of the technical consultation of Docket 437, no objections were raised regarding the proposed Candidate facility at Second Hill Road by the Town of Bridgewater. Indeed, the Town of Bridgewater, a party to Docket 412 but not to Docket 437, presented interrogatories to AT&T expressing an interest in seeing if 111 Second Hill Road could in fact be built taller than proposed in Docket 437 in order to reduce the height of the tower at Wewaka Brook Road presented in Docket 412. Docket 412, AT&T Ex. 4 (AT&T responses to Town of Bridgewater interrogatory number 38 and Attachment 9 of same responses). As noted in those responses and in evidence provided by AT&T's radio frequency engineering professionals, a taller tower at 111 Second Hill Road, even at 190' AGL, would not reduce the height of the



tower required at Wewaka Brook Road. Docket 412, AT&T Ex. 4 (AT&T responses to Town of Bridgewater interrogatory number 38 and Attachment 9 of same responses).

### **III. AT&T's Certificate Application, Parties & Intervenors & Pre-Hearing Filings**

On March 5, 2013 AT&T submitted its application to the Siting Council for a Certificate to construct, maintain and operate a cellular telecommunications facility at 111 Second Hill Road. AT&T leased a 100' x 100' area in the northeastern portion of an approximately 4.5 acre parcel of property owned by Robert Reibe located at 111 Second Hill Road in Bridgewater. AT&T Ex. 1, p. 12, Tab 3. The proposed Facility would consist of a 160' AGL high self-supporting monopole within a 45' x 90' fenced equipment compound. AT&T would install up to twelve (12) panel antennas on a platform at a centerline height of 157' AGL and unmanned equipment in an equipment shelter located within an equipment compound. AT&T Ex. 1, p. 12, Tab 3. The equipment compound would be enclosed by an 8' chain link fence. Both the monopole and the equipment compound are designed to accommodate the facilities of three other wireless carriers and equipment. AT&T Ex. 1, p. 12, Tab 3. Vehicle access to the facility will provided from Second Hill Road over a new approximately 353' long by 12' wide gravel drive extension. AT&T Ex. 1, p. 12, Tab 3. Utility connections will be routed underground from existing CL&P pole #4777 to provide necessary power and telecommunication service to the proposed facility. AT&T Ex. 1, p. 12, Tab 3.

No intervenors were admitted to this proceeding. AT&T submitted responses to Siting Council pre-hearing interrogatories on May 23, 2013. AT&T Ex. 2. Representatives for AT&T posted a sign at the 111 Second Hill Road location noticing the public of the application and hearing date with instructions on obtaining more information. AT&T Ex. 3, Affidavit of Posting. A field visit, balloon float and public hearing were scheduled by the Council for June 25, 2012.

#### IV. Public Hearings and AT&T Supplemental Submissions

On June 25, 2013, AT&T raised a balloon at the Candidate location and the Siting Council conducted a viewing of each candidate. Weather conditions were generally cooperative though winds did push the balloon at an angle from being at its full height for much of the afternoon. Libertine, Tr. June 25, 2013, 7:00, pp. 19-20. At the hearing, the Siting Council heard comprehensive testimony from AT&T's panel of witnesses on the need for the facility, lack of other alternative sites and any environmental effects associated with construction of a tower at the site at each candidate location. After the public hearing evening session, AT&T's witnesses provided additional information and answers to questions raised. Thereafter, the public hearing was closed.

#### **POINT I**

#### **A PUBLIC NEED CLEARLY EXISTS FOR A NEW TOWER FACILITY IN BRIDGEWATER**

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 Routes 67 and 133 in Bridgewater. Indeed, the application materials provided by AT&T fully demonstrate that a tower is needed in this area at a minimum height of 160' AGL. AT&T Ex. 1, Tab 1; AT&T Ex. 2, Responses A5-A7.

Importantly, it should be noted that no evidence or testimony was offered by any other parties or intervenors to rebut AT&T's testimony on the subject of a public need for a new tower in this part of Bridgewater. Based on the AT&T evidence, State knowledge of the existing

wireless network infrastructure in this part of the State for all the carriers and the lack of any evidence to the contrary, AT&T submits that the public need for a new tower facility in this area of Bridgewater 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 EXISTING STRUCTURES OR OTHER VIABLE ALTERNATIVE FOR SITING THE PROPOSED WIRELESS FACILITY**

AT&T submitted significant evidence that there are no existing structures, or other viable alternative properties for providing reliable service to this area of Bridgewater. AT&T's search for sites included a comprehensive investigation of thirty-one (31) locations prior to the submission of its Application. AT&T Ex.1, Tab 2. As demonstrated by AT&T's evidence and testimony, due to the terrain challenges in this area of Bridgewater, many properties were not viable alternatives for radio frequency reasons. AT&T Ex.1, Tab 2. There were no other parties or intervenors in the Docket, and thus no party or intervenor offered any other viable alternative sites or configurations or intervenors. Similarly, no party or intervenor rebutted AT&T's evidence that there are no other viable alternative sites. Based on its comprehensive investigation of alternative sites and locations AT&T submits that there is simply no other viable alternative location for the siting of its needed tower facility.

## **POINT III**

### **AT&T'S CANDIDATE 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 and fish and wildlife. AT&T respectfully submits



that while some impacts will be associated with the proposed facility, such impacts will have no significant environmental effects on the resources listed in Section 16-50p of the General Statutes and clearly do not outweigh the public need for the facility as proposed in this Docket.

### **1. Potential Visual Effects**

AT&T respectfully submits that the evidence and testimony in this proceeding, as summarized below, demonstrates that visibility of either proposed Candidate facility will not result in a significant adverse visual impact.

The record in this Docket demonstrates that the proposed Candidate tower facility at 111 Second Hill Road will have no significant visual impact. It is anticipated that the proposed 160' AGL monopole will be visible year-round from approximately 112 acres or slightly more than 1% of the 8,053 acre Study Area. AT&T Ex.1, Tab 5 ("Visibility Analysis"). As demonstrated in the Visibility Analysis, the majority of year-round visibility would occur on the open, undeveloped agricultural areas located off Second Hill Road. AT&T Ex.1, Tab 5. The Visibility Analysis estimates that 19 residential properties may have partial year-round views of the proposed Facility and 22 residential properties will have some views during "leaf-off" conditions. AT&T Ex.1, Tab 5. The proposed Facility is not located within 250 feet of a school or commercial day-care center. AT&T Ex.1, Tab 5.

### **2. Potential Impacts to the Natural Environment**

As clearly established in this Docket, impacts to the natural environment from AT&T's proposed facility are not significant.

#### **a. Wetlands, Watercourses, and Floodplains**

A wetland is delineated on the property as detailed in the Wetlands Investigation Report included in AT&T Ex. 1, Tab 4. The Wetlands Investigation Report includes an analysis of on-



site wetlands and finds that the proposed activities will not result in adverse impacts to wetland resources. AT&T Ex. 1, Tab 4.

**b. Habitat Assessment and Wildlife**

As demonstrated in the record, AT&T conducted a habitat evaluation for the Candidate location and submitted the results to the Connecticut Department of Energy and Environmental Protection (“DEEP”) for review. Upon review of AT&T’s habitat evaluation and the Natural Diversity Database, the DEEP determined that the two extant populations of species are on or near the site. These include the American kestrel and the wood turtle. AT&T Ex. 2, March 26, 2013 DEEP correspondence. For the American kestrel, a survey of the area around the Candidate location in June revealed the area would not provide suitable nesting habitat for the American kestrel. Gustafson, Tr. June 25, 2013, 3:00, pp. 13. These results are being provided to DEEP. At this time no seasonal restrictions are deemed necessary given the absence of nesting American kestrel at or around the Candidate location. For the wood turtle, a turtle protection plan previously developed by APT and previously approved by both DEEP and the Siting Council in other Dockets will be submitted to DEEP for concurrence and can be included in any Development and Management Plan for the Candidate Facility. AT&T Ex. 2, A4; Gustafson, Tr. June 25, 2013, 3:00, p 38. It should also be noted that the landscaping plan submitted by AT&T provides for plantings to the north of the access drive which are intended to enhance the “edge effect” habitat located along the margins of this small forest block and will provide food, cover and nesting sites for avian species. AT&T Supplemental Submission, July 23, 2013

Given these evaluations and the proposed landscaping, AT&T respectfully submits that the proposed facility will have no significant impact to wildlife or any ecological balance in this area of Bridgewater.

**c. Clearing, Grading and Drainage Assessment**

The proposed access drive at the Candidate Facility will be approximately 353' in length extending from Second Hill Road. AT&T Ex.1, Tab 3. The access drive and tower compound will require grading and clearing. AT&T Ex.1, Tab 3. Approximately 64 trees with a diameter at breast height of 6" or larger will be removed. AT&T Ex.1, Tab 3. Notably, several of the trees to be removed are in overall poor health or are not long lived. Gustafson, Tr. June 25, 2013, 3:00, pp. 10-13.

As noted, AT&T's facility design will incorporate all appropriate sediment and erosion control measures in accordance with the Connecticut Soil Erosion Control Guidelines, as established by the Council of Soil and Water Conservation. AT&T Ex. 1, p. 19, Tab 3. Of note, no information in this Docket provides any empirical data or evidence regarding drainage or runoff to rebut AT&T's professional testimony by a licensed professional engineer or other information in evidence. AT&T respectfully submits that it established that the proposed improvements for the access drive at the Candidate Facility will have no significant impact on the surrounding area and will allow for safe access to the facility.

### **3. Other Environmental & Neighborhood Considerations**

There are no other relevant or disputed environmental factors for consideration by the Council in this Docket. A tower facility at the Candidate location will comply with all public health and safety requirements. Additionally, since the Facility will be unmanned, there will be no impacts to traffic, air or water. As noted in the proceedings in this Docket, trees and topography will serve to limit and obscure localized views of the tower in the nearby area and along Second Hill Road, designated locally as scenic. Libertine, Tr. June 25, 2013, 3:00, pp. 21-23. As such, the Council should find and determine that the Facility proposed by AT&T will not

have any significant environmental effects that outweigh the demonstrated public need for the proposed Facility.

### **CONCLUSION**

AT&T has demonstrated a public need for and lack of any significant adverse environmental effects associated with a tower facility at either candidate location presented in this Docket in Bridgewater. AT&T's evidence and testimony established a public need for the proposed facility and no party or intervenor presented competent evidence challenging the public's need for the tower to provide reliable wireless services. AT&T's evidence demonstrated that it conducted an exhaustive review of alternatives and the results of its analyses shows that the proposed Candidate location is the only viable location for the siting of the needed facility. Indeed, no information in the record rebuts the demonstrated lack of alternative siting options.

While there are some limited environmental effects associated with the proposed facility, AT&T established that the effects will not have a significant adverse impact. More importantly, any environmental effects associated with the proposed facility do not outweigh the established public need for the facility. The submissions in this proceeding did not include any competent empirical data or analyses that rebutted AT&T's evidence.

For the reasons set forth in this brief and as more fully evidenced by the record in this Docket, a Certificate should be issued for the facility proposed in Docket 437.



**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:

Dated: August 7, 2013



Daniel M. Laub

cc: Michele Briggs, AT&T  
Peter LaMontagne, Centerline  
Anthony Wells, C Squared Systems  
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