

COPY



Transcript of the Hearing of

Date: **April 1, 2014**

Volume: **I**

Case: **SITING COUNCIL - DOCKET NO. 444**

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STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Docket No. 444

Application From New Cingular Wireless PCS,
LLC, for a Certificate of Environmental
Compatibility and Public Need for the
Construction, Maintenance, and Operation of a
Telecommunications Facility Located at
FirstLight Hydro Generating Company Property,
New Milford Tax Assessor Map 83, Lot 4, Kent
Road, New Milford, Connecticut.

Council Meeting held at the Roger
Sherman Town Hall, E. Paul Martin Room, 10
Main Street, New Milford, Connecticut,
Tuesday, April 1, 2014, beginning at 3:00
p.m.

H e l d B e f o r e :

ROBERT STEIN, Chairman

Page 2

1 A p p e a r a n c e s :
2 C o u n c i l M e m b e r s :
3 JAMES J. MURPHY, JR.,
4 Vice Chairperson
5 PHILIP T. ASHTON
6 DR. BARBARA C. BELL
7 MICHAEL CARON, PURA Designee
8 ROBERT HANNON, DEEP Designee
9 DR. MICHAEL W. KLEMENS
10 DANIEL P. LYNCH, JR.
11
12 C o u n c i l S t a f f :
13 MELANIE BACHMAN, ESQ.,
14 Executive Director and
15 Staff Attorney
16 MICHAEL PERRONE
17 Siting Analyst
18
19 F o r N e w C i n g u l a r W i r e l e s s , P C S , L L C , a n d
20 M e s s a g e C e n t e r M a n a g e m e n t , I n c . :
21 CUDDY & FEDER, LLP
22 445 Hamilton Avenue, 14th floor
23 White Plains, New York 10601
24 By: LUCIA CHIOCCHIO, ESQ.
25

Page 3

1 T H E C H A I R P E R S O N : M y w i f e t o l d
2 m e t h i s m o r n i n g t h a t I h a d a m e s s a g e t h e
3 m e e t i n g w a s c a n c e l e d , a n d t h e n w h e n I r a n t o
4 s e e , s h e s a i d , O h , A p r i l F o o l s . S o h e r e w e
5 a r e .
6 M y n a m e i s R o b i n S t e i n ,
7 C h a i r m a n o f t h e C o n n e c t i c u t S i t i n g C o u n c i l .
8 O t h e r m e m b e r s o f t h e C o u n c i l p r e s e n t a r e
9 S e n a t o r M u r p h y , o u r V i c e C h a i r m a n ;
10 M r . H a n n o n , d e s i g n e e f r o m t h e D e p a r t m e n t o f
11 E n e r g y a n d E n v i r o n m e n t a l P r o t e c t i o n ;
12 C o m m i s s i o n e r C a r o n , d e s i g n e e f r o m t h e P u b l i c
13 U t i l i t i e s R e g u l a t o r y A u t h o r i t y , M r . A s h t o n ,
14 D r . K l e m e n s , D r . B e l l . M r . L y n c h .
15 M e m b e r s o f t h e s t a f f p r e s e n t
16 a r e A t t o r n e y B a c h m a n , w h o i s o u r e x e c u t i v e
17 d i r e c t o r ; a n d M r . P e r r o n e , o u r s i t i n g
18 a n a l y s t .
19 T h e h e a r i n g i s h e l d p u r s u a n t
20 t o t h e p r o v i s i o n s o f T i t l e 1 6 o f t h e
21 C o n n e c t i c u t G e n e r a l S t a t u t e s a n d t h e U n i f o r m
22 A d m i n i s t r a t i v e P r o c e d u r e A c t , u p o n a n
23 a p p l i c a t i o n f r o m N e w C i n g u l a r W i r e l e s s P C S ,
24 L L C , f o r a c e r t i f i c a t e o f e n v i r o n m e n t a l
25 c o m p a t i b i l i t y a n d p u b l i c n e e d f o r t h e

Page 4

1 c o n s t r u c t i o n , m a i n t e n a n c e a n d o p e r a t i o n o f a
2 t e l e c o m m u n i c a t i o n f a c i l i t y l o c a t e d a t
3 F i r s t L i g h t H y d r o G e n e r a t i n g C o m p a n y p r o p e r t y
4 i n N e w M i l f o r d , T a x A s s e s s o r M a p 8 3 , L o t 4 ,
5 K e n t R o a d , N e w M i l f o r d , C o n n e c t i c u t . T h i s
6 a p p l i c a t i o n w a s d e e m e d c o m p l e t e b y t h e
7 C o u n c i l o n F e b r u a r y 1 1 , 2 0 1 4 .
8 A s a r e m i n d e r t o a l l ,
9 o f f - t h e - r e c o r d c o m m u n i c a t i o n w i t h a m e m b e r o f
10 t h e C o u n c i l o r a m e m b e r o f t h e c o u n c i l s t a f f
11 u p o n t h e m e r i t s o f t h i s a p p l i c a t i o n i s
12 p r o h i b i t e d b y l a w . T h e p a r t y i n t e r v e n o r s o f
13 t h i s p r o c e e d i n g a r e N e w C i n g u l a r W i r e l e s s
14 P C S , L L C , A t t o r n e y C h i o c c h i o o f C u d d y &
15 F e d e r .
16 W e w i l l p r o c e e d i n a c c o r d a n c e
17 w i t h t h e p r e p a r e d a g e n d a , c o p i e s o f w h i c h a r e
18 a v a i l a b l e . A l s o a v a i l a b l e a r e c o p i e s o f t h e
19 C o u n c i l ' s C i t i z e n G u i d e t o S i t i n g C o u n c i l
20 P r o c e d u r e s .
21 A t t h e e n d o f t h i s a f t e r n o o n ' s
22 s e s s i o n , w e w i l l r e c e s s a n d r e s u m e a g a i n a t 7
23 p . m . T h e 7 p . m . h e a r i n g w i l l b e r e s e r v e d f o r
24 t h e p u b l i c t o m a k e b r i e f o r a l r e c o r d s i n t o
25 t h e r e c o r d , o r a l s t a t e m e n t s . I w i s h t o n o t e

Page 5

1 t h a t p a r t i e s a n d i n t e r v e n o r s , o f w h i c h
2 a p p a r e n t l y w e h a v e n o n e o t h e r t h a n t h e
3 A p p l i c a n t , w i l l n o t b e p e r m i t t e d t o
4 p a r t i c i p a t e i n t h e p u b l i c c o m m e n t s e s s i o n . I
5 a l s o w i s h t o n o t e f o r y o u w h o a r e h e r e a n d
6 f o r t h e b e n e f i t o f y o u r f r i e n d s a n d n e i g h b o r s
7 w h o a r e u n a b l e t o j o i n u s f o r t h e p u b l i c
8 c o m m e n t s e s s i o n , t h a t y o u o r t h e y m a y s e n d
9 w r i t t e n s t a t e m e n t s t o t h e C o u n c i l w i t h i n 3 0
10 d a y s o f t h e d a t e h e r e o f , a n d s u c h w r i t t e n
11 s t a t e m e n t s w i l l b e g i v e n t h e s a m e w e i g h t a s
12 i f s p o k e n a t t h e h e a r i n g .
13 I f n e c e s s a r y , t h i s p o r t i o n o f
14 t h e h e a r i n g w i l l c o n t i n u e a f t e r t h e p u b l i c
15 c o m m e n t s e s s i o n i f t i m e r e m a i n s . A v e r b a t i m
16 t r a n s c r i p t w i l l b e m a d e o f t h i s h e a r i n g a n d
17 d e p o s i t e d w i t h t h e t o w n c l e r k s ' o f f i c e s i n
18 N e w M i l f o r d a n d S h e r m a n f o r t h e c o n v e n i e n c e
19 o f t h e p u b l i c .
20 I s t h e r e a n y p u b l i c o f f i c i a l
21 t h a t w i s h e s t o m a k e a c o m m e n t a t t h i s t i m e ?
22 (N o r e s p o n s e .)
23 T H E C H A I R P E R S O N : O k a y . D o w e
24 h a v e a n y m o t i o n s ? W e d o n ' t . R i g h t ? O k a y .
25 I ' d l i k e t o c a l l y o u r a t t e n t i o n t o t h o s e

Page 6

1 items shown on the hearing program marked as
2 Roman numerals ID, items 1 through 59, and
3 state agency comments marked Roman numerals
4 IE, items 1 and 2.
5 Does the Applicant have any
6 objection to the items that the Council has
7 administratively noticed?
8 MS. CHIOCCHIO: No objection.
9 THE CHAIRPERSON: Thank you.
10 Accordingly, the Council hereby
11 administratively notices these documents,
12 statements and comments.
13 We now go to appearance by the
14 Applicant. Would you please present your
15 witness panel?
16 MS. CHIOCCHIO: Thank you,
17 Chairman. Starting to my right Dean
18 Gustafson, APT; Michael Libertine, also with
19 APT; to my left Alex Murshteyn -- a new face
20 for some of you -- it's Centerline
21 Communications, the site acquisition
22 consultant for AT&T; Carlos Centore with
23 Centek; sitting behind Carlo is Harry
24 Rocheville, also from Centek; and Mike
25 Lawton, all the way on the left, SAI, RF

Page 7

1 engineer for AT&T.
2 MICHAEL LAWTON,
3 MICHAEL LIBERTINE,
4 DEAN GUSTAFSON,
5 ALEX MURSHTEYN,
6 CARLOS F. CENTORE,
7 HARRY M. ROCHEVILLE, JR.,
8 called as a witnesses, being first duly
9 sworn by the Acting Executive Director,
10 were examined and testified on their
11 oaths as follows:
12 THE CHAIRPERSON: And please
13 begin by making requests to administratively
14 notice the documents and verifying all
15 exhibits by the appropriate witnesses.
16 MS. CHIOCCHIO: Thank you,
17 Chairman.
18 In the hearing program under
19 Roman numeral II, Item A, we have requested
20 administrative notice of the State Historic
21 Preservation Officer's letter to Mike
22 Libertine of All Points Technology, dated
23 November 13, 2013. And my understanding is
24 the Council had taken that up at a meeting
25 and noticed that administratively.

Page 8

1 THE CHAIRPERSON: Okay. Is
2 there any objection? Hearing and seeing
3 none, those are made part of the record.
4 MS. CHIOCCHIO: Thank you
5 Chairman. Also under Roman numeral II,
6 Item B, Exhibits 1 through 10, actually
7 there's a little bit of renumbering required
8 for page 8. There are two number twos
9 numbered. So those are identified exhibits.
10 Now I'll ask our witnesses a
11 series of questions, and I'll start with --
12 we'll start on my right with Dean Gustafson.
13 Did you prepare and help in
14 preparation for the exhibits so identified?
15 THE WITNESS (Gustafson): Yes,
16 I did.
17 THE WITNESS (Libertine): Mike
18 Libertine, yes.
19 THE WITNESS (Murshteyn): Alex
20 Murshteyn, yes.
21 THE WITNESS (Centore): Carlos
22 Centore, yes.
23 THE WITNESS (Lawton): Mike
24 Lawton, yes.
25 MS. CHIOCCHIO: Do you have

Page 9

1 any corrections or clarifications to the
2 information contained therein?
3 THE WITNESS (Gustafson): Dean
4 Gustafson, no.
5 THE WITNESS (Libertine): Mike
6 Libertine, no.
7 THE WITNESS (Murshteyn): Alex
8 Murshteyn, no.
9 THE WITNESS (Centore): Carlos
10 Centore, no.
11 THE WITNESS (Lawton): Mike
12 Lawton, none.
13 MS. CHIOCCHIO: Is the
14 affirmation contained in the exhibits
15 identified true and accurate to the best of
16 your knowledge?
17 THE WITNESS (Gustafson): Dean
18 Gustafson, yes.
19 THE WITNESS (Libertine): Mike
20 Libertine, yes, it is.
21 THE WITNESS (Murshteyn): Alex
22 Murshteyn, yes.
23 THE WITNESS (Centore): Carlos
24 Centore, yes.
25 THE WITNESS (Lawton): Mike

Page 10

1 Lawton, yes.
2 MS. CHIOCCHIO: And do you
3 accept them as your testimony in this
4 proceeding?
5 THE WITNESS (Gustafson): Dean
6 Gustafson, yes, I do.
7 THE WITNESS (Libertine): Mike
8 Libertine, yes.
9 THE WITNESS (Murshteyn): Alex
10 Murshteyn, yes.
11 THE WITNESS (Centore): Carlos
12 Centore, yes.
13 THE WITNESS (Lawton): Mike
14 Lawton, yes.
15 MS. CHIOCCHIO: We'd ask that
16 the Council accept the exhibits identified.
17 THE CHAIRPERSON: Is there any
18 objection? Hearing and seeing none, since
19 there are no objections, these will be made
20 part of the record.
21 (Exhibits II-B-1 through
22 Exhibits II-B-10: Admitted into evidence -
23 described in index.)
24 THE CHAIRPERSON: And we'll
25 now begin with the cross-examination of the

Page 11

1 Applicant.
2 Mr. Perrone.
3 CROSS-EXAMINATION
4 MR. PERRONE: Thank you,
5 Mr. Chairman.
6 Did you fly a balloon today?
7 THE WITNESS (Libertine): Yes.
8 This is Mike Libertine. Yes, we've had a
9 balloon up shortly before noon today, and it
10 will be aloft until 7 p.m. It's
11 approximately a 4-foot diameter red balloon,
12 helium filled tethered to the full 150 feet
13 that's proposed at the site.
14 Conditions today, are
15 visibilitywise are great. We've had a little
16 bit of turbulence, but overall it's a -- it's
17 a fairly calm day, and the winds are actually
18 predicted to decrease as the day goes on.
19 MR. PERRONE: Okay. And the
20 height, is that the top of the balloon or the
21 center? Or --
22 THE WITNESS (Libertine): No.
23 Typically we tether the string to the full
24 height of the proposal. So, in this case, it
25 would be 150 feet of string and then four

Page 12

1 feet on top of that.
2 MR. PERRONE: Okay. Have any
3 other wireless carriers expressed an interest
4 in collocating on the proposed facility?
5 THE WITNESS (Murshteyn): No.
6 MR. PERRONE: Would AT&T
7 provide space on the tower for municipal
8 emergency services antennas if requested?
9 THE WITNESS (Murshteyn): AT&T
10 would be willing to explore that, yeah.
11 MR. PERRONE: Has the Town
12 expressed any interest in collocating at this
13 time?
14 THE WITNESS (Murshteyn): Not
15 to my knowledge.
16 MR. PERRONE: We received
17 updated drawings on March 25. Were the only
18 changes the corrected distance to the town of
19 Sherman and updates to the number of surge
20 arrestors and remote radio heads?
21 THE WITNESS (Centore): Yes,
22 that is correct.
23 MR. PERRONE: Okay. So those
24 were the only changes.
25 THE WITNESS (Centore): Yes.

Page 13

1 MR. PERRONE: What is the
2 grade of the proposed access drive?
3 THE WITNESS (Centore): Eleven
4 percent average.
5 MR. PERRONE: And the number
6 of trees to be removed, is that total number
7 of trees or based on the 6 inches or greater?
8 THE WITNESS (Centore): Based
9 on the 6 inches or greater. There are nine
10 within the actual compound area, the
11 75-by-75, and there are two just in the
12 access drive turnaround for a total of 11.
13 MR. PERRONE: Okay. And the
14 existing pole that you would get your utility
15 service from, is that on the same side of
16 Kent Road as the subject property?
17 THE WITNESS (Centore): At
18 this time, I would assume so. There are two,
19 two poles on -- on the same side as the Kent
20 property. We're just not sure which pole we
21 would be going to. That will be coordinated
22 with the utility company, but we don't
23 anticipate it across the road.
24 MR. PERRONE: But you would be
25 underground for one of those?

Page 14

1 THE WITNESS (Centore): That's
2 correct.
3 MR. PERRONE: Okay. And I
4 understand there would be lighting on the
5 equipment shelter with a motion sensor. So
6 would the lighting be normally be off, except
7 when the motion sensor trips the light?
8 THE WITNESS (Centore): That's
9 correct.
10 MR. PERRONE: And the
11 chain-link fence, would that have barbed
12 wire?
13 THE WITNESS (Centore): No,
14 we're not proposing barbed wire at this
15 facility.
16 MR. PERRONE: Okay. And the
17 generator, which I understand is propane,
18 would there be any kind of containment in the
19 event of oil or coolant leakage?
20 THE WITNESS (Centore):
21 There's containment within --
22 oh, wait. This is an outdoor generator. I
23 apologize.
24 The AT&T shelter, the AT&T
25 generator has containment for its own fuels,

Page 15

1 but not the propane, of course. It's gas.
2 MR. LYNCH: Could you repeat
3 that please?
4 THE WITNESS (Centore): The
5 generator housing and container had -- have
6 its own containment for any of the coolants
7 within the unit, and oil.
8 MR. PERRONE: Would the
9 generator run periodically to keep it in
10 proper condition, like a weekly exercise?
11 THE WITNESS (Centore): It
12 would be exercised once a week for
13 approximately 20 minutes.
14 MR. PERRONE: Okay. And
15 regarding the AC units, I know we had you
16 look at the noise levels, and you ended up
17 with 32 dBA. So my understanding is 32 is
18 low enough where it would pass basically any
19 noise standard, regardless of A, B or C?
20 THE WITNESS (Centore): That's
21 correct.
22 MR. PERRONE: Regarding the
23 proximity to schools and commercial day care
24 centers, there's the Kent Center School and
25 Community Nursery School. Are those

Page 16

1 basically at different addresses, but they
2 work out distancewise the same, about
3 4.4 miles?
4 THE WITNESS (Libertine):
5 They're actually in the next
6 town, but they're on the same property. It's
7 a fairly large property, the two facilities,
8 but at the same location.
9 MR. PERRONE: Okay. Regarding
10 the DEEP letter, August 8, 2014, where it
11 mentions, no negative impacts to federal or
12 state endangered, threatened or
13 special-concern species would be anticipated.
14 But does the proposed project lie within the
15 shaded area of the natural diversity
16 database?
17 THE WITNESS (Gustafson): Just
18 a quick correction on the date. It's
19 August 8, 2013.
20 MR. PERRONE: Yeah, that's
21 right.
22 THE WITNESS (Gustafson): I'm
23 sure that's what you meant.
24 MR. PERRONE: That's what I
25 intended, yes.

Page 17

1 THE WITNESS (Gustafson): The
2 part of the property does follow within the
3 buffered area associated with the Housatonic
4 River, but the actual facility looks like it
5 falls outside of it.
6 MR. PERRONE: Okay. So there
7 would be no species on that list at this
8 site?
9 THE WITNESS (Gustafson):
10 Based on DEP's review of it where we don't --
11 part of -- I guess, at least one of the
12 species that is associated with the buffering
13 along the Housatonic River is associated with
14 the bald eagle, so the bald eagle could
15 certainly fly within the area of the proposed
16 facility, but there isn't any nesting or
17 perching habitat that's significant enough at
18 the proposed facility that it would support
19 that habitat.
20 And if it had been, it would
21 have been flagged by DEP, but that's the only
22 species that I know of that's associated with
23 that area. They don't typically divulge the
24 full list of the species, unless we have a
25 potential conflict, and then they identify

1 them.

2 MR. PERRONE: Okay. I
3 understand your minimum antenna height
4 requires 146 feet. What would happen
5 at 136 feet in terms of handoff or coverage;
6 in other words, what would be the
7 consequences of being, say, 10 feet shorter?

8 THE WITNESS (Lawton): This is
9 Mike Lawton. I believe we provided plots in
10 response to one of the interrogatories at
11 both of those heights, 10 feet and 20 feet
12 shorter, unless I'm mistaken.

13 So those, you can review those
14 plots. In reality, there's not a whole lot
15 of difference shown on the plots. Again,
16 the -- what we're trying to do is cover an
17 area that's quite hilly near the -- near the
18 river and a fairly large area for one site to
19 cover. There's a pretty significant gap from
20 nearly the more suburban part of New Milford,
21 quite far up towards Kent, and the smaller
22 the site gets the more gaps are going to
23 appear along Route 7 and nearby areas.

24 One of the things I noticed
25 when we were looking at the plots and when we

1 require about 20 feet of additional height?

2 THE WITNESS (Lawton): It
3 would, and historically that's been AT&T's
4 answer about flush-mounted antennas or
5 vertically separated antennas. One of the
6 things that's happening and as we've been
7 talking about with the Council, as AT&T
8 evolves from 3G or UMTS service to 4G or LTE
9 service, they're going to be using additional
10 frequency bands, and those additional
11 frequency bands require additional antennas,
12 and the flush-mounted or flagpole-type sites
13 are becoming even more of a problem, because
14 instead of -- in the past AT&T was able to
15 kind of get by with two physical antennas at
16 two heights in there.

17 Now, as they start to look for
18 LTE to be running on 700 megahertz,
19 850 megahertz, 1900 megahertz, and the WCS
20 frequencies, eventually that's going to
21 require more than -- there's the two antennas
22 and more than just two radiation centers. So
23 it may even actually evolve to a point where
24 the answer would be more than 20 feet. It
25 might be 30 or 40 feet.

1 looked at some drive data there, it may be
2 that in the town of Gaylordsville, there may
3 still continue to be a bit of a gap, but
4 there's a nice little church there that, at
5 this point, is not funded as an additional
6 site for AT&T, but might be a good solution
7 if -- if they chose to improve coverage in
8 Gaylordsville itself.

9 So it -- that's sort of a long
10 way of saying that the shorter the site, the
11 more the gaps it's going to open along Route
12 7 between the connection to the site, to the
13 north and South Kent and to the site to the
14 south in New Milford.

15 MR. PERRONE: Could T-arms be
16 used to mount the antennas and maintain the
17 same coverage that's proposed?

18 THE WITNESS (Lawton): From a
19 radio frequency perspective, I think a T-arm
20 or a platform would be identical. I think
21 the only difference would be the actual
22 constructibility of it and any kind of
23 structural concern.

24 MR. PERRONE: For
25 flush-mounted antennas, would that generally

1 THE CHAIRPERSON: Mr. Lynch, I
2 think has a question.

3 MR. LYNCH: Yeah. Mr. Lawton,
4 you led into an area that I was going to get
5 to later, but seeing that you're talking
6 about flush mounts and closed-in antennas,
7 from what I'm hearing, they might be becoming
8 obsolete as far as usage in your system.

9 My question now is, are you
10 going back and replacing any of the flush
11 mounts or internal antennas in your network?

12 THE WITNESS (Lawton): At this
13 point, actually currently, right now, AT&T is
14 in the process of identifying every site
15 that's limited by, basically physically
16 limited for mounting more than two antennas.
17 And they're going to go through on a
18 case-by-case basis and look and see what
19 the -- what the appropriate response to those
20 is, because they don't have a strong future
21 in terms meeting the broad need.

22 If there -- if it's a site
23 that has a very specific purpose, it may not
24 require the capacity that's needed from all
25 the extra bands, it may still be the case

1 that they could continue with those sites or
2 make arrangements to work around those sites
3 in the network. But those sites -- any site
4 where the what they call -- they're calling
5 at this point, the cell site of the future,
6 which is the configuration with four
7 horizontally spread antennas, any site where
8 that's not possible is identified on an
9 internal list and is being reviewed for
10 possible --

11 MR. LYNCH: Okay. Two
12 follow-up type questions. From what you have
13 said, the LTE really cannot be supported by
14 flush-mount antennas.

15 THE WITNESS (Lawton): It's
16 not exactly correct. LTE, initially when
17 AT&T is rolling out their network, the first
18 carrier in this area that they'll roll out
19 at LTE -- for LTE is 700 megahertz. That
20 could be supported by a flush-mounted
21 antenna. The second carrier in most of
22 Connecticut is 1900 megahertz. That also
23 could be supported as a flush-mounted
24 antenna -- with a flush-mounted antenna.

25 The -- beyond that, it starts

1 currently are demanding is less and less use,
2 less and less percentage of call volume is --
3 or usage volume is a better way to put it --
4 is voice calls, more and more is data usage.

5 So LTE is intended to better
6 serve the data customer. At this point
7 actually LTE doesn't provide voice service.
8 It will in the near future using what's
9 called voice over IP, which would be --

10 MR. LYNCH: I know.

11 THE WITNESS (Lawton): So
12 right now what AT&T is deploying is a mix.
13 At their sites, they all -- a new site that's
14 being constructed, such as the one in Roxbury
15 that I think many of us may have driven by on
16 the way up here, that site will be launched
17 with both UMTS and LTE service in order to
18 continue to provide voice service, but also
19 to provide faster data for the customers who
20 have 4G terminals.

21 MR. LYNCH: One other thing,
22 and I think you've already gotten to it, but
23 in the last few meetings that we've had with
24 AT&T and with Verizon, and so on and so
25 forth, I wanted to get on the record that, as

1 becoming more difficult because then you
2 have -- the third carrier would typically be
3 possibly 850 megahertz, which also is being
4 used for UMTS and then WCS, which is
5 2300 megahertz, which requires a different
6 antenna model. So it becomes a, sort of a
7 network management problem when you have so
8 many frequencies with trying to combine all
9 those frequencies onto one or two physical
10 antennas.

11 MR. LYNCH: And my last
12 question for this part, and I'll come back to
13 it later on, is with the advent of the LTE,
14 you mentioned -- is this more -- this a
15 capacity issue, than a coverage issue?

16 THE WITNESS (Lawton): It's --
17 the idea of LTE or the evolution from 3G to
18 4G, the main thing that it brings is improved
19 data rate. That's the driving force for LTE,
20 is faster data.

21 MR. LYNCH: We're going to get
22 to that.

23 THE WITNESS (Lawton): Yeah.
24 The -- it's not necessarily specific to a
25 voice need. The -- the usage that people

1 far as building out your network and working
2 with the marketing people, you're actually --
3 main focus would be on delivering data
4 services over voice services.

5 THE WITNESS (Lawton): It's
6 AT&T's belief in the trend that that's what
7 is increasing. You know, the -- the voice
8 services aren't -- don't seem to be growing
9 at the same rate as data. You know, the
10 iPhone was the big sort of paradigm shifter
11 for that, that all of a sudden everybody was
12 using data once the iPhone -- once everybody
13 started buying iPhones.

14 It -- the amount of load that
15 that put on AT&T's network, it, in fact,
16 caused quite a bit of quality of service
17 issues because it was an unexpected amount of
18 data load.

19 MR. LYNCH: So we're talking
20 about the genius of Steve Jobs.

21 Thank you, Mr. Chairman.

22 Thank you, Michael.

23 MR. PERRONE: Turning to the
24 response to interrogatory Question 15 in the
25 first set, where it talks about the signal

1 strength thresholds, in the past we had an
2 in-building and an in-vehicle threshold. Now
3 I'm seeing for 700 megahertz and
4 1900 megahertz, they each have two
5 thresholds, but they don't necessarily
6 correspond to in-building or in-vehicle. So
7 how does that work? Is it a range?

8 THE WITNESS (Lawton): The --
9 the two thresholds that we -- we look at the
10 719, it's not specific to the frequency.
11 It's specific to the type of service.
12 Because for example, we -- we've done plots
13 at 1900 megahertz for UMTS service which
14 would still have the historical thresholds,
15 the in-building and the in-car. We also
16 do -- we also do plots at 1900 megahertz for
17 LTE, which have two thresholds. They're two
18 different thresholds. That's as a result of
19 a number of things.

20 One, the link budget or the
21 power budget for an LTE service is different.
22 And you're also, again trying to maximize the
23 data throughput. So what the through -- the
24 two thresholds no longer refer on LTE to
25 in-building or in-car. They're just a

1 certain level of data throughput and a less
2 robust level of data throughput.

3 So they -- there, they're
4 still AT&T's design thresholds that they look
5 at when they're trying to figure out how to
6 improve the network and where to -- where to
7 place new sites, but they don't -- it's no
8 longer a building penetration issue because
9 that fade margin, we call it, for building
10 penetration is incorporated in the analysis,
11 so it's already part of the plot.

12 We're already looking at the
13 fact that we would expect that, if someone
14 was using data, they could very well be
15 inside a building because more often the data
16 customers do end up being inside buildings or
17 inside cars rather than outside walking
18 around. They, I mean, if you're outside
19 walking around, you would be using data, but
20 more likely it would be load demand data,
21 like a GPS service or something like that,
22 where you're just downloading the maps from
23 time to time.

24 The -- the higher bandwidth
25 demand ends up being within a building,

1 within a car in a more, in a, what we call, a
2 less mobile scenario. More -- more stable,
3 more -- less dynamic, more fixed.

4 MR. PERRONE: So generally, if
5 you stayed within those two, you would be
6 able to achieve in-building in most cases?

7 THE WITNESS (Lawton): That's
8 correct, yes. Those are intended to model
9 in-building data usage.

10 MR. PERRONE: Okay. Great.
11 Okay.

12 Moving onto a wetland issue,
13 page 12 of the application states that the
14 compound is about 135 feet to the wetland
15 associated with Cedar Pond, at the top of
16 page 12. And then on page 13, I see 380 feet
17 from the fence boundary to Cedar Pond. What
18 is the actual distance from Wetland 1 to the
19 fenced compound at its nearest point?

20 THE WITNESS (Gustafson): The
21 -- on the -- for the south side of the
22 proposed compound it's approximately 96 feet
23 to the nearest wetland edge and that's at
24 Wetland Flag 11.

25 MR. PERRONE: Okay. Would the

1 135 feet be approximately from the wetland to
2 the center of the tower?

3 THE WITNESS (Gustafson):
4 That's -- that's probably a fair estimate,
5 yes.

6 MR. PERRONE: Okay.

7 Now we'll turn to the recent
8 administrative notice items. For example,
9 the map of the Upper Housatonic Valley
10 National Heritage Area, my understanding is
11 that area does not include the town of
12 Milford. It basically begins in the town of
13 Kent. Is that correct?

14 THE WITNESS (Libertine):
15 That's correct.

16 MR. PERRONE: Okay. So the
17 proposed project itself does not fall in that
18 area. Is that right?

19 THE WITNESS (Libertine):
20 We're just immediately south by about a mile
21 or so.

22 MR. PERRONE: Okay. However,
23 would the proposed facility be visible from
24 portions of the heritage area?

25 THE WITNESS (Libertine): I

1 just want to double-check a couple locations.
2 There may be a few locations that extend into
3 Kent.
4 There are a couple of
5 locations that we are showing behind Tab 5 of
6 the application on the -- the visibility map
7 in the back of that section. If you'll
8 notice, you can clearly see our -- our
9 location is central in that graphic, and you
10 can see the town line -- excuse me -- of New
11 Milford as it runs essentially by our site.
12 It's coincident with the river itself, and
13 the town of Sherman is on the other side.
14 But if you follow the river
15 northward into the town of Kent, you'll
16 notice the Appalachian Trail does more or
17 less border the boundary between New Milford
18 and Kent. So as it goes into Kent itself and
19 extends onto some of the ridgeline further
20 north, we are showing some areas of potential
21 year-round visibility.
22 So I guess the most accurate
23 answer I could give you is, that yes, there
24 is the potential for some visibility within
25 the national heritage corridor.

1 MR. PERRONE: Okay. And it
2 appears to be in yellow. So are they
3 potentially year-round impacts?
4 THE WITNESS (Libertine): They
5 are. We also are showing some areas off the
6 trail near the two-mile study area margin
7 that are showing some potential for seasonal
8 visibility along the ledges that essentially
9 look down to the southeast, down the river.
10 That, in my estimation, these
11 are probably overpredictions, but again not
12 being able to access those at the time of
13 this work, we felt as though we should leave
14 them on there because the model is showing
15 it. And I would just point out again, the
16 model tends to overpredict somewhat because
17 we're using a relatively low tree height
18 throughout the study area, an average of
19 60 feet. So that may account for some of
20 that.
21 MR. PERRONE: Okay. Do you
22 expect significant impacts? Or can you --
23 THE WITNESS (Libertine): In
24 my opinion, no. I think, if anything, again
25 at those locations looking down, essentially

1 down the river, the river valley at the lower
2 elevations where we are showing some of the
3 yellow areas along the trail, you're almost
4 at the river edge. So you've got a fair
5 amount of tree line there.
6 So if anything, if it is
7 visible, I think we're probably talking
8 about, from a purely quantitative standpoint,
9 talking about point A to point B, because
10 that's how the model works, theoretically you
11 might be able to see the very top of the
12 tower at the tree line. We were not able to
13 see it from the areas we did walk. We did
14 not walk the entire trail system, but we were
15 not able to see it.
16 So my opinion is that, no, the
17 views anywhere along the AT would not be
18 considered significant from my perspective.
19 Matter of fact, I would say overall, within
20 the entire study area, we're not talking
21 about significant views with the -- perhaps
22 the exception of right out in front of the
23 site and a short stretch of Route 7 north, as
24 you come southbound, actually, where there
25 are some locations where the tower would be

1 above the tree line. And that's represented
2 in some of the photo simulations,
3 particularly Photo Number 1, 2, and 3, along
4 Kent Road.
5 THE CHAIRPERSON: Dr. Klemens,
6 did you have a question?
7 DR. KLEMENS: Yes. I just
8 want to clarify one thing. The areas of
9 seasonal visibility we were talking about
10 below 10 Mile Hill, those are not within the
11 Upper Housatonic National Heritage Area.
12 Correct?
13 THE WITNESS (Libertine):
14 That's correct -- yes, the only area I was
15 pointing out on the ridgelines essentially, I
16 guess, that's the Scatacook Mountain area,
17 which is just on about the two-mile border of
18 northwest of our site, the two-mile study
19 area border. There are some ledges we are
20 showing some potential seasonal visibility.
21 That's just south of the Appalachian Trail.
22 DR. KLEMENS: On Scatacook
23 Mountain you're showing seasonal visibility?
24 THE WITNESS (Libertine): Yes,
25 just a little bit.

1 DR. KLEMENS: I see seasonal
2 visibility in Dutchess County. I don't see
3 any seasonal visibility. I see a little --
4 THE WITNESS (Libertine): It's
5 -- I apologize -- it's just over. Yes, it's
6 just over the New York border, so you're
7 right. It's actually outside of Kent and
8 within Dutchess County, New York.
9 DR. KLEMENS: And it's outside
10 of the Upper Housatonic National Heritage
11 Area then, too. Is it not?
12 THE WITNESS (Libertine): Yes,
13 it would be. Correct, but that's --
14 DR. KLEMENS: So just to
15 finish this up, the only area that is
16 actually -- we're talking about that we're
17 looking at that is visible as part of the
18 Upper Housatonic National Heritage area,
19 we're talking about some segments of the AT
20 that are right in the bend of the river
21 there, where there's three little -- and
22 there's some other little areas up just north
23 of Bull's Bridge, potential?
24 THE WITNESS (Libertine):
25 Potentially, yes. Yes, that's exactly right.

1 DR. KLEMENS: And that is it
2 for the National Heritage Area.
3 THE WITNESS (Libertine):
4 That's correct.
5 DR. KLEMENS: Thank you.
6 THE WITNESS (Libertine):
7 Thank you.
8 MR. PERRONE: And continuing
9 on the Appalachian Trail, if we go outside
10 the National Heritage Area and we go, let's
11 say, into northern Sherman, what would the
12 views be like in that area? I see where the
13 trail runs, like, east-west.
14 THE WITNESS (Libertine): Yes.
15 There's right along the border of Sherman
16 and, I'm -- I guess, that's Sherman and Kent,
17 it does come along down into some flats. We
18 were able to access north of there, which
19 is south of Bull's Bridge. We walked a
20 significant portion of that trail, and we
21 were not able to see it either north of
22 Bull's Bridge Road, but we did not walk along
23 the actual boundary between the two towns.
24 So, again, that does have some
25 potential direct aspects towards our site,

1 but the characteristics that we saw of that
2 particular area is some dense mixed wood,
3 woodlands of both deciduous and evergreens.
4 And although there's the potential direct
5 line of sight, I -- I again, just my gut
6 tells me that that's probably somewhat
7 overpredictive.
8 If, in fact, there were views,
9 again I think the characteristics of those
10 views at that distance, which is over a mile
11 away buried down in the valley, I think you'd
12 really have to know what you were looking for
13 to pick it out amongst anything else in your
14 view scape, quite honestly.
15 MR. PERRONE: Okay. Also on
16 that administrative notice memo, there's the
17 Herrick, H-e-r-r-i-c-k, Preserve. And it
18 looks like there's two lookouts on this map.
19 The Housatonic Overlook and the Amy's
20 Overlook.
21 THE WITNESS (Libertine): Yes.
22 MR. PERRONE: Would you expect
23 visibility from those areas?
24 THE WITNESS (Libertine): I
25 looked at this earlier, and it does appear as

1 though the areas that we're depicting as
2 visible in that general area do not extend
3 into the trail area along those particular
4 overlooks. The closest we could get without
5 walking those trails was along Evans Hill
6 Road, which provides a pretty good overview
7 of the area.
8 Those are fairly broad
9 plateaus. As a matter of fact, if you
10 remember the landscape when we were at the
11 site, if you look due west -- there's
12 actually what we were looking at in terms of
13 a profile of hills was actually a series of
14 hills that kind of blend together. And it's
15 because, as you can see on the topo map, 10
16 Mile Hill in the area east, and that it's in
17 that kind of general area east that we're
18 talking about that the Herrick Trail Preserve
19 tends to be located along. It's very, very
20 broad and heavily wooded.
21 So, again, I have not field
22 verified it. We're not predicting visibility
23 up on those ledges just because, again
24 you're -- you're just talking about an area
25 that is just heavily wooded. Certainly

Page 38

1 there's a potential that with the -- the
2 leaves off the trees, if somebody was
3 accessing, I don't believe on the overlooks
4 themselves, but certainly somewhere along
5 those ledges, that's certainly a potential.
6 Again we're talking in this
7 case -- we're probably talking more like
8 three quarters of a mile away across from the
9 site. With the -- again if it were visible
10 and this is true of anywhere along those
11 western hills -- the backdrop of the Cedar
12 Hill area behind us, or to the east would not
13 allow the tower to actually extend up and be
14 a profile against the sky.
15 So if it were to be seen it
16 would be, again, with a backdrop of the hill
17 itself. So again, we're not getting that --
18 we wouldn't have the potential for that
19 silhouette effect that you see in some of the
20 photos that are very close, Photos 2 and 3 in
21 particular.
22 THE CHAIRPERSON: Dr. Klemens.
23 DR. KLEMENS: Following on
24 that, as I'm looking at the -- what is the
25 elevation? The site is what? 336 feet and

Page 39

1 then with the tower on top, how much is the
2 total? To the tip of the tower, what's the
3 elevation?
4 THE WITNESS (Centore): You
5 want the AMSL elevation?
6 DR. KLEMENS: Yes.
7 THE WITNESS (Centore): The
8 top of -- the top of monopole above mean sea
9 level 516.5 feet.
10 DR. KLEMENS: Okay. It's 516.
11 So by looking at the topographic on 10 Mile
12 Hill, can you tell me roughly what you think
13 these outlooks, what the topographic
14 elevation is of that?
15 THE WITNESS (Libertine):
16 Well, those outlooks are certainly above
17 our -- our elevation.
18 DR. KLEMENS: How much,
19 Mr. Libertine?
20 THE WITNESS (Libertine):
21 Perhaps anywhere from 150 to 250 feet.
22 They're on the lower ledges of 10 Mile Hill.
23 DR. KLEMENS: They are on the
24 lower ledges of 10 Mile?
25 THE WITNESS (Libertine): The

Page 40

1 southern portion, then it does rise. I take
2 that back. I apologize. I'm looking -- I'm
3 trying to cross reference these.
4 So actually, you're talking
5 areas anywhere from 150 feet to 400 feet
6 above our location.
7 DR. KLEMENS: Above your
8 locate -- okay.
9 THE WITNESS (Libertine):
10 That's correct.
11 DR. KLEMENS: So you're saying
12 that these are -- we're talking these are
13 about a thousand feet, some of these ledges.
14 Correct?
15 THE WITNESS (Libertine): The
16 ledges? Yes. They approach a thousand feet,
17 absolutely. Nine hundred to a thousand feet
18 on this plateau of -- on this Herrick Trail
19 Preserve map where the -- actually the words,
20 "Herrick Trail Preserve," that's in that,
21 between 900 and a thousand feet right there.
22 DR. KLEMENS: So if you're
23 looking, basically you're looking down at
24 this?
25 THE WITNESS (Libertine):

Page 41

1 Right and that was my point earlier,
2 Dr. Klemens, about the fact that you'd have
3 the backdrop of that hill because you're
4 really looking down into the valley from
5 those perspectives.
6 DR. KLEMENS: Right. Okay.
7 That makes sense. Thank you.
8 THE WITNESS (Libertine):
9 Thank you.
10 MR. PERRONE: And my last
11 question, what types of stealth tower designs
12 had you considered? Perhaps a tree tower or
13 a lookout tower, water tower, et cetera?
14 THE WITNESS (Libertine): We
15 -- we did kick around the idea of a couple
16 different stealth options here and two, the
17 two that you mentioned. We felt as though
18 the idea of a stealth, at least from my
19 perspective, is all -- always of -- if we're
20 talking about an extensive area of visibility
21 and how we can kind of mitigate that, in this
22 case, the -- the primary views are in a very
23 condensed area right in front of the site.
24 So the challenge I always have
25 is, how do we balance that? And when we

1 started looking at any type of a structure
2 that's a stealth form, you know, either a
3 tree or a fire tower, which is always
4 something that I've kicked around when --
5 whenever we're talking about areas like this
6 where we've got steep slopes and rolling
7 hills.

8 The problem is we start to get
9 into a really -- a situation where it's much
10 bulkier than what we're proposing. So now
11 all of a sudden we have a -- we have a very
12 short area of visibility, and in that area we
13 are talking about a profile against the sky,
14 again along Route 7 coming southbound and
15 then right out in front of the site. And it
16 was my opinion that, in this case, a stealth
17 application was probably going to draw the
18 observer's eye even more.

19 The more I thought about this
20 I would say that, if there are some potential
21 concerns about some of the vistas from
22 locations further distant, we might want to
23 consider some type of a painting scheme here.
24 A brown pole and brown array may work pretty
25 well against that backdrop. Because again,

1 THE WITNESS (Libertine):
2 Yeah, no. You folks in the past, we've
3 talked about what we used to call the brown
4 sticks, which obviously I'm not suggesting a
5 flush array, but that type of a forest brown,
6 even maybe a softer gray just so we take a
7 little bit of that metallic look away from
8 it.

9 That would be consistent with
10 the other infrastructure in there, because a
11 lot of the overhead power lines, if you
12 notice, they are the old H-frame styles and
13 wooden poles. So a wooden pole look might be
14 something to consider, but again, the full
15 arrays could be painted in such a way so that
16 it's not a white antenna sticking out.

17 MR. PERRONE: Thank you.
18 That's all I have.

19 THE CHAIRPERSON: We will now
20 continue with cross-examination by the
21 members of the Council.

22 Senator Murphy.

23 SENATOR MURPHY: Thank you,
24 Mr. Chairman.

25 Mr. Perrone had asked a

1 we've got the hills working with us, with the
2 exception of those few views where there's
3 not much we're going to be able to do about
4 that. It is what it is when you're driving
5 down Route 7 and you get out in front of the
6 site. And I think everyone saw that from --
7 at the site today where the balloon was, more
8 or less, right there. But that's a -- that's
9 a very short stretch of road.

10 That said, most of the views
11 are seasonal. So I -- I think, in this case,
12 rather than going with a tree structure, or
13 something that tends to be much more girth, I
14 would say that, again if there are those type
15 of concerns, maybe considering something from
16 a painting perspective. That would at least
17 mute it, and we wouldn't be talking about
18 that steel color that might jump out a
19 little. It's a little bit more industrial,
20 obviously, so maybe something a little bit
21 softer that would mute it into the landscape.

22 MR. PERRONE: So basically
23 you're saying the same design with just like
24 more of a brown color instead of, like, the
25 galvanized?

1 question about the Town asking for an
2 emergency service location, and the answer
3 was, they had not. And my recollection is,
4 would the Applicant be willing to do so and
5 would you be willing to work it out? Are you
6 willing to provide the Town, if they request
7 it, free access space on the tower?

8 THE WITNESS (Murshteyn): Yes.
9 SENATOR MURPHY: In the
10 construction of the tower, is the base of it
11 being made so that it can be expanded up or
12 not?

13 THE WITNESS (Centore): At
14 this point, the towers are being designed to
15 accommodate its -- its current filed height.
16 Should -- should it be a requirement of -- of
17 the approval or a request by AT&T, it can be
18 engineered to accommodate further expansion.

19 SENATOR MURPHY: Okay. Lately
20 the applications have been coming in where
21 the base has been designed to handle an
22 additional 20 feet. If an additional 20 feet
23 is approved later on, is there any reason why
24 AT&T did not put that in their initial
25 application, or thinking in this matter, if I

Page 46

1 may put it that way?
2 THE WITNESS (Centore):
3 There's no reason that I'm aware of.
4 SENATOR MURPHY: There's no
5 reason that you --
6 THE WITNESS (Centore):
7 Couldn't do it.
8 SENATOR MURPHY: As far as
9 AT&T is concerned to go, you're not willing
10 to go higher?
11 THE WITNESS (Centore): That's
12 correct.
13 SENATOR MURPHY: Okay. I
14 assume propagations were done at a higher
15 height than the application, Mr. Lawton.
16 THE WITNESS (Lawton): Yes.
17 SENATOR MURPHY: What did an
18 additional 10 or 20 feet on the tower do as
19 far as your propagations are concerned?
20 THE WITNESS (Lawton): I don't
21 have those plots to provide. And I don't --
22 honestly, it's been some time since we looked
23 at this, so I don't have, off the top of my
24 head, a recollection of exactly how much
25 bigger the area of coverage would get.

Page 47

1 Certainly I think you'd see --
2 more robust coverage down further south may
3 eliminate the need to consider something like
4 the church that I was mentioning earlier in
5 the sort of the center of the town of
6 Gaylordsville.
7 SENATOR MURPHY: Okay.
8 Turning to -- are you referring to the church
9 across the street from the fire station in
10 Gaylordsville that's got the peak on it as
11 you head north?
12 THE WITNESS (Lawton): Yes.
13 It's got a white -- yeah. And I don't refer
14 that -- refer to that because we've taken any
15 action on that. I just happened to notice it
16 when I was driving by.
17 SENATOR MURPHY: I apologize,
18 but the application for the tower at the fire
19 station in Gaylordsville, was that an AT&T,
20 or another?
21 MS. CHIOCCHIO: Verizon.
22 THE WITNESS (Libertine):
23 Verizon.
24 SENATOR MURPHY: It was
25 someone else? Okay. Because we visited that

Page 48

1 back then. So forget it as far as you're
2 concerned.
3 THE WITNESS (Libertine): Yes,
4 that was Verizon.
5 SENATOR MURPHY: Right. I
6 knew you were there, and I couldn't remember
7 who the applicant was. Okay.
8 I wanted to ask you about the
9 proposed tower in Sherman, and I've seen the
10 propagations which indicate that it really
11 does not do the job that you're intending to
12 do with this particular application. But let
13 me ask you -- this kind of is a broad
14 approach.
15 Did AT&T give any thought,
16 after realizing that Sherman was doing this,
17 to moving its site, say, to the east for this
18 general area? I realize there's a whole raft
19 of no coverage area for AT&T down here.
20 Because it seems to me that the Sherman
21 proposal would handle a fairly good amount of
22 what you're going to cover from this tower.
23 Is there any thought given to moving to the
24 east with a different location for this tower
25 and then doing Sherman, tying it in?

Page 49

1 THE WITNESS (Lawton): We
2 didn't look at a two-site approach. We
3 looked either A or B. Either -- and I'm
4 assuming you mean the Evans Hill Road Sherman
5 side.
6 SENATOR MURPHY: Yes, that's
7 what I'm talking about.
8 THE WITNESS (Lawton): Yeah.
9 We looked at that to see if that would
10 eliminate the need -- would be a good
11 candidate for this need, and we determined it
12 wasn't.
13 SENATOR MURPHY: And if you
14 want to cover what you're proposing to cover,
15 it's not a good candidate.
16 THE WITNESS (Lawton): Right.
17 SENATOR MURPHY: But it does
18 do a portion of it?
19 THE WITNESS (Lawton): It
20 does. It does. It may, I mean, you know, at
21 this point from AT&T's perspective, like I
22 said about the Gaylordsville, sort of not
23 downtown area, but sort of the more central
24 Gaylordsville area, at this point,
25 AT&T's funding is -- they're looking at one

1 site to cover that area.
2 SENATOR MURPHY: But the
3 church won't give you --
4 THE WITNESS (Lawton):
5 Absolutely.
6 SENATOR MURPHY: -- a whole
7 wide range of coverage. We've already been
8 down that road someplace else.
9 THE WITNESS (Lawton): And I
10 didn't bring that up as a -- as an
11 alternative solution to what we're talking
12 about.
13 SENATOR MURPHY: I understand,
14 but it would fill in the gap probably rather
15 nicely over there.
16 THE WITNESS (Lawton): The
17 Evans Hill road or the church?
18 SENATOR MURPHY: The church in
19 that area.
20 THE WITNESS (Lawton): But I
21 think you would -- you certainly need, in
22 addition to the church, something to cover
23 the area on Route 7 farther North. If
24 this -- if this tower were built, I think the
25 church would be, quite possibly a

1 complementary site.
2 SENATOR MURPHY: All right.
3 Okay. Let me ask you, though, with the Evans
4 Hill Road in Sherman, if this site is
5 approved, the Evans Hills, as I see the
6 propagation, really would not be a viable
7 place for AT&T to move to next. Would it
8 because of your double coverage?
9 THE WITNESS (Lawton): I don't
10 believe so. I think it would be --
11 SENATOR MURPHY: Too close?
12 THE WITNESS (Lawton): Too
13 close. Too close and there's -- there's some
14 other issues with that site in that it's -- I
15 believe it's further south. And when we ran
16 the propagation, we found that even at --
17 when you start to get to the height where it
18 might provide coverage along Route 7, it's
19 quite tall and it, in fact, is covering this
20 area here and some other areas to the -- to
21 the east in New Milford.
22 Which again, as you -- as you
23 build out a network, it's not ideal to
24 have -- I guess the best way to describe it
25 is to have sites that cover on both sides of

1 other sites. There are some sites that are
2 currently providing good coverage in New
3 Milford. If we were to use the Evans Hill
4 road site, it would cover to the East of
5 those sites and also to the west of those
6 sites. And --
7 SENATOR MURPHY: So what
8 you're trying to tell me is the Evans Hill
9 site really doesn't fall very neatly into
10 what AT&T determines to be the pattern of
11 where it wants to develop its system species?
12 THE WITNESS (Lawton):
13 Correct. It would -- I guess analogously I'd
14 say something like, you know, if you were in
15 New Haven, and there's some very tall
16 buildings there, AT&T would not want to put a
17 site on the tallest of the tall buildings and
18 then populate New Milford -- New Milford --
19 New -- New Haven with lowered sites because
20 then you would have a network issue where you
21 would have capacity constraint.
22 You couldn't have the lower
23 sites handling the traffic. You would have
24 the higher site handling the traffic. There
25 would be -- it would be difficult to manage

1 handovers, traffic sharing, that sort of
2 thing. That's sort of an engineering concept
3 that's a little hard to explain. Sorry.
4 SENATOR MURPHY: So, in
5 essence, what you're telling me is Evans Hill
6 really doesn't work into your plans, AT&T's.
7 THE WITNESS (Lawton): That is
8 correct.
9 SENATOR MURPHY: The design
10 plan of the future.
11 THE WITNESS (Lawton): That's
12 correct. It wouldn't be -- it would not be
13 something that -- when we looked at it, when
14 the Town of Sherman proposed it, we looked at
15 it to see if it would provide value either as
16 a replacement for this, or at some point in
17 the future. We didn't believe that it would.
18 SENATOR MURPHY: Okay. I
19 think I'll leave it at that, Mr. Chairman.
20 Thank you very much.
21 THE CHAIRPERSON: Thank you.
22 Dr. Klemens.
23 DR. KLEMENS: Thank you,
24 Mr. Chairman.
25 I have questions -- all right.

Page 54

1 Get organized.
2 On page 19 of the application,
3 the very top, you start on page 18 saying
4 that permits are, local permits are not
5 required. And is there a reason why you felt
6 compelled on the top of page 19 to say --
7 which I consider, at least I think, a highly
8 speculative statement that it would not be
9 considered -- it would be considered not a
10 significant activity by New Milford's
11 wetlands agency. What does that add to this
12 application other than speculation over
13 something you really don't have to worry
14 about anyway?
15 THE WITNESS (Gustafson):
16 Yeah, I -- I agree with your assessment of
17 that. As far as whether the project would be
18 considered a significant impact activity in
19 accordance with the Town's local wetland
20 regulations, typically that designation is
21 provided for projects that result in a
22 significant amount of wetland impact or have
23 the potential for a significant amount of
24 wetland impact. And this project, in my
25 opinion, does not have those potentials or

Page 55

1 for wetland impact. So --
2 DR. KLEMENS: And I agree with
3 you. I just don't think one should put one's
4 feet in what other agencies may or may not
5 say, particularly when you don't need to do
6 it for this hearing. That's all I'm saying.
7 THE WITNESS (Gustafson): I
8 agree.
9 DR. KLEMENS: Thank you.
10 I'd like to go back to this --
11 I'm going to jump a little bit all over the
12 place first -- this letter that came from the
13 Siting Council -- from the Council on
14 Environmental Quality, excuse me, which I
15 recused myself.
16 And I think we've gone over a
17 lot of the questions that were raised in the
18 discussions over the last half hour. There
19 was one thing that I'd like someone to
20 comment on, which I find a little bit
21 surprising, and that is the feasibility. I
22 think we should get this into the record. We
23 have determined that there may be small
24 sections of the AT within the National
25 Heritage Area where you may have views,

Page 56

1 year-round views of this tower lying maybe
2 500 feet down below the trail or some -- or
3 maybe not quite.
4 But the concept of occlusive
5 vegetative screening along the AT, I think
6 could someone comment on the feasibility of
7 this, the practicality of this for the
8 record, please?
9 THE WITNESS (Libertine): I'm
10 going to take a shot, at least, I guess,
11 making the statement that I'm a little
12 perplexed by the inclusion of that. Anything
13 is possible. In terms of planting along the
14 AT, that gets a little bit more problematic
15 in terms of species types and, I guess, what
16 it's really intended to do.
17 But I guess I would start off
18 by saying that I don't agree with the premise
19 that there's the need for something like that
20 in this particular case. The national
21 heritage corridor is a -- well, it's -- it's
22 an area that it's designated as such, but it
23 has many functions. And it -- there are --
24 how many towns in this particular one we're
25 talking about? Eight -- nine towns in

Page 57

1 Connecticut and several towns in
2 Massachusetts.
3 The thought that there isn't
4 other infrastructure within a view shed
5 within these towns seems a bit unreasonable
6 to me, including the Appalachian Trail.
7 There, there are areas along the Appalachian
8 Trail where man-made infrastructure is
9 visible. If we were talking about a
10 prominent ridgeline that was above treeline
11 that had views, extensive views of the
12 facility, I would be advocating for some type
13 of stealthing like a tree regardless of the
14 other areas being minimally -- for all the
15 arguments I made earlier, that would be a
16 different situation.
17 Here we're talking about the
18 potential for very minimal views through a
19 mile or more of intervening trees and
20 landscape, including topography. So
21 plantings along the trail, I'm not sure are
22 warranted in a case like this. It has been
23 done. It's not unprecedented. I've been
24 involved in prior dockets where it was felt
25 as though that was something that should be

1 done, because there was what was considered
2 by all parties involved to be prominent views
3 from an outlook or at least along a portion
4 of the -- the trail. So yes, it can be done.

5 DR. KLEMENS: I am perplexed
6 by it. So you're saying that the mitigation
7 that is suggested where people are looking at
8 a view is to eliminate the view from people
9 by plantings, and that's somewhat perplexing
10 to me.

11 THE WITNESS (Libertine):
12 That's essentially where I was going, and I
13 guess I'm -- I would agree with where
14 you're -- you're coming from. It just seems
15 to be kind of counterproductive in this case.

16 DR. KLEMENS: I kind of would
17 tend to agree that depriving the public of
18 the view is kind of not making any sense,
19 particularly after you've said that it's
20 really not very visible.

21 THE WITNESS (Libertine): No,
22 it would be --

23 DR. KLEMENS: But I do think
24 we need to go -- seeing this was sent by a
25 sister agency, I think we at least need to

1 it's basically a pocket that's remaining of
2 something that was filled.

3 THE WITNESS (Gustafson): We
4 were specifically responding to an
5 interrogatory. It was Question 40 that only
6 had -- requested the evaluation of the
7 function of value was supported by Wetland
8 1 -- be provided. There was no reference to
9 Wetland 2. I guess we could have included it
10 in this analysis, but it's a fairly small
11 relic feature.

12 It has -- would support fairly
13 limited functions of values because of its
14 small size, proximity to Route 7, and its
15 historic disturbance around it.

16 DR. KLEMENS: Thank you.

17 THE WITNESS (Gustafson):
18 You're welcome.

19 DR. KLEMENS: Let's get onto
20 this NDDDB letter on Tab 4, please. I am
21 puzzled, as Mr. Perone brought up, and I'm
22 not a hundred percent satisfied with the
23 response received, that we have a letter from
24 the Natural Diversity Database from a
25 botanist stating that negative impacts to

1 have a discussion. I think all the rest of
2 it has been discussed, I think at this point,
3 other things.

4 Now let me -- let's move on to
5 some of the wetland issues. Today in the
6 field we -- I looked at Wetland Number 2.
7 And would you tell me if you think it's a
8 vernal pool or not?

9 THE WITNESS (Gustafson):
10 Based on our observations during the
11 delineation, as well as today's observations,
12 I would not consider that a viable vernal
13 pool habitat. It doesn't have enough
14 hydrology and watershed, and it's a fairly
15 small apparent relic feature that's been
16 disturbed by development along Kent Road and
17 then the -- the original development as
18 hydroplant.

19 DR. KLEMENS: I would tend to
20 agree. Is there a reason why -- I'm very
21 pleased to see you did a functions and
22 values. Is there a reason why you did
23 functions and of Wetland Number 1, which
24 we'll get to in a moment, and not this
25 wetland? Though, I agree it's a wetland,

1 federal and state endangered, threatened or
2 special-concern species are not anticipated.

3 Then we go look at the map,
4 the avian resources map which is also in Tab
5 4. And there are -- clearly you can see
6 where the stream buffers, which are much
7 narrower, but there apparently are, what they
8 call blobs, circular blobs that are making up
9 quite a bit of the area including the subject
10 parcel. North and south there are these
11 large circles which are blobs. And I don't
12 believe that it's all bald eagles that are
13 driving that either.

14 I know that there are a
15 variety of species that are found there, and
16 I don't know how we can sort of get a better
17 sense of what's going on there. We're
18 charged with balancing the environment
19 against the public need for cell service, but
20 I'm troubled by not really understanding
21 what's in that large area that looks like an
22 amalgamation of three or four circles, which
23 include the subject parcel.

24 THE WITNESS (Gustafson):
25 Unfortunately I -- I really can't provide you

1 an answer, only the fact that the information
2 that we provided the Natural Diversity
3 Database for a review request on this project
4 included both their attachments A and B,
5 which are essentially USGS and aerial
6 photography base maps with the facility
7 superimposed on it along with their buffered
8 habitat shown on it, as well as the detailed
9 site plans that were submitted to the
10 Council. So they had -- as well as
11 photographs of the -- the proposed project.

12 So they had -- we certainly
13 provided them with sufficient information to
14 evaluate potential impacts for the project
15 appropriately. I -- unfortunately, I'm not
16 privy to the detailed species, as -- as
17 you're aware of, what's behind these buffered
18 areas to provide any other type of assessment
19 other than to accept their letter at face
20 value.

21 DR. KLEMENS: It's actually
22 very troubling to see this letter, and I
23 understand what you're saying. And I also
24 realize I'm not allowed to put into the
25 record what I know is there, which I won't.

1 avian analysis for this particular project.
2 DR. KLEMENS: Can you tell me
3 how big this pipeline is and how many more
4 dockets I'm going to see before we're going
5 to get real field analysis of avian
6 resources?

7 THE WITNESS (Gustafson): You
8 may not see actual field analysis being
9 provided, but our recommendations and
10 analysis will be adjusted, and you will be
11 seeing that in upcoming dockets that have
12 already been filed by other applicants that
13 we are involved in.

14 DR. KLEMENS: Can you explain
15 what you just said, because I am completely
16 confused?

17 THE WITNESS (Gustafson):
18 Essentially, we have -- I have consulted with
19 the U.S. Fish and Wildlife Service, the New
20 England Field Office in Hadley,
21 Massachusetts, with respect to particularly
22 Item 8 of the U.S. Fish and Wildlife
23 Guidelines that you brought into question on
24 previous dockets. And that's regarding if
25 significant numbers of breeding, feeding or

1 But I am troubled by the
2 disconnect, and I just state it as that. And
3 maybe Mr. Hannon could take that back to the
4 DEP. I am very troubled by the letter and
5 the map, and there's a real disconnect, and
6 it's not bald eagles. And that's all I can
7 say about that.

8 Let's move on to the avian
9 resources. We had a discussion, I think it
10 was in Washington. We said it's --
11 eventually we're going to get beyond the
12 desktop analysis and get to real fieldwork on
13 these sites. I imagine this was one of
14 the -- that was one them that were in the
15 pipeline that you referred to. There were
16 several projects in the pipeline, and then
17 eventually we're going to start to see real
18 field analysis, rather than desktop analysis.
19 We had that discussion. Do you recall that
20 discussion in Washington?

21 THE WITNESS (Gustafson): I
22 do, and this -- and this project was already
23 under way before we were -- were able to
24 essentially adjust some of our analysis and
25 recommendations with respect to -- to this

1 roosting birds are known to use the proposed
2 tower construction, relocation to an
3 alternate site should be recommended.

4 So we -- I have had
5 discussions with their biologist, with their
6 migratory bird treaty folks to determine
7 what -- what their recommendations are with
8 respect to these type of projects. We were
9 impacting potential bird habitat, whether
10 it's forest species, you know, near tropical
11 or grassland species.

12 The recommendations that we
13 are going to be providing, and we could adopt
14 them for this particular project if there
15 is -- if there's an interest from the Council
16 with respect to this, is that to essentially
17 avoid the peak nesting period for birds,
18 which is recognized by the U.S. Fish and
19 Wildlife Services as April 15th through
20 July 15th, and that any tree clearing work
21 can be completed prior to April 15th.

22 If construction activities
23 should occur during the peak nesting
24 period -- and these things could be worked
25 out during the development management phase

1 of the project should the Council approve
2 this project. If tree clearing work shall be
3 completed prior to April 15th, or if they
4 hadn't been completed by April 15th and they
5 wanted to, essentially, stop construction
6 during that peak nesting period, April 15th
7 to July 15th, then an avian study should be
8 conducted to determine if breeding birds
9 would be disturbed by the -- the activities
10 for construction of that facility.

11 And if the avian -- if the
12 avian survey concludes that breeding birds
13 could -- would not be disturbed during --
14 because of the construction activities, then
15 the restriction from April 15th to July 15th
16 nesting period could be lifted at that point.

17 DR. KLEMENS: Thank you.
18 That's very helpful. Looking at the site
19 today, which we went out and looked at, and
20 there was definitely evidence that there's
21 bird use of the site, but it's also a very
22 disturbed area, would you consider that
23 particular site important for nesting for
24 birds?

25 THE WITNESS (Gustafson): In

1 could put page numbers on your report, it
2 would help me refer to it. I'm going to what
3 is the second page.

4 THE WITNESS (Gustafson): I
5 apologize for that. We'll make sure that we
6 get the page numbers.

7 DR. KLEMENS: Sure. No, it's
8 not a problem. It's just to make it easier
9 for me to ask you these questions.

10 Under critical habitat, you're
11 talking about the fly -- we do know that
12 Housatonic River Valley is a flyway.

13 THE WITNESS (Gustafson): Yes.
14 Yeah, and we've essentially identified that
15 in our analysis.

16 DR. KLEMENS: Correct. And we
17 have this whole discussion about the
18 riverside outcrop and New Milford riverside
19 outcrop. That's not -- the birds that are
20 moving through that, it's 400 feet west. I'm
21 a little bit, I guess, a little bit troubled
22 by some of these linear distances from
23 important bird areas.

24 We have oh point tenth of a
25 mile for one and 400 feet for another. I

1 my opinion, no. There's -- there is
2 certainly some -- there's a couple of snags
3 that are being utilized either as perching or
4 nesting cavities. Either a nesting cavity
5 species, you know, black cap chickadee, any
6 of the woodpecker species. There could be
7 some nesting utilization there, but it
8 doesn't appear to have a significant habitat
9 that's supporting a significant number of
10 feeding, breeding or roosting birds.

11 DR. KLEMENS: I would agree
12 with that having seen it. Having read, and
13 then looked at the site, it appears to be
14 quite marginal. I think what you're
15 suggesting would be very useful. For example
16 at a site -- where is it -- 440 in Colebrook
17 where there's a big, big chunk of forest
18 interior, I think this may be a very good
19 solution in a place like that, but I don't
20 believe I would recommend it on this
21 particular site because of the low quality.

22 THE WITNESS (Gustafson): I
23 would agree with that assessment.

24 DR. KLEMENS: If I could give
25 you another suggestion for the future, if you

1 mean, I don't think birds really are quite
2 that circumspect in how they're moving. So
3 maybe you could educate me a bit about that,
4 and how you've reached a determination of no
5 significance.

6 THE WITNESS (Gustafson):
7 Well, the -- the analysis that we were
8 providing is essentially showing a
9 relationship with the proposed facility to
10 some of these nearby resources that could
11 potentially provide significant bird activity
12 either through migration or habitat or
13 corridors.

14 Obviously, the Housatonic
15 River is -- is a critical habitat. We -- we
16 know that it's a bald eagle corridor. We go
17 through and in -- it will be the -- the
18 fourth page in after the bald eagle
19 survey routes and sites. We provide some
20 analysis with -- with the migration patterns
21 of bald eagles and -- and obviously provide
22 some -- some references to -- to previous
23 analysis of -- of their migration patterns
24 and behaviors. They are typically migrating
25 during the daytime taking advantage of

Page 70

1 thermals.
2 So the potential conflict with
3 a tower facility is -- it's not going to be
4 obscured either by nightfall or poor weather,
5 you know, if it's cloud cover or -- or
6 significant cloud cover or if it's raining,
7 or those type of effects. So because of that
8 we don't feel that there's going to be an
9 adverse impact to migrating bald eagles.
10 An addition what was not
11 really drawn out in here is that, because of
12 the proximity to the river, there's potential
13 for roosting habitat to be provided, because
14 we are -- we're 400, let's say, 400 feet
15 away, but we're still within kind of that
16 riparian corridor zone.
17 So for -- typically for
18 roosting habitat for eagles, they're going to
19 be looking at large perch trees next to open
20 water, which could include the mill pond
21 certainly. There's going to be fish. We
22 observed fish habitat in -- during our
23 delineation; however, we're not removing any
24 large specimen trees that could potentially
25 be used as perching with the proposed

Page 71

1 facility location.
2 DR. KLEMENS: I'm just sort of
3 grappling with the whole migratory bird
4 thing. And, on the third page of your
5 report, you start -- it looks like you have
6 the survey routes and these hawk watch sites,
7 and you're using distance from these survey
8 routes and hawk watch sites, the same
9 proposed facility. But aren't those just
10 areas where people are observing? It doesn't
11 mean that there are not hawks and other
12 critters in the sky. It's just that these
13 are areas where people are actually
14 observing, doing studies.
15 So I don't quite understand
16 the significance of saying we're X amount
17 away from this hawk watch site, or Y distance
18 away from another site, because these are
19 just human constructs for observation. And
20 could you try to explain that, because I'm
21 also grappling with that?
22 THE WITNESS (Gustafson): Yeah.
23 DR. KLEMENS: I'm really
24 grappling with it because this is a very
25 important bird area, the Housatonic River

Page 72

1 Valley.
2 THE WITNESS (Gustafson): So I
3 can -- I -- I don't disagree with your
4 assessment of -- of us identifying those
5 features. They certainly are just constructs
6 of our human observation of these species.
7 The reason why we include them in this
8 analysis is because they -- they can, they
9 don't always necessarily do, but they can
10 lead one to areas where there are potential
11 concentrations of these species or are known
12 flyways for these species. So --
13 DR. KLEMENS: Or
14 concentrations of birders?
15 THE WITNESS (Gustafson): Yes
16 concentration of birds, and people, too. But
17 it is -- it can be an indication of, you
18 know, there's a reason why people go
19 congregate to these -- sometimes to these
20 areas because they are a focus for either
21 migrating hawks or eagles. There's a higher
22 concentration in these areas. So that's --
23 that's why we -- it's -- that's why we
24 essentially compiled several different
25 resource data in here to try to at least get

Page 73

1 a general sense on whether there's a
2 particular issue or concern with siting a
3 facility in -- in a location.
4 This is certainly not an exact
5 science, and there's -- there's really no
6 well-defined analysis tools that have been
7 developed, either by the federal or state
8 government, to analyze impacts to migratory
9 birds. We've essentially assimilated this
10 with the assistance of other professionals,
11 with the U.S. Fish and Wildlife Service to
12 try to at least come to some type of
13 assessment tool to identify if it's -- if
14 it's a particular issue that should be
15 analyzed.
16 And it would essentially
17 relate to whether the construction of the
18 facility should be seasonally restricted or
19 not. Is it going to -- when you put it in an
20 area, is it until the, you know, birds become
21 acclimated to another vertical feature? Is
22 there a potential for bird strike?
23 And then also, you know, it
24 all relates to the points of the guidelines
25 from the U -- U.S. Fish and Wildlife Service

Page 74

1 whether it's going to result in a -- in a
2 significant impact to migratory birds. And
3 that really boils down to, you know, the --
4 the height of the facility. These are short
5 facilities.
6 It's, you know, certainly less
7 than 200 feet. It's 150 feet. It's not lit.
8 It's not guided. So those are some of the
9 major concerns with, you know, impacts on
10 migratory birds and -- and this facility does
11 not have those concerns.
12 DR. KLEMENS: So it's your
13 professional opinion that because it's a
14 relatively low tower, it's not lit, it's not
15 guyed, that even if there are birds migrating
16 through there, the incidents of bird tower
17 strikes is going to be minimal?
18 THE WITNESS (Gustafson): Yes.
19 DR. KLEMENS: Thank you.
20 Okay. Okay. That's enough on the birds.
21 I still think that I encourage
22 you to get out there and get real, real data
23 from these sites rather than these sort of --
24 we're getting in the right direction at least
25 with some of it, but to me there's nothing

Page 75

1 like site-specific data to really answer some
2 of these questions.
3 Let's talk about the response
4 to the interrogatories that were received on
5 March 7th, which has the wetland functions
6 and the values. Let's talk about that
7 wetland we saw there today. And let's look
8 at your evaluation, field office evaluation
9 form. Let's look at the summary table first.
10 Actually, I take that back.
11 Let's look at the field office wetland
12 function evaluation form. Under there, say,
13 do you consider this a created wetland, this
14 whole riprap channel impoundment?
15 THE WITNESS (Gustafson): Yes,
16 it's a man-made -- man-made feature. It
17 was -- it was intentionally created, you
18 know. It's a mile, essentially a mile-long
19 channel that was dug through bedrock, more or
20 less.
21 DR. KLEMENS: Yeah, but I
22 think you have an error on your -- you said
23 it was not a created wetland, and I believe
24 it is.
25 THE WITNESS (Gustafson):

Page 76

1 Yeah. I agree with that. That was -- that
2 was just a typographical error.
3 DR. KLEMENS: Let's look at a
4 few other things just to -- yeah. I'm a
5 little bit under the -- on the bottom of page
6 2 of 7, it says that this, the principal
7 function of this wetland watercourse is to
8 support healthy fish populations. That's a
9 principal function you have listed. It that
10 correct?
11 THE WITNESS (Gustafson): Yes.
12 DR. KLEMENS: Yeah. Do you
13 know what happens to the fish in that -- that
14 get into that area?
15 THE WITNESS (Gustafson):
16 Well, they probably go through the
17 hydroelectric facility.
18 DR. KLEMENS: And do you know
19 if they survive?
20 THE WITNESS (Gustafson): I --
21 I don't know if they survive or not.
22 DR. KLEMENS: Do you know if
23 they have screens on the turbines that catch
24 the fish and everything else? Are you aware
25 that?

Page 77

1 THE WITNESS (Gustafson): No.
2 DR. KLEMENS: So wouldn't you
3 maybe rather than calling this a great fish
4 wildlife habitat, maybe we should call this a
5 sink. That actually every fish that's in
6 there, unless they're eaten by the bald
7 eagles are probably going to get killed when
8 they get sucked through there.
9 THE WITNESS (Gustafson): Well
10 that, there may be a possibility. I mean, we
11 saw essentially fish swimming through that
12 area and both, you know, moving upstream and
13 downstream. So maybe not all the fish get
14 caught in there, but I don't disagree that
15 there's probably, you know, a fair amount of
16 mortality that's going on.
17 DR. KLEMENS: So, in fact, you
18 know, I would like you to consider that this
19 is really not a very great fisheries or
20 wetland habitat at all. It's a created.
21 It's created, blast out of bedrock, and most
22 of the wildlife that gets in their will end
23 up being killed. I'm just wondering.
24 And you ask on the page of
25 page number 5, is the wetland not fragmented

1 by development? I would say that you have
2 checked, no, but I would say it certainly is
3 fragmented because it goes up and down and
4 through a turbine and out the other end. And
5 I would say that's fragmented.

6 THE CHAIRPERSON: Mr. Ashton
7 has a question.

8 MR. ASHTON: You used the term
9 the "millpond." Do you mean the forebay up
10 at the top of the -- near where the tower is?
11 Is that what you're referring to?

12 THE WITNESS (Gustafson):
13 That's correct.

14 MR. ASHTON: Okay. I would
15 call it a forebay rather than a millpond,
16 just so we get the thing straight.

17 But I'm a little bit puzzled
18 by this draconian demise of the fish in that
19 channel. Fish live in streams all the time.
20 This is a relatively low velocity stream and
21 it goes for a mile. I can't reach a
22 conclusion that all fish are killed. I think
23 that's way beyond what our scope of the
24 investigation -- and the facts before us.

25 DR. KLEMENS: Well, let me try

1 with you. I don't believe there's anything.

2 MR. ASHTON: Why don't we move
3 on to something else?

4 DR. KLEMENS: Well, I was
5 almost finished, Phil. Actually, it was my
6 last question about that. So that's where
7 I'm actually -- Mr. Ashton and I have had the
8 discussion. I'm trying to establish that
9 actually that this is not, you know, we've
10 talked about the distance. This was the
11 initial question Mr. Perrone asked, how close
12 or how far away this tower is from this
13 wetland.

14 But given the fact that this
15 wetland is not even really -- is an
16 artificial construct, does it really matter?
17 And that was my final question.

18 THE WITNESS (Gustafson): Yeah,
19 and I don't disagree with you, Doc Klemens.
20 We were just providing, essentially for this
21 wetlands system, the principal and secondary
22 functions that it does support. And it does
23 support some of those functions. Whether
24 it's significant or not, whether it's a high
25 value or a low value, generally we tried to

1 to explain what I'm trying to establish. I'm
2 trying to establish that I think this
3 wetlands and functions analysis gives this
4 wetland far greater importance, ecological
5 importance than, in fact, it is, and that's
6 what I'm trying to establish. You know, it's
7 not --

8 MR. ASHTON: It is what it is.

9 DR. KLEMENS: It is, well, and
10 I think I've tried to be responsive in
11 wetlands and functions, and I think they are
12 going to be times when we're going to have
13 really important wetlands. It's kind of --
14 this particular one is a man-made or human
15 created wetland with limited ecological
16 function, in my opinion, and I think -- and
17 that's what -- I'm just trying to establish
18 that for the record.

19 MR. ASHTON: I hear that, but
20 I think also we have an obligation to find
21 out if the tower is going to have any effect
22 whatsoever on this wetland or non-wetland, as
23 the case may be. I'm not persuaded it
24 does.

25 DR. KLEMENS: Well, I agree

1 stay away from some of those subjective terms
2 and just tried to provide a construct of
3 those functions, values that we observed the
4 system performing.

5 DR. KLEMENS: Okay. That
6 basically is all my questions. Thank you,
7 Mr. Chairman.

8 THE CHAIRPERSON: Thank you.
9 Dr. Bell.

10 DR. BELL: Thank you,
11 Mr. Chair.

12 Mr. Libertine, just picking up
13 on one little detail of what you said so I
14 can be sure. On the first page of the visual
15 analysis down at the last sentence -- says,
16 the average tree canopy is estimated to be
17 approximately 65 feet. But I think that you
18 said, in the course of your earlier remarks
19 about one thing or another, that the average
20 tree canopy was 60 feet. And I think that
21 will show in the transcript, so I'm just
22 trying to get clear which it is.

23 THE WITNESS (Libertine):
24 Thank you. No, we use 65 feet here as an
25 average. Right. I misspoke earlier.

1 DR. BELL: Okay. Thanks.
2 Minor matter.
3 THE WITNESS (Libertine): No.
4 Thank you.
5 DR. BELL: In the information
6 about the configuration of the antenna
7 platform, in Question Number 42, which is in
8 the second responses to the second batch of
9 question and answers for the Council, you
10 explain why the platform has four sides,
11 which we know that the platforms usually have
12 three sides.
13 So I understand what is
14 written down on the page literally. It has
15 facts and figures, but I don't understand the
16 significance, and here's particularly why I
17 don't understand it. Because, in the past,
18 we've noticed that there have been square
19 platforms, and so we said, why is that? And
20 the answer we got from other sources was,
21 that square, in order to establish a coverage
22 pattern from the antenna that wouldn't
23 interfere with coverage patterns on the other
24 side of a state line.
25 Now this situation exactly

1 fits that explanation that we've heard in
2 other towers because it's right near the New
3 York State line. And you just can see by
4 common sense that maybe you would not want to
5 be orienting the, you know, sending your
6 antenna beams, have them arranged a little
7 differently so you don't run into the
8 coverage from the other side.
9 So I don't -- but without
10 going into that, I mean, that's an answer
11 where I at least understand the significance,
12 but I don't even get to that level of
13 understanding with the answer that's given
14 here. The only answer that's given here are
15 some facts and figures which I -- which
16 don't, as a layperson, which don't say
17 anything to me.
18 So could you at least give
19 some kind of answer that explains the
20 significance? Maybe it's not the answer I've
21 heard before, but you understand what I mean
22 about levels of answer?
23 THE WITNESS (Lawton): Yeah.
24 I think the best -- maybe the most -- so
25 the -- if you look at the answer, that what

1 we were saying about the azimuths of 160, 250
2 and 340 degrees, it's essentially 20 degrees
3 east of south, 20 degrees south of west and
4 20 degrees west of north.
5 So, basically, what we've done
6 in the design for the site is focus the
7 coverage of the site to the, basically the
8 western half of the area that would be
9 covered -- could potentially be covered by
10 the site. The reason for that is because, if
11 you look to the eastern side, there's not a
12 lot over there. And, in fact, there's some
13 hills that are going to block the site.
14 It's not something that we
15 would consider necessary to cover very well.
16 There doesn't seem to be any homes or roads
17 or anything, plus the site coverage will be
18 limited by the hill that's immediately behind
19 it there that we saw.
20 So once the site is designed
21 to cover, and in normal circumstances if you
22 could visualize a site that would be up on
23 top of a hill, it would be intended to cover
24 360 degrees, because there's nothing
25 obstructing the coverage. And there's

1 presumably something to cover in all
2 360 degrees that's considered to be useful.
3 So once we've identified what
4 we want to cover, we design the antenna
5 directions around that. And then once that's
6 done, I think, in this case, the site was
7 designed to support when you -- when you
8 create the platform you want to turn the
9 antennas with respect to the platform as
10 little as possible.
11 So in this case a square
12 platform allows you to -- yeah, you're -- the
13 160, 250 and 340-degree direct orientations
14 of the antennas are 90 degrees spaced apart.
15 So it fits nicely on a square rather than a
16 triangle.
17 DR. BELL: Okay.
18 THE CHAIRPERSON: Mr. Lynch, I
19 think, had a question.
20 MR. LYNCH: Can I just follow
21 up on Dr. Bell's question? As far as your
22 cellular coverage, I understand that you're
23 like a five iron from New York. Are you on
24 the same coverage band for that, on the New
25 York side of the border as you are on the

1 Connecticut side of the border?
2 THE WITNESS (Lawton): I do
3 not believe that AT -- well, there's a number
4 of bands. You know, there's 700. There's
5 850. I don't know --

6 MR. LYNCH: I'm talking
7 cellular 850 and 1900. I know there's
8 different frequency bands for your franchise.

9 THE WITNESS (Lawton): Yes, I
10 believe the 850 bands are on the same.
11 There's two 850 licenses. There was the old
12 wireline and non-wireline, and I believe AT&T
13 is on the same half of the 850 band in
14 Connecticut and New York.

15 MR. LYNCH: Thank you.
16 Because I know in some in Massachusetts and
17 Rhode Island they're different. So thank
18 you.

19 Thank you, Dr. Bell.

20 DR. BELL: In other dockets,
21 in several other dockets we're usually told
22 that coverage for, let's say, 800 and 700 is
23 roughly similar, 850 to 750 something like
24 that. Whereas -- and that 1900 is more like
25 2100 than it is like 800 or 700. Is that a

1 of thresholds for the two different
2 technologies. So what AT&T defines as
3 acceptable coverage for LTE is at a lower
4 signal level, even on the 1900 band, than
5 what AT&T would consider acceptable coverage
6 for UMTS.

7 I may have lost you.

8 DR. BELL: No. Actually
9 you're kind of two-steps ahead of me. I am
10 kind of going in that direction, but we'll
11 just try to do it more simply.

12 There's a table on page --
13 well, it's Answer Number 46, which is on the
14 second bunch of interrogatories. And if you
15 just look at this table you're trying --
16 you're showing the coverage gaps for
17 cellular, PCS and LTE. So we'll just start
18 with the major road, Kent Road. And we see
19 that there's a gap of 585 for the cellular
20 frequency on Kent Road. Then we see there's,
21 at PCS frequency, there's a larger gap,
22 10.69, which that, that fits the assumption
23 that we're operating with. But then we go to
24 LTE which we think should be, since it's a
25 700 frequency, should be comparable to what

1 pretty good rule of thumb, would you say?

2 THE WITNESS (Lawton): In
3 general, yes. You know, it's a -- it's a --
4 the best way to describe it is, yes, that
5 the -- the higher the frequency, the less the
6 coverage on. In general, double the
7 frequency gives half the coverage. Again,
8 that doesn't necessarily -- that doesn't --
9 that's a -- sort of on a flat-earth scenario.
10 That doesn't take into account terrain,
11 trees, clutter, that sort of thing. So, yes.

12 DR. BELL: Okay. So I'm
13 trying to understand. So that's going to be
14 a kind of a basic assumption. And I
15 understand you could have variants, but you
16 have to start in this business with some
17 assumptions. Right?

18 THE WITNESS (Lawton): And I
19 think I know where you're going here, about
20 the different areas of coverage. And what
21 you have to look at in addition to the band
22 is also the -- the threshold.

23 AT&T, when they look at -- and
24 the -- and the best way to highlight that is
25 the 1900 band. There are two different sets

1 we saw for cellular. So we're thinking
2 five miles, something like that.

3 But now we have a very small
4 gap for the LTE. In fact, it's so small that
5 it's just startling. And compared to
6 ten miles for PCS, plus 11 miles, let's say,
7 and we have less than a mile at a lower
8 frequency. So that is my immediate question,
9 and that's going to lead to another question.
10 But is your answer to my immediate question
11 then, as I understand it, your previous
12 answer, which has to do now with the
13 different thresholds?

14 THE WITNESS (Lawton): That's
15 correct, yes. And, in fact, if you look at
16 historically when we've been looking at UMTS
17 coverage, you'll see on the -- in the initial
18 filing for this, because the initial filing
19 for this, this site was done with a UMTS
20 analysis. And you can see the thresholds
21 that we used for both 850 and 1900 coverage
22 on UMTS are negative 74 dBm and negative 82
23 dBm.

24 What -- if you look at the
25 plots that we provided in response to the

1 first set -- or second set of
2 interrogatories, which is the table that
3 you're looking at, the legend shows that
4 the -- the thresholds we look at for LTE are
5 negative 83 dBm and negative 93 dBm.
6 So you've got to --
7 basically the -- if you're going to compare
8 something, what you would compare, sort of,
9 similar analysiswise would be the -- the
10 weaker coverage in the initial filing and the
11 stronger level of coverage in the secondary,
12 in the responsive filing.
13 DR. BELL: Okay. Now we're
14 exactly where I want to be. Because my very
15 limited gray matter up here, with no training
16 here, tried to look at Senator Murphy's
17 question about, how good would the Evans Hill
18 site be?
19 And when I first looked at
20 that, I took a look at the map that you
21 provided to the municipality, to Sherman
22 about the Evans Hill coverage, and then I
23 looked at the map in the application. And I
24 saw that actually the Evans Hill map, just as
25 he said, looked -- appeared to give pretty

1 good coverage north of your site, and it
2 actually gave coverage over to the east, to
3 the north. But the trouble with that was
4 that there aren't very many people over
5 there.
6 And then I could -- so I could
7 see, I thought. I could see clearly why you
8 rejected it, but at the same time, I was in
9 Senator Murphy's camp, because I thought you
10 might have two solutions, not two towers.
11 But use the Evans Hill site for Route 7,
12 which wouldn't get to the southern part so
13 much, but it would take you farther along to
14 the north. And considering how important
15 Route 7 is, why would you care? I mean, you
16 know, and for a crude point of view, you've
17 got to cover Route 7, so you might as well
18 get it covered to the north if you could with
19 the Evans Hill site, which Sherman appears to
20 want for public safety reasons.
21 And then you could devise
22 another solution, maybe a microcell type of
23 solution to get at the obvious problem to the
24 east. But -- now okay. So that -- I was
25 cranking that through, and I was kind of

1 where Senator Murphy was. Then I looked at
2 these maps that you just referred to, which
3 were supplied to us because Mr. Perrone asked
4 you to supply maps showing the other types,
5 the LTE coverage and the 1900 coverage.
6 And when I looked at those
7 maps, I saw exactly what you said. First of
8 all, they had different thresholds.
9 Following the principle that you announced in
10 one of your other answers to the questions so
11 I could understand, but now I had nothing to
12 compare because I had a completely different
13 threshold, and I didn't know where to go with
14 it, because I don't know as much as you know,
15 but you just said to me about where to look.
16 Plus those maps are different
17 scales, which I can kind of deal with, but
18 they were so different. And then those maps
19 also showed something so different from what
20 was shown in the existing coverage map in the
21 application. And now I try to compare
22 existing coverage on those new maps you
23 supplied. There are green areas all over the
24 place. For instance, in the new maps you
25 supplied, which didn't exist at all in the

1 existing coverage map in the application.
2 And now the only place I'm
3 going is not to challenge your model, because
4 I could quickly see, you know, I forgot all
5 about Evans Hill. My mind was just now
6 totally confused because those maps are
7 starting with such different parameters,
8 shall we say.
9 And with all due respect, I
10 know that, you know, the application came in
11 a long time ago, and you had to make some
12 maps for the application and now you've been
13 evolving your analysis, but I think it's fair
14 to say that this is the first application
15 that we've had to deal with in which we have
16 this new threshold concept that Mr. Perrone
17 answered -- asked you about and you answered
18 and I understand it.
19 And I understood it in your
20 responses to the questions, but this is the
21 first time we've had to deal with it. So
22 this is the first time that we've had to deal
23 with coverage maps that reflect those new
24 thresholds. And so it's -- this is a tough
25 one.

1 THE WITNESS (Lawton): Yeah.
2 I understand. I understand, and I apologize
3 for the confusion. I think the way we have
4 to look at it when we, as AT&T engineers,
5 when we look at the network, the best way to
6 sort of divide up all the different --
7 because you have different bands, you have
8 different technologies, you have different
9 thresholds, you have different equipment that
10 drives those different thresholds.

11 And the best way to kind of
12 look at it from a -- to try to simplify it so
13 that you can understand it is, really what
14 AT&T has, if you look at it functionally, is
15 not one network. It's several different
16 networks operating on different technologies,
17 on different frequencies.

18 So, for example, you have a
19 700 megahertz LTE network and you really --
20 if you're going to look at a plot or look at
21 an area of coverage, you have to also add --
22 in the past it was easy because there were
23 less frequencies. It was easier to get a
24 grasp on whether there was coverage, whether
25 there wasn't coverage.

1 Now we have -- because it's
2 sort of an evolutionary phase where it's
3 going from one technology to another
4 technology, we're adding an additional
5 frequency band for service on a new
6 technology. It -- from a network design
7 perspective, what an AT&T engineer has to do
8 is they have to look at each band and make
9 sure that service is provided on each band
10 individually, and it's a layer approach.
11 There may be some sites where the coverage is
12 not needed. This is probably not one of
13 them, but where the coverage isn't needed, at
14 700 megahertz.

15 If we refer back to -- the
16 best example I can think of is New London.
17 The -- the light standards next to the school
18 there, we didn't do 700 megahertz plots there
19 because we weren't asked to. Had we done
20 700 megahertz plots, we'd be showing you that
21 there is no hole at 700 megahertz for that
22 site to cover. And that doesn't mean that
23 there's no need for that site. That just
24 means that there's no need for that site to
25 provide coverage at 700 megahertz LTE.

1 So what we have to explain to
2 you is that that site is needed, as we tried
3 to explain in that proceeding, that that site
4 is needed to provide coverage at
5 800 megahertz. It's also needed to provide
6 coverage at 1900 megahertz, which is what
7 AT&T needs to do in order to serve their
8 customers.

9 They can't serve -- it would
10 be -- if we turned back the clock 20 years
11 and we think about the way these networks
12 evolved, it was -- they maybe had -- I
13 don't -- when AT&T started in Connecticut
14 there were probably 30 sites, maybe less.
15 And they had 800 megahertz service, and they
16 covered as much area as they could.

17 They purchased the
18 1900 megahertz frequencies. Now they've
19 purchased some 700 megahertz frequencies and
20 additionally the WCS frequencies. And they
21 need to be able to use all of those
22 frequencies to serve all the customers.

23 DR. BELL: I'm understanding
24 what you're saying. What I think what I'm
25 saying is that earlier you gave Senator

1 Murphy an answer to his question, which you
2 know what you said.

3 If one were to try and find
4 evidence for what you said, and the coverage
5 maps and these tables are what you give us in
6 terms of evidence. And honestly, the tables,
7 maybe other people's minds work a little
8 differently than mine does. I'm sure they
9 do, but to me the tables are always more
10 difficult to cope with than the maps. So I
11 go to the maps, and I try and look at that.

12 There is not evidence in what
13 you said, for what you said in the maps.

14 THE WITNESS (Lawton):
15 Specifically -- I'm sorry. Specifically
16 referring to Evans Hill Road?

17 DR. BELL: That the Evans Hill
18 site would not -- that it provides coverage
19 to the east of Route 7 and to -- actually to
20 the east of your proposed site, which is
21 already a little bit east.

22 You said that since that's the
23 case there would be this shadowing effect so
24 that you could not operate, you could not
25 cover, you could not run a coverage -- or

1 run -- you cannot put in antennas that would
2 cover the residential or the settled area
3 that you're trying to cover to the southeast
4 of the site, because that would be kind of
5 overshadowed by the Evans Hill coverage
6 coming in.

7 Now, I don't -- you can't --
8 he was trying to use the map of Evans Hill
9 that you provided early on in the process.

10 And it has the same thresholds as the
11 existing coverage that you provided in the
12 application from the site. And that map
13 doesn't show coverage far to the east in the
14 southern portion. It shows coverage to the
15 east in the northern portion, but not in the
16 southern portion.

17 But it is at least comparable
18 to the map in the application of the coverage
19 from the existing site so that it's somewhat
20 apples to apples because it has the same
21 thresholds and it's the same technology.

22 My point is that, so you can
23 make a comparison, but with the new maps
24 which show green every which way, it's
25 impossible to understand them adequately and

1 that would be to provide a plot for Evans
2 Hill Road that would be at the thresholds and
3 the frequencies that we provided in the
4 interrogatory response. That would probably
5 help fill out the picture, I think, to help
6 further the understanding of why that -- that
7 doesn't work.

8 And, in fact, the other -- to
9 your point about scales and zooming and that
10 sort of thing, I mean, obviously this map
11 is -- we zoomed in to -- to provide a plot
12 that was similar in -- and could be compared
13 directly to the previous plots. But when you
14 change thresholds and when you change the
15 frequencies, the coverage changes, and so
16 this is sort of really ultimately half a
17 plot.

18 Because there's area -- this
19 is black and white, too. I'm sorry. There
20 there's area that would be green and yellow
21 that would be much larger than that. So
22 you're not really getting a full picture of
23 all the coverage of this site and the
24 neighbor sites at 700 megahertz, which might
25 help you understand that a little more.

1 compare them adequately unless you're a
2 trained person and know what the different
3 technologies are that you're showing.

4 That's why I'm saying there's
5 no evidence. There is evidence. There are
6 new maps, but it's impossible to interpret
7 those maps unless you have a specialized
8 understanding, because we don't have the
9 comparable ones in the original application
10 and because the maps are not labeled in a
11 manner that allows you to interpret them
12 without knowing what the labels are, the
13 correct --

14 THE WITNESS (Lawton): Yeah.
15 I think one way we can address that, we
16 provided for Evans Hill Road, we provided --
17 the plots that we provided were, as you say,
18 correlated to the plots that were in the
19 original application. We did not provide
20 plots for Evans Hill Road that should be
21 looked at in the context with the ones that
22 were provided on the site we're discussing
23 today in our responsive -- in our response to
24 the second set of interrogatories.

25 So maybe the best approach for

1 I think maybe those are two
2 things that we can provide as exhibits, late
3 file or, you know, within the next couple of
4 days. Some additional -- and I don't know
5 how we -- what the process for that would be,
6 but some additional plots that might help you
7 understand how that works.

8 And to highlight the point
9 that I was making in response to Senator
10 Murphy maybe was a little different than what
11 you're used to hearing in that it wasn't
12 necessarily sort of a, how does this site
13 provide coverage to this, to the area of
14 need? My concern is that the -- that the
15 Evans Hill Road site provides coverage to an
16 area not of need.

17 And you wouldn't see it
18 necessarily on something at this zoom level
19 because it's -- it's not really shown, but if
20 you look at where the existing sites are in
21 this part of New Milford, farther south than
22 what we're talking about are proposed site
23 here, there's -- there's a site just to the
24 west of here -- I'm sorry, to the east of
25 here and there's another one a little farther

1 up on the hill that are providing coverage
2 very well into the center of New Milford
3 here. The Evans Hill Road site would provide
4 coverage as well into this area, which --
5 which is not necessary or useful coverage.
6 And it would be a problem in terms of that
7 site providing coverage beyond an existing
8 site.

9 Typically, if you look at the
10 way the sites are designed, it's not -- it's
11 not useful. It's not good design standard to
12 have a tall site and a short site next to
13 each other because the tall site will cover
14 to the east or -- hypothetically to the east
15 and to the west of that short site. And the
16 way that the technology is, the LTE
17 technology, the UMTS technology work, that's
18 something that becomes very difficult to
19 support, a call or a usage session that goes
20 from the tall site to the short site and then
21 needs to go back to the tall site because
22 there it's not longer -- we're no longer
23 using different frequencies at different
24 sites.

25 It's the same frequency. It's

1 two of the proposed level spreaders are
2 outside the easement area. And I didn't see
3 anything in the lease that allows you to deal
4 with any type of maintenance on those types
5 of activities. So can you please explain how
6 those would be maintained?

7 THE WITNESS (Rocheville): By
8 the way, I'm Harry Rocheville. I'm filling
9 in for Carlo.

10 So those level spreaders, just
11 gravel, gravel drainage structures. Convert
12 the concentrated flow to sheet flow to not
13 provide any erosion down -- down the grass
14 hill there that we saw out in the field.

15 That easement is for access
16 and utility easement.

17 MR. HANNON: Right. And
18 looking through the lease I didn't see
19 anything that allows you to do work outside
20 the lease area, and that's sort of my
21 question on it.

22 Because the level spreaders
23 are -- I think all of them are proposed to be
24 outside of the easement area. So I just want
25 to make sure that, if you're putting in these

1 Sprint's spectrum technology. So it's no
2 longer -- it's not as easy to support a
3 different, I guess what we used to call them
4 were hierarchical cells, and it's no longer
5 -- the network is no longer set up to
6 efficiently support that.

7 It's probably a little more in
8 depth an explanation than maybe I wanted to
9 get into about why Evans Hill Road didn't
10 work. It would probably be better to just
11 show some plots which we can provide and,
12 hopefully, that will make the point clear and
13 evident for everyone.

14 DR. BELL: Okay. End of
15 questions.

16 Thank you, Mr. Chairman.

17 THE CHAIRPERSON: Okay,
18 Mr. Hannon. We'll postpone our dinner for a
19 few more minutes.

20 MR. HANNON: Thank you,
21 Mr. Chairman. I've got a few questions I
22 just want to get some clarification on. One
23 is in dealing with the access drive.

24 My understanding, it's like a
25 20-foot right of way, but it looks as though

1 structures, there's something there which
2 would allow them to be maintained so they
3 actually do what they're supposed to do.

4 MS. CHIOCCHIO: Mr. Hannon, I
5 can confirm that we would be able to maintain
6 that within our lease area, and if that
7 needed to be adjusted, we would provide that
8 to the Council.

9 MR. HANNON: Okay. Thank you.

10 Another question just -- and I
11 don't know if there's an answer on this or
12 not. Page 11 talks about the electric and
13 telephone utilities with the extending
14 underground. That's fine. But is anybody
15 taking a look as to which side of the road?
16 I mean, again just quickly looking at this,
17 my suggestion would be, if you haven't, they
18 should really go on the south side of the
19 road to be able to stay away from level
20 spreaders that are going in on the northern
21 side of the road.

22 I just don't think you want to
23 put any type of utilities in under some of
24 the other drainage structures that may be
25 going. It's just a little bit safer. And if

1 you have to do work, you don't have to go
2 rebuild them.
3 I have another question. This
4 is on page 15, and it's based on a couple of
5 responses that were given. And this has to
6 do with coverage in the Gaylordsville area.
7 This is under the New Milford plan of
8 conservation and development. The statement
9 is the New Milford community ambulance
10 identified the need to improve communication
11 services. But that it says -- it
12 specifically submitted AT&T proposed facility
13 will address an important need for reliable
14 wire services identified in the plan for the
15 Gaylordsville community.
16 But I thought I'd been hearing
17 things that that is not the case. And I
18 guess the church location is what would be
19 better to provide services in the
20 Gaylordsville community. So I'm a little
21 confused in terms of what this really means.
22 THE WITNESS (Lawton): The
23 church location is not currently in AT&T's
24 build plan. That was something that I
25 noticed today as I was driving up there. I

1 noticed that the -- the coverage in AT&T's
2 network on my phone was quite poor from
3 basically not very far from where we turned
4 the corner when you -- once you go over the
5 bridge out of New Milford, or out of New
6 Milford proper, turn the corner, go North on
7 Route 7.
8 Wasn't quite far there where
9 my phone, the service was degraded. I
10 noticed that it was poor through
11 Gaylordsville proper and all the way up to
12 the site, and in fact, well beyond the site
13 along Route 7.
14 And the plots show that the
15 area in Gaylordsville -- and I don't know if
16 it's -- I don't know how to describe it
17 really, but the more populated part of
18 Gaylordsville down by the fire station and
19 the church, is not as strong, obviously, as
20 it is farther to the north. And I suggested
21 the church as something that AT&T, if they
22 felt they needed to improve coverage in that
23 area, might come back in a few years and
24 investigate whether it was a viable site to
25 improve coverage to the southern part of

1 Gaylordsville.
2 MR. HANNON: Okay. Because
3 ultimately and what my question comes down to
4 is when Senator Murphy was bringing it out
5 earlier, is one, you know, would the Town be
6 able to work with AT&T to get services here?
7 And I think, based on what it's saying here,
8 is this will be providing reliable wireless
9 services, but I'm not sure that that's
10 totally accurate. It sounds like there's a
11 need for an additional facility to really
12 address the Gaylord area.
13 THE WITNESS (Lawton): Well,
14 there's -- you're asking two questions. I
15 think that the town emergency networks going
16 on the tower, physically locating there,
17 their antennas and radio equipment at the
18 tower was what Alex replied to and said, yes,
19 that AT&T would allow them to do that.
20 The coverage footprint that
21 the Town would realize from this tower on
22 their emergency service frequencies, using
23 their emergency service equipment would be
24 very different from what AT&T would -- would
25 realize from the same tower.

1 And I don't have -- I don't
2 know what the Town uses in terms of spectrum
3 equipment or what they would want to use,
4 should they want to go on the tower. So I
5 can't say whether adding antennas on this
6 site for the Town's communication, the Town's
7 emergency communication, I can't say whether
8 that would provide coverage in Gaylordsville.
9 The second question is whether
10 AT&T would provide coverage in Gaylordsville.
11 And yes, the site would absolutely improve
12 coverage to Gaylordsville all the way down
13 Route 7. Would it improve it enough to
14 provide a high level of data service
15 throughout Gaylordsville should the people in
16 that area demand a high level of service?
17 That's maybe a question for the future that
18 AT&T might want to address with a smaller
19 cell to augment the coverage along Route 7 in
20 that area.
21 MR. HANNON: Okay. My
22 question or concern was just with the
23 statement that AT&T's application is
24 basically going to address an important need.
25 So I was just -- I wasn't quite certain that

1 that was legit because of the comments we
2 received earlier, but thank you for your
3 answers.
4 I have nothing else.
5 THE CHAIRPERSON: Commissioner
6 Caron.
7 COMMISSIONER CARON:
8 Mr. Chairman, my curiosity has been well
9 satisfied, so I have no questions.
10 THE CHAIRPERSON: Mr. Ashton.
11 MR. ASHTON: Okay. A couple
12 of quick ones. I noticed in the Diagram C1
13 in the -- what's the date on this thing? I
14 guess it's March, late March filing -- you
15 indicated that FirstLight owns 260 --
16 168 acres. Is that only in New Milford or
17 does that include Kent?
18 It looks like the property
19 line that you show across the top is actually
20 the town line. My recollection is there's a
21 lot of property that goes along the canal
22 that probably is not included. Is that fair
23 to say?
24 THE WITNESS (Rocheville):
25 Yes, the property line and town line are

1 actually the same line, so the property line
2 runs --
3 MR. ASHTON: Yeah, but
4 FirstLight owns all the land going up
5 approximately a mile north up to where the
6 headwaters of the Bull's Bridge Pond are.
7 THE WITNESS (Rocheville):
8 Right.
9 MR. ASHTON: So that property
10 line is really the town line, and it's the
11 property line for New Milford, but I think it
12 extends beyond that.
13 THE WITNESS (Rocheville):
14 Yes, that's correct. And here on C1 it
15 actually has the -- that FirstLight owns the
16 map block Lot 621.
17 MR. ASHTON: Yeah. Okay. We
18 had discussion of the view from the trail to
19 this. I want to be sure that we get on the
20 record what is the distance, Mr. Libertine,
21 approximately? Is it about one mile, as I
22 recall?
23 THE WITNESS (Libertine): Yes,
24 the nearest location that we've predicted any
25 visibility along the Appalachian Trail would

1 be about one mile to the northwest.
2 MR. ASHTON: So this is a
3 pretty distant view. Isn't it?
4 THE WITNESS (Libertine): If
5 at all, yes. And it's in the valley floor.
6 So again, you're at the river level.
7 MR. ASHTON: And do we -- if
8 we were going to put bushes up along the
9 trail or something to block it, we'd have to
10 find out who the property owner is and get
11 the property owner's permission. Isn't that
12 right?
13 THE WITNESS (Libertine): That
14 would be another challenge, absolutely.
15 MR. ASHTON: Okay. So it's
16 not a foregone conclusion that you could put
17 bushes up there or screening if you wanted
18 to.
19 THE WITNESS (Libertine):
20 You're right. Yes, I would agree with that.
21 MR. ASHTON: Photos 2, 3 and 4
22 were taken near the forebay structure, the
23 headgate on Route 7. They look to me as
24 though they were almost taken from halfway up
25 the bank. Is that fair to say?

1 THE WITNESS (Libertine):
2 Well, they were certainly taken on the
3 property itself. That, as you know, is a
4 very, very tough corner in terms of
5 visibility, and it was a little dangerous.
6 So, yes, we kept --
7 MR. ASHTON: Would anybody in
8 their right mind be looking at the tower as
9 they clipped by that forebay structure on
10 Route 7 at something like 50 miles an hour?
11 THE WITNESS (Libertine): I --
12 I think that would be highly unlikely.
13 Again, we kept a 50-millimeter lens and
14 that's why it does look like you're right on
15 top of it. Quite honestly, there's not a lot
16 of viewpoints associated with this, so we
17 were trying to give as many as we could.
18 MR. ASHTON: Isn't it fair to
19 say this is more academic than practical?
20 THE WITNESS (Libertine):
21 Absolutely. Yes, I would agree with that.
22 MR. ASHTON: Okay. Now, there
23 is some visibility along Route 7.
24 THE WITNESS (Libertine): Yes,
25 there is.

1 MR. ASHTON: And as you go
2 North on 7 from the forebay and gate
3 structure, 7 drops down. Is that fair to
4 say? Not a steep grade, but a down grade.
5 THE WITNESS (Libertine): No,
6 it does. Yes, correct. Yes.
7 MR. ASHTON: And so, insofar
8 as the proposed tower is proximate to 7, it
9 is visible, more visible. Is that fair? If
10 you move the tower closer from where it's
11 proposed, you move it closer to 7, it would
12 be a little more visible, wouldn't it?
13 THE WITNESS (Libertine): I
14 believe then it would become more prominent,
15 yes.
16 MR. ASHTON: Okay. My
17 question to you is, how about kicking the
18 tower back another hundred feet? The woods
19 are scrub. There's nothing there that's
20 prized forestry or anything like that. Why
21 not kick the tower back a little bit and get
22 it so it's even further from 7? Wouldn't
23 that reduce the visibility?
24 THE WITNESS (Libertine): It
25 certainly would from that immediately area.

1 And quite honestly, the access road that
2 exists today goes along the canal. So
3 instead of where we're now veering off into
4 the woods, you could actually follow that
5 further into the property and kind of curl
6 back in to avoid having to go through the
7 woods and make a cut into that little bit of
8 a slope.
9 But I would just point out one
10 of the things I looked at was that very issue
11 from a visibility standpoint. And the major
12 "visibility," if that's the right word, the
13 most prominent views are really north of the
14 site along Route 7 coming southbound. And
15 what I found was that it's a very narrow
16 corridor where you're looking. Moving that
17 tower a hundred, 150 feet farther to the
18 north on the property would literally
19 shift -- if you looked at Photo Simulation
20 Number 1, it would still be in the viewscape.
21 Now, I agree with you when
22 you're in front of the property when we're
23 looking at views 2 and 3. Absolutely,
24 pushing it further off would make it almost
25 nearly invisible from that area, because

1 again, it would be such a severe angle and up
2 look that nobody passing by there would
3 really have an opportunity to see it.
4 MR. ASHTON: If they did,
5 they're suicidal.
6 THE WITNESS (Libertine):
7 Right. And it would also certainly help give
8 some distance. Photo Number 4, which is
9 along Grove Road, is another prominent view.
10 It's a very short stretch, but it is across
11 from, really, the only the residence that has
12 a direct line of sight to it.
13 What you're suggesting would
14 certainly potentially be an improvement in
15 terms of pushing that back at least a further
16 distance from that.
17 MR. ASHTON: I'm not talking
18 about pushing it back so far it affects
19 propagation.
20 THE WITNESS (Libertine):
21 Well, that's the only other thing we'd have
22 to balance out. Again, there --
23 MR. ASHTON: A hundred feet is
24 not going to change the propagation, I don't
25 think.

1 If you look at Photo 1, you
2 noticed that Route 7 curves to the right as
3 you go down the hill.
4 THE WITNESS (Libertine):
5 Correct.
6 MR. ASHTON: While it might be
7 more visible, quote/quote, if you kicked it
8 in the foreground of Photo 1, wouldn't it be
9 more likely to disappear a bit as you got
10 down the bottom of the hill in that little
11 curve?
12 THE WITNESS (Libertine): Yes,
13 I don't think it would be an appreciable
14 difference. I just wanted to point out that
15 we wouldn't be eliminate -- that's a --
16 that's a very short stretch, but you're
17 absolutely right. As you -- as you go down
18 the road southbound that tower decreases on
19 the skyline, and then you lose it essentially
20 where those cars are approaching that corner
21 in the photo. It falls out of view from
22 there and would no matter if we moved it 200
23 feet one way or the other.
24 MR. ASHTON: Okay. So that's
25 in the realm of the reasonable?

1 THE WITNESS (Libertine):
2 Absolutely, from my perspective.
3 Again, I have to defer to RF.
4 I know that that's a narrow corridor they're
5 trying to shoot up and down 7, so I -- I'm
6 not saying it couldn't work. I just would
7 want to make sure that's something --
8 MR. ASHTON: Is a hundred feet
9 going to break you?
10 THE WITNESS (Lawton): I don't
11 think so.
12 MR. ASHTON: Let's go on.
13 Brown poles, my favorite
14 subject. About a mile south of this forebay
15 and gate structure, the 345 kV line from
16 Frost Bridge to New York -- or from Plum Tree
17 to New York -- crosses, the West side of the
18 river, there's a three-pole heavy angle
19 structure. Are you aware of that?
20 THE WITNESS (Libertine): Yes.
21 MR. ASHTON: That's a brown
22 stick.
23 THE WITNESS (Libertine):
24 Yes, correct.
25 MR. ASHTON: That's -- I'm

1 just providing it is a guide.
2 THE WITNESS (Libertine):
3 Right.
4 MR. ASHTON: I'm not mandating
5 you go look at it any more, but --
6 THE WITNESS (Libertine):
7 That's natural rusting, and I know one RF
8 engineer in the past brought up a
9 concern about interference. So that's why I
10 always go with painted so that I make friends
11 with the RF folks.
12 MR. ASHTON: Yeah. Just one
13 other little housekeeping item. In the
14 letter that Ms. Bachman sent to parties and
15 intervenors with the land trust and Upper
16 Housatonic National Heritage Area map, my
17 copy, at least, did not label the heritage
18 area. I assume that is the heritage area.
19 Is that correct?
20 THE WITNESS (Libertine):
21 That's correct, all those towns within that
22 green outline.
23 MR. ASHTON: Okay. So we're
24 talking about the map that shows the New York
25 border from roughly upper New Milford all the

1 way up to about Adams, Massachusetts, is the
2 heritage area. Okay. I just want to get it
3 on the record.
4 THE WITNESS (Libertine): Yes,
5 and it includes nine Connecticut towns and 20
6 towns in Mass.
7 MR. ASHTON: Another question
8 on the roadway. As I looked at that, it
9 doesn't show much signs of washing, and I
10 don't know whether there's maintenance that's
11 done on it, but I'm inclined to suspect there
12 is not, because I noticed it was oil in parts
13 of it, and the oil road had broken up, but it
14 was still -- the base seemed intact.
15 I'd like, when we get into a D
16 and M plan, assuming this gets approved, that
17 you do some borings on that road, because I'm
18 not sure you're going to need much in the way
19 of any traprock or gravel on it. Gravel is a
20 mixture of stone and fines. And insofar as
21 we've washed the fines out of this surface
22 already, I'm not sure that adding gravel on
23 top is going to help the situation, but I'd
24 like a little more careful review of that
25 done.

1 And finally, my last question
2 is that, as I looked, stood on the site, or
3 stood facing the site with my back to the
4 forebay and gate structure, and then walked
5 up, I noticed there was some cylindrical
6 egg-shaped objects up there, blue and white.
7 Is there a rare bird up there that goes by
8 the name of bush or something like that?
9 THE WITNESS (Libertine):
10 You've got me.
11 MR. ASHTON: That's enough.
12 Thank you, Mr. Chairman.
13 THE CHAIRPERSON: Mr. Lynch.
14 MR. LYNCH: My questions can
15 wait until after lunch if you want -- I mean,
16 after dinner.
17 THE CHAIRPERSON: It
18 depends on how --
19 MR. LYNCH: Not many. Do you
20 want me to continue?
21 THE CHAIRPERSON: It depends.
22 MR. LYNCH: It's not the
23 questions. It's the answers.
24 THE CHAIRPERSON: Yeah. Go
25 ahead. Go ahead. Well, that's up to them.

1 They can -- may be more succinct in some of
2 their responses here.

3 MR. LYNCH: My first question
4 is that you have a 150-foot pole and your
5 centerline is 146. And usually we've seen it
6 at 147. Is there any reason why it's a foot
7 lower?

8 THE WITNESS (Lawton): The
9 antennas are 8 feet instead of 6 feet.

10 MR. LYNCH: Okay. That was
11 simple enough. And the other question I
12 have, it says you have once a month
13 maintenance of the facility. And for the
14 first time it says for approximately, I see
15 one hour. What are they doing for that hour?

16 THE WITNESS (Murshteyn): To
17 my knowledge, the facilities are very low
18 maintenance. I'm allowed to look into what
19 is done during that hour.

20 THE WITNESS (Libertine): I
21 can speak to -- I've been on several sites
22 with the carriers where we've been doing
23 other work and they've showed up. And
24 they're typically just checking. There's
25 computer banks inside that will speak to the

1 relay information. So they'll be taking data
2 from that and just making sure that
3 everything is more or less -- unless there's
4 a specific issue that's been raised and
5 they're going out there for a true, what I'll
6 call, O and M operation, where they have to
7 go -- normally it's just a matter of -- and
8 I'm not sure it's a full hour. I've been on
9 sites where they've been in and out in 12
10 minutes. So -- and most of it was BS'g
11 outside having a cigarette. So I think it's
12 just -- it's a matter of really what's, you
13 know, what the issue is at the moment. But I
14 think routine is just to make sure that
15 things will work.

16 MR. LYNCH: That's where I was
17 getting at. Routine, I don't think would
18 take an hour, but you know.

19 THE WITNESS (Libertine):
20 Typically not, not in my experience.

21 MR. LYNCH: Whatever. I had
22 to ask.

23 And in Question Number 5 of
24 the first set of interrogatories, it says no
25 blasting on the site. If blasting has to be

1 done for some reason, will you give notice to
2 that one neighbor and to people coming down
3 Route 7 that blasting may occur?

4 THE WITNESS (Rocheville): Yes.

5 MR. LYNCH: And,
6 Mr. Libertine, you and I have talked about
7 fire towers and lockout towers for years.
8 Maybe someday we'll get to one.

9 THE WITNESS (Libertine): I'm
10 hopeful, and I'm not giving up until we get
11 at least one. We got the water tank, which I
12 know wasn't a favorite for everybody, but it
13 was for SHPO. We at least -- we got one
14 person who was happy with it.

15 MR. LYNCH: And as far as the
16 Town going on a tower, even though now I'm
17 assuming that they're not going after it. Is
18 that correct? They're not going on the
19 tower, the Town?

20 THE WITNESS (Murshteyn): They
21 have not expressed interest.

22 MR. LYNCH: If they do and
23 they need backup power, as you do if
24 something happens to the site, it goes down,
25 can they hook into your emergency generator?

1 THE WITNESS (Murshteyn): The
2 emergency generator, as proposed, is
3 currently for AT&T's exclusive use.

4 MR. LYNCH: For now.

5 THE WITNESS (Murshteyn): We
6 -- however we're glad to accommodate space
7 within the compound for any future users to
8 employ, to bring in and deploy a shared
9 generator.

10 MR. LYNCH: Get used to that
11 question. It will come up a lot.

12 As in regard to Question
13 Number 31, which has to do with my favorite
14 subject, fuel cells for backup power. And I
15 have to admit you're getting very good,
16 because the answer gets longer and longer and
17 longer as you try to answer the question.
18 But I still think it falls a little short,
19 you know, but -- and, you know, someday we'll
20 look at a fuel cell, and you'll probably find
21 out that it's much better for your backup
22 power than generated by -- a generator that
23 runs on diesel or propane.

24 MR. ASHTON: There's natural
25 gas in New Milford.

1 MR. LYNCH: And natural gas,
2 but that will power the fuel cell. And I had
3 a few other questions, but I think -- oh, no.
4 One other question for Mr. Lawton.
5 Do you ever have some type of
6 communication or conference with your R and D
7 people and your marketing people as to how
8 your network is going to work, because you're
9 not always on the same page?
10 THE WITNESS (Lawton): R and D
11 and network do talk. I'm not sure that
12 marketing and network talk very much.
13 MR. LYNCH: Therein lies the
14 problem. All right.
15 Thank you very much,
16 Mr. Chairman.
17 THE CHAIRPERSON: Okay. We're
18 going to recess until 7:00 p.m., at which
19 time we'll reconvene for the public session.
20 (Whereupon, the witnesses were
21 excused, and the above proceedings were
22 adjourned at 5:20 p.m.)
23
24
25

1 CERTIFICATE
2 I hereby certify that the foregoing 127
3 pages are a complete and accurate
4 computer-aided transcription of my original
5 verbatim notes taken of the Council Meeting
6 in Re: DOCKET NO. 444, APPLICATION FROM NEW
7 CINGULAR WIRELESS PCS, LLC, FOR A CERTIFICATE
8 OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC
9 NEED FOR THE CONSTRUCTION, MAINTENANCE, AND
10 OPERATION OF A TELECOMMUNICATIONS FACILITY
11 LOCATED AT FIRSTLIGHT HYDRO GENERATING
12 COMPANY PROPERTY, NEW MILFORD TAX ASSESSOR
13 MAP 83, LOT 4, KENT ROAD, NEW MILFORD,
14 CONNECTICUT, which was held before ROBERT
15 STEIN, Chairperson, at the Roger Sherman Town
16 Hall, E. Paul Martin Room, 10 Main Street,
17 New Milford, Connecticut, on April 1, 2014.
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25

Robert G. Dixon, CVR-M 857
Court Reporter
UNITED REPORTERS, INC.
90 Brainard Road, Suite 103
Hartford, Connecticut 06114

1 I N D E X
2 WITNESSES MICHAEL LAWTON
3 MICHAEL LIBERTINE
4 DEAN GUSTAFSON
5 ALEX MURSHTEYN
6 CARLOS F. CENTORE
7 HARRY M. ROCHEVILLE, JR. - Page 7
8 EXAMINATION
9 Mr. Perrone Page 11
10 EXHIBITS
11 (Admitted into evidence.)
12 EXHIBIT DESCRIPTION PAGE
13 II-B-1 Applicant Municipal 10
14 Consultation with the Town
15 of Sherman including:
16
17 II-B-1a Letter from Christopher B. 10
18 Fisher, Esq., to First Selectman
19 Clay Cope of the Town of Sherman,
20 November 11, 2013
21 II-B-1b Letter from Christopher B. 10
22 Fisher, Esq., to First Selectman
23 Clay Cope of the Town Sherman
24 December 11, 2013
25
26 II-B-1c Letter from Christopher B. 10
27 Fisher, Esq., to First Selectman
28 Clay Cope of the Town of Sherman,
29 January 7, 2014
30 II-B-1d Letter from Lucia Chiochio, 10
31 Esq., to Siting Council Acting
32 Executive Director Melanie Bachman,
33 January 17, 2014
34
35 II-B-2 Application for a Certificate 10
36 of Environmental Compatibility and
37 Public Need filed by New Cingular
38 Wireless PCS, LLC, deemed complete
39 February 11, 2014
40
41 II-B-2a Section 1-plan of Conservation 10
42 and Development, Town of New
43 Milford, Connecticut, adopted
44 July 6, 2010, effective
45 August 6, 2010

1 I N D E X (Cont'd.)
2 EXHIBIT DESCRIPTION PAGE
3 II-B-2b Section 2-Zoning Regulations, 10
4 Town of New Milford, Connecticut,
5 adopted December 1971, amended as
6 of June 10, 2013
7
8 II-B-2c Section 3-Zoning Map, 10
9 March 1995
10 II-B-2d Section 4-Inland Wetlands and 10
11 Watercourse Regulations, Town of
12 New Milford, Connecticut, adopted
13 October 31, 1988, effective
14 March 6, 2010
15 II-B-2e Technical Report 10
16 II-B-3 Applicant Responses to 10
17 Interrogatories, Set One,
18 March 7, 2014
19 II-B-4 Affidavit of sign posting, 10
20 March 20, 2014
21
22 II-B-5 Applicant Responses to 10
23 Interrogatories, Set Two,
24 March 25, 2014
25
26 II-B-6 Updated Drawings, 10
27 March 25, 2014
28 II-B-7 Prefiled Statement of Facts 10
29 Lieu of Direct Testimony,
30 March 25, 2014
31 II-B-8 Affidavit of Publication, 10
32 March 26, 2014
33
34 II-B-9 Resumes: 10
35
36 II-B-9a Michael Libertine 10
37
38 II-8-9b Dean Gustafson 10
39
40 II-8-9c Carlo F. Centore 10
41
42 II-8-9d Alex Murshteyn 10

	INDEX (Cont'd.)	
	EXHIBIT	DESCRIPTION PAGE
1		
2	II-8-9f	Harry M. Rocheville, Jr. 10
3	II-8-10	Public Hearing Presentation, 10 April 1, 2014
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		