



Jesse A. Langer
(t) 203.786.8317
(f) 203.772.2037
jlanger@uks.com

LEED Green Associate

April 16, 2015

***VIA FEDERAL EXPRESS AND
ELECTRONIC MAIL***

Ms. Melanie A. Bachman, Esq., Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06501

Re: Docket No. 454 – Application by Tower Holdings, LLC for A Certificate of Environmental Compatibility and Public Need for A Telecommunications Facility at 199 Brickyard Road, Farmington, Connecticut

Dear Attorney Bachman:

This office represents Tower Holdings, LLC (“Tower Holdings”), the applicant in the above-captioned docket. In accordance with § 16-50j-12 of the Regulations of Connecticut State Agencies, I have enclosed an original and fifteen (15) copies of Tower Holdings’ post-hearing brief and proposed findings of fact.

If you have any questions concerning these filings, please do not hesitate to contact me.

Very truly yours,

Jesse A. Langer

Enclosures

cc: *Service List (via regular mail and electronic mail)*

STATE OF CONNECTICUT SITING COUNCIL

APPLICATION BY TOWER HOLDINGS, LLC
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPABILITY AND PUBLIC NEED FOR THE
CONSTRUCTION, MAINTENANCE AND OPERATION
OF A WIRELESS TELECOMMUNICATIONS
FACILITY LOCATED AT 199 BRICKYARD ROAD,
FARMINGTON, CT

DOCKET 454

April 16, 2015

APPLICANT'S PROPOSED FINDINGS OF FACT

The Applicant, Tower Holdings, LLC, ("Tower Holdings"), respectfully submits the following proposed findings of fact in accordance with § 16-50j-31 of the Regulations of Connecticut State Agencies.

Introduction

1. On November 7, 2014, Tower Holdings filed an application for Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a 180 foot lattice telecommunications facility at 199 Brickyard Road, Farmington, Connecticut ("Facility") with the Connecticut Siting Council ("Council") in accordance with General Statutes § 16-50g *et seq.* and § 16-50j-1 *et seq.* of the Regulations of Connecticut State Agencies ("Application"). (*Tower Holdings Hearing Exhibit 1, p. 1.*)¹

2. Tower Holdings is a limited liability company organized under the laws of the State of Connecticut. It has a business address of 199 Brickyard Road, Farmington, Connecticut, which is designated as Lots 3A and 3B on Map 25 and 26 by the Town of Farmington Assessor ("Property"). (*TH Ex. 1, p. 3.*)

3. The parties in this proceeding are Tower Holdings and the Town of Farmington ("Town"). New Cingular Wireless PCS, LLC ("AT&T") is an intevenor in this proceeding. AT&T would locate its panel antenna array on the Facility at approximately 140 feet above grade level ("AGL"). (*TH Ex. 1, pp. 1, 5, 12; TH Ex. 1, Ats. 1, 5; Council Decision on AT&T Intervenor Request; Council Decision on the Town's Party Request.*)

4. Tower Holdings received an assignment of the AT&T lease concerning the Facility from the owner of the Property, Farmington River Properties, LLC ("FRP"). (*TH Ex. 1, At. 21; TH Ex. 11.*)

¹ For the Council's convenience, all subsequent references to Tower Holdings' Hearing Exhibits shall be made as "TH Ex. _." All references to attachments to the Application shall be made as "TH Ex. 1, At._." All references to AT&T's Hearing Exhibits shall be made as "AT&T Ex. _"; and all references to the Town's Hearing Exhibits shall be made as "Farm. Ex. _."

5. Tower Holdings published notice of its intent to file this Application on two separate occasions in the *Hartford Courant* in accordance with § 16-50l(b). (*TH Ex. 1, p. 4; TH Ex. 1, At. 3.*)

6 Pursuant to General Statutes § 16-50l(b), Tower Holdings sent notices to each person appearing of record as the owner of real property abutting the Property. Tower Holdings received confirmation that all abutting property owners received said notice. (*TH Ex. 1, p. 4; TH Ex. 1, At. 4; TH Ex. 3, p. 1.*)

7. Tower Holdings provided notice to all municipal, regional, State and Federal agencies and officials. (*TH Ex. 1, p. 4; TH Ex. 1, At. 2; TH Ex. 2.*)

8 On January 22, 2015, Tower Holdings installed a four-foot by six-foot sign in proximity to the entrance to the Property. The sign presented information regarding the proposed Facility and the Council's public hearing. (*TH Ex. 5.*)

9 On February 3, 2015, Tower Holdings conducted a balloon float, with a balloon four feet in diameter, at a height of 180 feet AGL, at the site of the proposed Facility from 7:00a.m. to 4:00p.m. The balloon float line was flagged at 140 feet to represent the proposed location of AT&T's antenna array. The weather conditions were generally favorable for a balloon float. (*Hearing Procedure Memorandum; February 3, 2015 3:00p.m. Hearing Transcript [2.3.15 Tr.], pp. 28-29.*)

10. On February 3, 2015, beginning at 2:00p.m., the Council and its staff conducted a field review of the site of the proposed Facility located in the eastern portion of the Property. (*Hearing Notice.*)

11. Pursuant to General Statutes § 16-50m, on February 3, 2015, the Council, after giving due notice thereof, held a public hearing, beginning at 3:00p.m., and continued with the public comment session at 7:00p.m., at the Farmington Town Hall, Council Chambers, 1 Monteith Drive, Farmington, Connecticut. (*Hearing Notice; 2.3.15 Tr., p. 1.*)

12. The Council closed the public comment session of the hearing on February 3, 2015, and continued the evidentiary portion of the hearing to March 17, 2015. (*Hearing Notice; 2.3.15 Tr., p. 1; Continuation of Evidentiary Hearing Memorandum; March 17, 2015 Hearing Transcript [3.17.15 Tr.], p. 1.*)

State Agency Comments

13. Pursuant to General Statutes § 16-50j(g), on November 26, 2014 and December 23, 2014, the Connecticut Department of Transportation ("DOT") and the Connecticut Department of Public Health ("DPH") submitted comments on the Application, respectively. (*Record.*)

14. The DOT responded that it had no comments. (*Record.*)

15. The Drinking Water Section of the DPH indicated that it believed that the Facility would be located within the “Aquifer Protection Area of the Connecticut Water Company – Unionville” and offered several recommendations to protect that source of public drinking water. *(Record.)*

Municipal Consultation

16. On February 10, 2014, Tower Holdings notified the Town of Farmington (“Town”) of its intent to file the Application in accordance with General Statutes § 16-50l(g)(1). Tower Holdings submitted a Technical Report to the Town, invited the Town to hold a public information meeting and requested that the Town provide Tower Holdings with any alternative sites for consideration, including municipal parcels in accordance with General Statutes § 16-50l(g)(2) and (3). *(TH Ex. 1, p. 25; TH Ex. 1, At. 20; 3.17.15 Tr., pp. 296-98.)*

17. Tower Holdings would provide space on the Facility for the Town’s emergency communications services for no compensation. Tower Holdings communicated with the Town’s emergency service providers and learned that the Town was not currently interested in locating its equipment on the Facility. Tower Holdings also communicated with the Town of Avon’s emergency service providers and learned that they were not currently interested in locating their equipment on the Facility at this time. *(TH Ex. 1, p. 12; TH Ex. 10; 2.3.15 Tr., p. 119.)*

18. At the request of the Town, Tower Holdings conducted a public informational meeting on April 15, 2014. Tower Holdings also conducted a second public informational meeting on July 15, 2015. Both meetings were sparsely attended. *(TH Ex. 1, p. 25; TH Ex. 1, At. 20; 2.3.15 Tr., pp. 32-33.)*

19. The Town did not offer any alternative sites for consideration within thirty days of its receipt of the Technical Report. The Town did not offer any alternative sites for consideration until the continued hearing on March 17, 2015. The alternative suggested by the Town was municipal owned property closer to residential areas. *(3.17.15 Tr., pp. 295-98.)*

Public Need for Coverage

20. In amending the Communications Act of 1934 with the Telecommunications Act of 1996, the United States Congress recognized the important public need for high quality telecommunications services throughout the United States. The purpose of the Telecommunications Act of 1996 (“Act”) was to “provide for a competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans.” H.R. Conf. Rep. No. 104-458, 206, 104th Cong., Sess. 1 (1996). *(TH Ex. 1, p. 5; Council Admin Notice Item No. 4.)*

21. The Act preserved state and local authority over the siting of telecommunications facilities. 47 U.S.C. § 332(c)(7)(A). *(TH Ex. 1, p. 5; Council Admin Notice Item No. 4.)*

22. The Act limited the authority of those state and local agencies so they cannot unreasonably discriminate among providers of functionally equivalent services, or prohibit or have the effect of prohibiting the provision of wireless services. 47 U.S.C. § 332(c)(7)(B)(I) and (II). (*TH Ex. 1, p. 5; Council Admin Notice Item No. 4.*)

23. State and local authorities cannot promulgate legal requirements that prohibit or have the effect of prohibiting the provision of wireless services. State and local authorities also cannot regulate or deny an application for the “placement, construction, and modification of [telecommunications facilities] on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communication Commission’s] regulations governing such emissions.” 47 U.S.C. § 332(c)(7)(B)(iv). (*TH Ex. 1, p. 5; Council Admin Notice Item No. 4.*)

24. To help provide the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999, 47 U.S.C. § 615 *et seq.* (“WCPSA”). The purpose of the WCPSA was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (*TH Ex. 1, pp. 9-10; Council Admin Notice Item No. 6.*)

25. As an outgrowth of the WCPSA, the Federal Communications Commission (“FCC”) mandated that wireless carriers provide enhanced 911 services (“E911”) as part of their communications networks. (*TH Ex. 1, p. 10; Council Admin Notice Item No. 7.*)

AT&T’s Coverage Gap

26. There is a gap in AT&T’s coverage in the vicinity of the intersection of Brickyard Road and Harris Road, as well as Wildwood Road, along with the nearby areas in the north-central portions of the Town. (*TH Ex. 1, pp 5-6; TH Ex. 1, At. 5; AT&T Exs. 2 – 4, 6; 12; 3.17.15 Tr., pp. 249-52.*)

27. An antenna panel array at approximately 140 feet AGL would allow AT&T to meet its coverage objectives. (*TH Ex. 1, pp 5-6; TH Ex. 1, At. 5; AT&T Exs. 2 – 4; 12; 3.17.15 Tr., pp. 249-52.*)

28. AT&T needs the Facility, in conjunction with other existing telecommunications facilities in the Town and in the Town of Avon, to provide reliable services to the public. (*TH Ex. 1, pp. 5-6; TH Ex. 1, At. 5; AT&T Exs. 2- 4, 6.*)

29. AT&T can locate its equipment on lattice structures as well as other structures. From a radio frequency perspective, the key factors are height and location. The nature of the construction and design of the structure is of no consequence. (*3.17.15 Tr., pp. 262.*)

Coverage Needs of other Communications Providers

30. The Facility would also host other communications equipment, including: (1) Dunning Sand & Gravel (“Dunning”); (2) Marcus Communications, LLC (“Marcus”); and (3) radio station “Soft Rock” 106.5 WBMW (“WBMW”). (*TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10.*)

31. Marcus is a trunked (two-way) radio network operator in Connecticut, providing services to emergency service providers and other important service providers that promote public safety, such as Probation Officers for all of Connecticut, the Capitol Region of Governments Command posts, regional bomb squads, AETNA ambulance, Ambulance Service of Manchester, Hunters Ambulance Service and others. (*TH Ex. 11.*)

32. The Facility would serve as a capacity site for Marcus, allowing Marcus to off load radio signals in the Farmington area from Marcus’ site in Avon to the Facility. (*TH Ex. 11; 3.17.15 Tr., 212-13.*)

33. WBMW is a radio station that services eastern Connecticut and parts of Rhode Island. WBMW would need a location at the top of the Facility as proposed in the Application. (*TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10; 3.17.15 Tr., p. 213.*)

34. Dunning provides sand, gravel and other landscaping materials to businesses and residents throughout the community. Dunning also provides trucking services, which require communication between the trucks and Dunning’s headquarters located adjacent to the Property. (*TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10.*)

35. Dunning has communications equipment supporting its operations located on its property, which is adjacent to the Property. The communications equipment is located on a structure approximately fifty feet AGL. The current height does not allow Dunning to communicate effectively with its trucks. Height is important for the type of coverage Dunning needs to communicate effectively. Dunning would relocate its equipment to the Facility at any height above fifty feet AGL. (*TH Ex. 1, p. 9; TH Ex. 1, At. 10; TH Ex. 3; 3.17.15 Tr., pp. 211-12.*)

Northeast Towers, Inc.

36. Tower Holdings is affiliated with Northeast Towers, Inc. (“NET”), a Connecticut corporation, which is headquartered at 199 Brickyard Road in Farmington, Connecticut. (*TH Ex. 1, p. 6.*)

37. NET was established in 1981 and, since that time, has constructed, modified, reinforced, maintained and decommissioned towers of all types, including broadcast towers, telecommunications facilities, rooftop installations, water tank installations, silos, billboards and smokestacks. NET is experienced with a variety of towers including lattice structures, broadcast towers, monopoles, guyed towers and stealth towers. (*TH Ex. 1, pp.6-7; 2.3.15 Tr., p. 22; 3.17.15 Tr., p. 235.*)

38. NET has grown into a premier tower construction company in the northeast (and nationally for broadcast towers) and prides itself on providing extensive training and certification programs for its employees, including continued training on an on-going basis. (*TH Ex. 1, p. 6.*)

Tower Training

39. To further NET's goals of developing and maintaining well-trained employees and ensuring overall safety, Tower Holdings has proposed a lattice tower that would host the antennas of various wireless carriers and facilitate training. (*TH Ex. 1, p. 6; 2.3.15 Tr., pp. 17, 23, 102; 3.17.15 Tr., pp. 199.*)

40. The proposed Facility, would enable NET to teach its employees on site, in a controlled environment, about new technologies and equipment as they enter the market, and promote safe, efficient and timely installation and repair of towers. (*TH Ex. 1, p. 6; TH Ex. 9; 2.3.15 Tr., p. 56; 3.17.15 Tr., pp 199, 209, 217, 243.*)

41. NET has a designated safety officer and holds weekly safety meetings. NET has approximately thirty-six employees that are climbing towers or related structures on a daily basis. (*TH Ex. 1, p. 6; 3.17.15 Tr., p 199.*)

42. For short periods of time, the Facility would host temporary non-operational equipment in connection with NET's training activities ("Training Equipment"). (*TH Ex. 1, p. 7; 2.3.15 Tr., pp. 20, 95; 3.17.15 Tr., pp. 188, 192.*)

43. The Training Equipment would include the following: (1) a satellite dish; (2) an omnidirectional TV antenna flush mounted to the Facility; (3) two-bay FM antenna flush mounted to the Facility; and (4) an approximately sixty foot (eighteen inch diameter) lattice gin pole. (*TH Ex. 1, p. 7; TH Ex. 1, At. 6.*)

44. The training would also incorporate the use of a gin pole, which is a rigid pole with a pulley or hook used to lift objects and is commonly used for tower construction, maintenance and repair. (*TH Ex. 1, p. 6; TH Ex. 9.*)

45. The Training Equipment may change from time to time based upon technological innovation within the communications industry. (*TH Ex. 1, p. 7.*)

46. Some of the Training Equipment would be located below AT&T's antennas. (*TH Ex. 1, p. 7; TH Ex. 1, At. 1.*)

47. The Training Equipment would not interfere in any way with AT&T's antennas or those of any future carrier. The training would occur around AT&T's antennas and the arrays of future carriers, which further simulates real work conditions. (*TH Ex. 1, p. 7; 2.3.15 Tr., p. 20; 3.17.15 Tr., pp. 189-90.*)

48. NET would limit its training activities to those months in which leaf-on conditions persist, and during the working week (Monday through Friday) and normal business hours. (*TH Ex. 1, p. 6; TH Ex. 10; 2.3.15 Tr., p. 32; 3.17.15 Tr., p. 188.*)

49. Aside from the camouflage offered by leaf-on conditions, training is facilitated more easily during the warmer weather months, when there is less wind. (*2.3.15 Tr., pp. 31-32.*)

50. NET would like to instruct four to six trainees per course, with four courses offered each year. This would result in the training of approximately sixteen to twenty-four persons a year. (*TH Ex. 10.*)

51. The trainees would learn to install, maintain and remove one antenna per class. Ideally, each antenna would be mounted to the Facility for an approximate one week period. The training would include, among other things, proper climbing techniques, handling the hardware necessary to mount an antenna, using a compass and setting the azimuth required for a particular antenna system. (*TH Ex. 1, p. 6; TH Ex. 10; 2.3.15 Tr., p. 120.*)

52. The Training Equipment would not be permanently affixed to the Facility and each type of Training Equipment could be up for approximately one to two working days. (*2.3.15 Tr., pp. 95-96, 100; 3.17.15 Tr., p. 189.*)

53. The use of gin poles is pivotal to the construction, maintenance and repair of the type of towers serviced by NET. (*TH Ex. 1, p. 7; TH Ex. 9; 2.3.15 Tr., pp. 52-57, 115-16.*)

54. NET could use a gin pole smaller than sixty feet for training purposes. (*2.3.15 Tr., p. 19.*)

55. The necessary training time associated with the gin pole would be approximately one day. (*2.3.15 Tr., p. 96.*)

56. NET could also limit its training activities with respect to gin poles between May and August annually. (*3.17.15 Tr., p. 188.*)

57. NET would not use the Facility to train other private companies, businesses or enterprises. Should Tower Holdings and/or NET decide to pursue the option of training private third parties on the Facility, they would obtain any and all permits necessary under applicable local, State and Federal laws. (*TH Ex. 10.*)

Need for Tower Training and Public Safety

58. The United States Congress has passed several acts to further deployment of emergency services and to encourage the construction and operation of seamless and reliable networks, including the WCPSA and the Enhanced 911 Act of 2004, 47 U.S.C. § 942 *et seq.* ("911 Act"). (*TH Ex. 11; Council Admin. Notice Nos. 6-7.*)

59. The Congress made several findings in support of the WCPSA, one of which was “improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce” 47 U.S.C. § 615(a)(4). “The purpose of the Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communication needs.” 47 U.S.C. § 615(b). (*TH Ex. 11; Council Admin. Notice No. 6.*)

60. Among other findings associated with the 911 Act, the Congress found that “enhanced 911 is a high national priority and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communications services.” 47 U.S.C. § 942(4). (*TH Ex. 11; Council Admin. Notice No. 7.*)

61. Like other states, Connecticut implements the policies set forth in the WCPSA and the 911 Act. The Department of Emergency Services and Public Protection oversees a broad range of public safety services, including Enhanced 911 services and emergency management. Chapter 517 of the General Statutes. (*TH Ex. 11; Council Admin. Notice Nos. 43-45.*)

62. The Council also plays a pivotal role in implementing the aforementioned federal policies through the siting of “facilities.” An important component of the Council’s charge is to ensure that a proposed “facility” furthers the policies of the State and the Federal Governments, particularly the public health and safety. General Statutes § 16-50p(a)(3)(A) and (B) requires the Council to consider, among other factors, the public need for the “facility,” basis for that need and whether the proposed “facility” conflicts with the environmental and public health and safety policies of the State. (*TH Ex. 1, p. 1; TH Ex. 11.*)

63. Connecticut’s policy to avoid the unnecessary proliferation of towers requires the Council to ensure that telecommunications providers share facilities “whenever technically, legally, environmentally and economically feasible, and whenever such sharing meets public safety concerns” General Statutes § 16-50aa(a). (*TH Ex. 1, p. 12; TH Ex. 11.*)

64. In furtherance of this policy the Council requires applicants to make space available on their “facilities” for municipal public safety equipment at no charge to the host municipality. (*Council Dockets generally; Council Admin. Notice Nos. 25-26.*)

65. In Docket No. 391 – Old Lyme, T-Mobile Northeast, Inc. (“T-Mobile”) filed an application for a 100 foot AGL telecommunications facility. The initial proposal increased to 110 feet AGL to remedy the coverage needs of AT&T, which the Council ultimately approved. The Council also required T-Mobile to install the facility so that it could be expandable to 160 feet AGL. The Council included this condition because the Town of Old Lyme had requested that the facility be approved at 160 feet AGL to accommodate a future upgrade of its municipal equipment. The Council found that the fifty feet of additional height “would be prudent on behalf of public safety, and will order a tower with the capability for such expansion.” (*Council Admin Notice No. 25.*)

66. In Docket No. 421 - Trumbull, T-Mobile filed an application for a 150 foot AGL "facility." The height was driven not by T-Mobile's need, but by the Town of Trumbull's desire to locate its upgraded emergency communications system at the top of the facility. The Town was in a preliminary study phase and the emergency communications upgrade was contingent upon funding sources not yet available. The Council decided that "[i]n order not to impede any future upgrades to the Town's emergency communication system, [it] will require that the facility be capable of supporting an extension." (*Council Admin Notice No. 26.*)

67. The tower industry is experiencing a transition back to the use of gin poles and lifting poles to make alterations to top mounted cell systems and for the installation or de-stacking of towers taller than 250 feet AGL. (*TH Ex. 9.*)

68. Aside from the general transition of the tower industry back to the use of gin poles and lifting poles, the tower industry anticipates that the somewhat recent mandate by the FCC requiring television stations to relocate to different channels will necessitate a significant use of gin poles as most of the television antennas to be relocated are located on very tall lattice towers. (*TH Ex. 9.*)

69. The FCC mandated change-out is scheduled to start in late 2016 and will likely last several years. (*TH Ex. 9.*)

70. In 2013, the National Association of Tower Erectors ("NATE") met and developed industry guidelines for gin pole training, which were published in January 2014. (*TH Ex. 9; 2.3.15 Tr., pp. 52-57.*)

71. Those involved in the construction, maintenance and repair of telecommunications towers are now required to, among other things, demonstrate proficiency in assembling and inspecting a gin pole system, verifying satisfactory tower and ground anchorages and performing adequate load tests prior to lifting a gin pole. (*TH Ex. 9; 2.3.15 Tr., pp. 52-57.*)

72. Currently, the tower industry often has to perform on-the-job training because of the lack of available training facilities. Most tower owners are reluctant to allow training on their facilities because of the increased exposure to liability. (*TH Ex. 9; 2.3.15 Tr., pp. 52, 115-16; 3.17.15 Tr., pp. 242-43.*)

73. It is essential that individuals training to construct, maintain and repair telecommunications towers do so in a controlled environment, with a formal training program. The lack of a controlled environment for training raises workplace safety and liability concerns. (*TH Ex. 9; 2.3.15 Tr., p. 56; 3.17.15 Tr., pp. 199, 209, 217, 243.*)

74. The Facility would be used to train individuals on competent tower climbing and rescue techniques. (*TH Ex. 9; 2.3.15 Tr., pp. 50, 105, 120.*)

75. The publication of the NATE gin pole guidelines will likely require controlled training facilities. (*TH Ex. 9; 2.3.15 Tr., p. 55.*)

76. To date, there is only one known facility designated for gin pole training, which is located in Indiana. (3.17.15 Tr., pp. 195-96.)

77. Since 2003, the tower industry has suffered approximately 128 fatalities, with half of those involving some kind of lifting device. In the last year and half, there have been three fatalities associated with the use of a gin pole. (TH Ex. 9; 2.3.15 Tr., pp. 53, 56; 3.17.15 Tr., p. 198.)

78. Tower Holdings and NET would make the Facility available for the training of those local municipal first responders who work on towers or related structures. NET would provide competent climbing and rescue training at no cost to the municipal employees of Farmington and the surrounding municipalities of Avon, Canton and Simsbury. (TH Ex. 1, pp. 7-8; TH Ex.10; 2.3.15 Tr., p. 105.)

79. NET would provide training to these municipal employees over the course of one business day, twice a year. The training would consist of some classroom instruction and time on the Facility. Each municipal employee training session would likely cover a standard business day and would occur during the leaf on months. (TH Ex. 10, 2.3.15 pp. 106-07.)

80. The Facility as proposed would benefit the public interest and promote public safety, in part, because it would provide important training to NET employees whom construct, install, maintain, repair and decommission broadcast towers, as well as other towers, and their appurtenances. (TH Exs. 9-10; 2.3.15 Tr., pp. 50, 52-57, 105-07, 120; 3.17.15 Tr., pp. 195-96, 198-99, 209, 217, 242-43.)

81. The Town does not consider the training that NET would perform on the proposed Facility to be "needless" as set forth in pre-filed testimony of the Town Manager, Kathleen Eagen. (3.17.15 Tr., pp.276-78.)

82. The Town's Plan & Zoning Commission ("Commission") does not regulate the training of employees generally. (3.17.15 Tr., pp. 290-91.)

83. The Commission might regulate the training of NET's employees if NET wished to pursue a training school for private businesses. (3.17.15 Tr., p. 291.)

84. NET would utilize the Facility to train its employees on proper tower climbing and tower construction, repair and maintenance. (TH Ex. 1, pp. 6-7; TH Exs. 9-10; 2.3.15 Tr., pp. 17-19.)

85. NET does not presently intend to use the Facility as a training school and does not intend to train private businesses. Should NET decide to do so in the future, it would seek all applicable local, State and federal permits. (TH Ex. 10.)

86. There would be no added risk to the public if the Council approved the Facility as proposed. (3.17.15 Tr., p. 225, 235-36.)

The Need for a Lattice Structure

87. Broadcast towers are typically of lattice design. (*TH Ex. 1, p. 7; 3.17.15 Tr., p. 235.*)

88. Approximately 80 percent of the structures NET works on are of a lattice design. NET performs some of its work on lattice structures over 1000 feet AGL and up to 2000 feet AGL. (*TH Ex. 1, p. 7; 2.3.15 Tr., p. 22; 3.17.15 Tr., p. 235.*)

89. Lattice structures remain a relevant and viable form of infrastructure for the telecommunications industry. NET has been involved in the construction of approximately twenty-five lattice towers in Connecticut over the past five years. (*TH Ex. 9; 2.3.15 Tr., p. 64, 86; 3.17.15 Tr., p. 258.*)

90. Towers above 200 feet AGL are generally of lattice design. (*TH Ex. 9; 3.17.15 Tr., p. 257.*)

91. NET needs to train its employees on lattice structures because the broadcast industry is not moving away from lattice structures. (*TH Ex. 9; 2.3.15 Tr., p. 64; 3.17.15 Tr., pp. 221-22, 257-58.*)

92. A lattice design allows for more flexibility in training because of its relative size and loading capacity and would enable NET to alter the configuration of the Training Equipment (which would not be operational) as new technologies and equipment emerge in the market. (*TH Ex. 1, p. 7; TH Exs. 6, 10; 2.3.15 Tr., pp. 64, 116.*)

93. A monopole structure is insufficient for the type of training NET employees need in part because (a) most of the structures NET works on are of a lattice design and (b) there is only one climbing apparatus, which limits the number of individuals at the same elevation to one person. (*TH Ex. 1, p. 7; TH Exs. 6, 10; 2.3.15 Tr., pp. 64, 116; 3.17.15 Tr., p. 218.*)

94. Gin poles are designed for tall tower work, specifically lattice towers. They are not designed to be attached to larger diameter poles, such as monopoles, which are generally 150 feet AGL and lower in the Connecticut market. (*TH Ex. 1, p. 7; TH Exs. 6, 10; 2.3.15 Tr., pp. 64, 116; 3.17.15 Tr., pp. 221-22, 257-58.*)

95. Because the majority of NET's business involves broadcast lattice towers, which exceed 200 feet AGL, it is particularly important to simulate real world conditions as much as possible. (*TH Ex. 1, p. 8; TH Ex. 9; 2.3.15 Tr., pp. 22.*)

96. Ideal training conditions would include forty feet of clear space, which would start above AT&T's panel array at 140 feet AGL. (*TH Ex. 1, p. 8; TH Ex. 9; 2.3.15 Tr., pp. 73-74; 3.17.15 Tr., pp. 207-08.*)

Alternative Configurations to the Facility

97. NET could add temporary lattice segments to a permanent 140 foot AGL lattice structure. NET could use two lattice segments for training purposes as the installation of the segments would provide excellent training opportunities for the trainees. The lattice segments would each be approximately twenty feet in length. The lattice segments would only be installed and removed between May and August and only over a four week period. (3.17.15 Tr., pp. 207-08, 233-35.)

98. Although not ideal, NET could use the Facility if approved as a lattice structure at a height of 140 feet AGL. The Facility would be designed such that NET would have access to forty feet of clear space for training purposes. Such a design would also include a narrower taper closer to the ground to simulate higher elevations. (2.3.15 Tr., pp. 23, 58-59; 3.17.15 Tr., pp. 217-18, 239.)

99. NET could also perform gin pole training remaining at or below the 140 feet AGL level of a lattice structure; however, training would be more effective if NET could affix the gin pole to the lattice structure so that the gin pole rises above the 140 AGL level, but no higher than 180 feet AGL, to simulate real world conditions more effectively. The additional height reached by the gin pole would be limited to the brief training periods. (2.3.15 Tr., pp. 18-19, 58-59.)

100. Any of the alternatives to the Facility would be redesigned so that the narrow taper starts much closer to the ground to provide at least forty feet of straight tower section for training purposes. (3.17.15 Tr., p. 239.)

101. Any of the alternatives to the Facility would benefit the public interest and promote the public safety, in part, because it would provide important training to NET employees who construct, install, maintain, repair and decommission broadcast towers, as well as other towers, and their appurtenances. (TH Ex. 9, 3.17.15, pp. 236-37.)

Site Selection

102. AT&T established a search area for the vicinity surrounding the Property in January 2013. (AT&T Ex. 2.)

103. The Property would enable AT&T to address its coverage objectives. (TH Ex. 1, pp. 5-6; TH Ex. 1, At. 5; AT&T Exs. 2 – 4.)

104. AT&T reviewed various locations and rejected them as not being adequate to address AT&T's coverage objectives. (TH Ex. 1, pp. 11-12; TH Ex. 1, At. 9; 3.17.15 Tr., pp. 261-62, 266-67.)

105. None of the other parcels evaluated would be more suitable than the Property for the location of a telecommunications facility. (*TH Ex. 1, pp. 11-12; TH Ex. 1, At. 9; TH Ex. 3; 3.17.15 Tr., pp. 261-62, 266-67.*)

106. Distributed antenna systems (DAS), repeaters, small cells and other types of transmitting technologies are not a suitable means by which to provide service within AT&T's sizeable coverage gap. (*TH Ex. 1, pp. 5-6; TH Ex. 1, At. 5; AT&T Exs. 2 - 4.*)

Facility Description

107. The Facility would sit within an irregularly shaped 3,600 square foot area leased to Tower Holdings, located in the eastern portion of the Property, which is an approximately 2.49 acre parcel, consisting of two lots. (*TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10.*)

108. The Property currently hosts an office building and employee parking, as well as designated areas for storage and deliveries in connection with NET's operations. NET stores some of the equipment necessary for its business on site and needs to maintain adequate space to load that equipment onto tractor-trailer trucks and receive deliveries from these large trucks. These trucks require a u-shaped path on the Property from Brickyard Road for ingress and egress. (*TH Ex. 1, At. 1; TH Ex. 3.*)

109. The Property is zoned Industrial C1. The immediately adjacent land uses are not residential. Zoning beyond the immediate parcels include industrial, earth excavation and residential. (*TH Ex. 1, p. 11; TH Ex. 1, Ats. 1, 5; 3.17.15 Tr., pp. 235-36.*)

110. The Facility would consist of a 180 foot lattice structure with AT&T's panel antenna array mounted at approximately 140 feet AGL. The highest permanent point of the proposed Facility would be the top of the lattice structure at 180 feet AGL. (*TH Ex. 1, pp. 12-13; TH Ex. 1, Ats. 1, 5.*)

111. The Facility would also include a six foot lightning rod, with a diameter of approximately three-quarters of an inch in diameter, which would bring the total height to 186 feet AGL. (*TH Ex. 1, pp. 12-13; TH Ex. 1, At. 1.*)

112. The proposed Facility would be designed specially to imitate heights in excess of 200 feet AGL up to 2,000 feet AGL; specifically, the structure would be designed to taper from approximately eighteen feet per face at the base to five feet per face at 130 feet AGL, and tapers every twenty feet by two feet to the top of the structure. (*TH Ex. 1, pp. 8-9; TH Ex. 1, At. 1; 2.3.15 Tr., pp.78-79.*)

113. Related equipment cabinets and a fixed back-up generator (diesel fired) would be placed nearby within the leased area. AT&T's equipment cabinet would be approximately twelve feet by twenty feet. The other communications operators would also share an equipment cabinet of similar dimensions. (*TH Ex. 1, At. 1; 3.17.15 Tr., p. 252.*)

114. By email dated March 16, 2015, the DPH confirmed that the proposed Facility would not be located within an Aquifer Protection Area (“APA”), specifically the APA of Connecticut Water Company – Unionville (CT Sand and Stone APA). (*TH Ex. 1, At. 19; TH Ex. 12.; 3.17.15 Tr., pp. 178-79, 183.*)

115. The Facility would be enclosed within a fenced and gated compound. The fencing would be eight feet high, containing anti-climb weave fence, and the compound would be accessible by a locked gate. Additionally, AT&T’s shelter is locked and remotely monitored for intrusion twenty-four hours a day. Finally, the lot on which the Facility would be located (Lot 3B) is itself secured by fencing and security cameras. (*TH Ex. 1, At. 1; TH Ex. 3; 2.3.15 Tr., pp. 16, 61-63.*)

116. The Facility would be located at 41° 45’ 14.12 north latitude and 72° 51’ 16.72 west longitude at an elevation of 241± AMSL. (*TH Ex. 1, At. 1.*)

117. There are four residential properties within 1000 feet of the proposed Facility site. (*TH Ex. 1, At. 11; 2.3.15 Tr., p. 13.*)

118. There are no occupied school structures or commercial day care center within 250 feet of the proposed Facility in accordance with General Statutes § 16-50p(a)(3)(G). The nearest school is Farmington High School, which is located approximately 0.75 mile to the southwest. The nearest commercial daycare center is located approximately 0.4 mile to the south. (*TH Ex. 1, At. 11.*)

119. AT&T would install twelve panel antennas on sector mounts. (*TH Ex. 1, At. 1.*)

120. Dunning’s antenna would consist of a DB224 Dipole and would be located at 160 feet AGL. Marcus’ antennas would consist of an RFI BA40-67 antenna and would be located at 170 feet AGL. WBMW’s antenna would consist of a DCR-L1 FM radio antenna and would be located at 175 feet AGL. (*TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10.*)

121. The Facility would accommodate AT&T and three additional wireless providers. It would also accommodate other communications operators, such as Marcus, WBMW and Dunning. Additionally, the Facility could accommodate the emergency services equipment of the Town as well as the Town of Avon should the need arise in the future. (*TH Ex. 1, p. 13; TH Ex. 1, At. 1; TH Ex. 10.*)

122. The Facility, as proposed, could accommodate wireless providers above AT&T’s proposed height of 140 AGL up to 175 feet AGL. (*2.3.15 Tr., p. 23.*)

123. Access to the proposed Facility would be across an existing bituminous drive from Brickyard Road. Utility connections would extend underground from Brickyard Road. (*TH Ex. 1, p. 12; TH Ex. 1, At. 1.*)

124. Development of the site of the Proposed Facility would require approximately 250 cubic yards of utility trench excavation and fill material and seventy yards of crushed stone for the Facility compound. *(TH Ex. 1(h).)*

125. The total estimated cost of construction for the Facility is \$201,800. This estimate includes: (a) tower and foundation costs of \$89,000 and \$27,800, respectively; (b) site development costs of \$59,000; and (c) utility installation costs of \$26,000. *(TH Ex. 1, p. 26.)*

126. The estimated cost for AT&T's equipment and installation is approximately \$250,000. *(AT&T Ex. 2.)*

127. Site preparation and construction as well as installation of AT&T's equipment and that of the other operators on the Facility would take approximately eight to ten weeks. Facility integration and system testing would likely require an additional two weeks. *(TH Ex. 1, p. 26.)*

Two Tower Scenario

128. It is not possible to construct two separate structures on the Property, one for telecommunications use and one for tower training use. The construction and installation of two facilities is not economically or spatially feasible. *(TH Ex. 3; 2.3.15 Tr., p. 69.)*

129. The Property is not large enough to host two facilities primarily because of the ground operations performed by NET. *(TH Ex. 3; 2.3.15 Tr., p. 69.)*

130. A separate training structure would likely need to have an eighteen by eighteen square foot base to support the necessary height to conduct training, as well as the training equipment, instructors and trainees. Such a facility would also need additional room for adequate fencing, access and "tag" lines associated with training. *(TH Ex. 3.)*

131. A structure with a smaller base would have to be guyed. Under the two structure scenario, the Property could not host a guyed structure because of its relatively limited size, the presence of a second structure for telecommunications, the existing office building and parking area, and NET's existing ground operations. *(TH Ex. 3.)*

132. Tower Holdings would not construct the Facility if approved as a monopole because it is insufficient for the training NET needs to perform and because there is insufficient room on the Property for two facilities. *(TH Ex. 1, p. 7; TH Exs. 3, 6, 10; 2.3.15 Tr., pp. 64, 69, 116; 3.17.15 Tr., p. 218, 221-22, 257-58.)*

Genesis of the Facility

133. NET initially contemplated a tower training facility in or around January of 2013. *(TH Ex. 11; 2.3.15 Tr., pp. 34-35, 81.)*

134. Prior to that date, there had long been a need for improved training and controlled training facilities, both of which are in the interest of the public health and safety. (*TH Exs. 9, 11; 2.3.15 Tr., pp. 52, 56, 115-16; 3.17.15 Tr., pp. 199, 209, 217,242-43.*)

135. The President of NET, Stephen Savino, Jr., also wanted to share the knowledge he has acquired over the last thirty-four years in the telecommunications industry with those new to the industry. (*TH Ex. 11; 2.3.15 Tr., p. 103.*)

136. At about the same time, on or about January 25, 2013, Mr. Chuck Regulbuto learned that AT&T might have a coverage gap in the area of the Property. Mr. Regulbuto passed this information along to Mr. Savino. In early March of 2013, AT&T approved the Property as a candidate for an AT&T site. *Id.* These events were serendipitous as well as a function of NET's involvement in the telecommunications industry. (*TH Exs. 10-11; AT&T Ex. 6; 2.3.15 Tr., pp. 34-35, 81-82.*)

137. NET's desire to utilize a training facility and AT&T's need to satisfy a coverage gap in the area of the Property represented a true synergy. NET would be able to utilize a training facility in a controlled environment and the income derived from a lease with AT&T, and possible other wireless providers, would, among other things, assist in covering the costs associated with maintaining the Facility. (*TH Ex. 11; 3.17.15 Tr., pp. 226-27.*)

138. Shortly thereafter, in March 2013, Mr. Savino and Mr. Regulbuto approached Jeff Ollendorf, the Town Planner, to discuss conceptually what would eventually become the proposed Facility. Tower Holdings did this because it and its affiliates endeavor to be good corporate citizens, particularly since they have operated their businesses in the Town for more than twenty years. At this walk-in meeting, Mr. Ollendorf requested photo-simulations. Tower Holdings agreed to provide some conceptual photo-simulations, and its intent at that juncture was to continue collaborative efforts with the Town with another informal meeting, particularly because it had recently learned that the involvement of AT&T triggered the exclusive jurisdiction of the Council. (*TH Ex. 11; 2.3.15 Tr., pp. 35, 90-91; 3.17.15 Tr., pp.227-30.*)

139. On or about April 18, 2013, Mr. Regulbuto provided Mr. Ollendorf a preliminary visibility analysis, with requested photo-simulations. The photo-simulations were intended to provide the Town with an idea of the potential views of a lattice structure. The photo-simulations did not include any fixtures, specifically AT&T's antennas, because AT&T had not yet informed Tower Holdings of the height it needed to remedy the coverage gap in the area of the Property. Although negotiations were underway in earnest, AT&T and FRP had not yet finalized a lease. NET was also still assessing the configuration of the Facility to the extent it would be used for training. The Facility was still in its infancy. (*TH Ex. 11; 2.3.15 Tr., pp. 48-49, 91-92; 3.17.15 Tr., pp. 228-30; Farm. Ex. 4.*)

140. On or about April 19, 2013, Mr. Regulbuto received an email from Mr. Ollendorf indicating that the Commission had placed what Tower Holdings thought would be an informal meeting about the Facility on the Commission's agenda for April 29, 2013, and learned that the scheduled meeting would be on the record. On or about April 25, 2013, Tower Holdings

requested that the meeting be removed from the agenda because the proposed Facility was still in its infancy and the height for AT&T's antennas had not been finalized. Tower Holdings was not ready to make a formal presentation of the Facility at that time. (*TH Ex. 11; 2.3.15 Tr., pp. 48-49, 91-92; 3.17.15 Tr., pp. 228-30.*)

141. Thereafter, Tower Holdings continued to refine the configuration of the Facility, perform the various due diligence necessary for the installation of the Facility and work with AT&T to finalize the necessary instruments for AT&T to locate its equipment on the Facility. These efforts stretched through the remainder of 2013 and into early 2014 until Tower Holdings submitted its Technical Report concerning the Facility to the Town on February 4, 2014. (*App., p 25; App. Ats. 20-21; TH Ex. 11.*)

142. At no time did Tower Holdings submit an application of any kind to the Commission. At no time did Tower Holdings represent that it would submit an application of any kind to the Commission. (*TH Ex. 11; 2.3.15 Tr., pp. 91-92; 3.17.15 Tr., pp. 228-30.*)

Environmental Considerations

143. The Property sits within an area zoned for industrial uses and is very developed. The Property currently hosts a commercial building and a bituminous access, and includes a storage area for equipment and tools associated with NET's business of constructing, modifying, reinforcing, maintaining and decommissioning towers of all types. (*TH Ex. 1, pp. 1, 12, 20-21; TH Ex. 1, Ats. 1, 11.*)

144. The construction of the Facility would not require the removal or relocation of any trees. (*TH Ex. 1, pp. 12; TH Ex. 1, At. 8.*)

145. On October 25, 2013, the Department of Energy and Environmental Protection ("DEEP") stated that the Natural Diversity Database (NDDDB) records "indicate that many state-listed sand barren-obligate plan and invertebrate species occur at [the site of the proposed Facility]." However, DEEP concluded that "it is unlikely that this project will impact the remaining sand barren habitat that exist on-site" because the Facility is proposed within an existing graveled lot. (*TH Ex. 1, p. 16; TH Ex. 1, At. 12.*)

146. Although DEEP concluded that the proposed Facility would not impact biological resources, Tower Holdings performed an additional survey concerning the possible existence of sand barren habitat on or near the Property and, if such habitat existed, whether that habitat would be impacted by the Facility. (*TH Ex. 1, p. 16; TH Ex. 1, At. 12.*)

147. The area referenced by DEEP as Critical Habitat is located on property, owned by others, which is adjacent to the Property. The Critical Habitat consists of an area with current compost and sand and gravel operations. Any construction activities, as well as maintenance and operation, would occur on the Property, within existing developed areas and separated by an existing chain link fence. (*TH Ex. 1, pp. 16-17; TH Ex. 1, At. 12.*)

148. The referenced Critical Habitat sand barren areas, to the extent they still exist, would not be impacted by the construction, maintenance and operation of the Facility. It was recommended that sedimentation and erosion controls be designed, installed and maintained during construction pursuant to the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*. (TH Ex. 1, pp. 16-17; TH Ex. 1, At. 12.)

149. On May 30, 2014, the State Historic Preservation Office, as a component of the Department of Economic & Community Development (SHPO) determined that “there will be no historical properties affected by the proposed 180’ lattice tower and associated equipment” and that the proposed “location contain[s] little, if any, possibility to yield cultural deposits.” (TH Ex. 1, p. 17; TH Ex. 1, At. 13.)

150. The United States Fish and Wildlife Service (“USFW”) confirmed that there are no threatened or endangered species, or any proposed and final designated critical habitat, that may occur within the boundaries of the site for the proposed Facility. The USFW also confirmed that there are no such species or habitat that may be affected by the proposed Facility. (TH Ex. 1, p. 17; TH Ex. 1, At. 14.)

151. The FCC determined that the height and elevation of the proposed Facility did not require registration with the FCC. (TH Ex. 1, p. 17; TH Ex. 1, At. 15.)

152. The Federal Aviation Administration conducted an aeronautical study of the proposed Facility and determined that the Facility would not be a hazard to air navigation. (TH Ex. 4.)

153. The Facility would be unmanned, requiring infrequent monthly maintenance visits by each carrier that typically last approximately one hour in duration. (TH Ex. 1, p. 18; TH Ex. 1, At. 1.)

154. AT&T would monitor its equipment at the Facility, which would be monitored twenty-four hours a day, seven days a week from a remote location. (TH Ex. 1, p. 18; TH Ex. 1, At. 1.)

155. The Facility would not require a water supply or wastewater utilities. The Facility would not require outdoor storage or solid waste receptacles and the Facility would not create or emit any smoke, gas, dust or other air contaminants, noise, odors or vibrations. (TH Ex. 1, p. 18; TH Ex. 1, At. 1.)

156. In the event of a temporary power outage, the Facility would require the limited use of an on-site diesel fuel generator. The generator would comply with all applicable DEEP regulations. (TH Ex. 1, p. 18; TH Ex. 1, At. 1.)

157. The Facility is not designated as a wilderness area and is not located in any areas identified as a wildlife preserve or in a USFW National Wildlife Refuge. (TH Ex. 1, p. 18 n.1.)

158. There are no National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Gamelands located in the vicinity of the proposed Facility. *(TH Ex. 1, p. 18 n.2.)*

159. The Facility would not be located within a floodplain. *(TH Ex. 1, pp. 18-19; TH Ex. 1, At. 16.)*

160. The closest Important Bird Area to the site of the proposed Facility is approximately 12.4 miles to the northeast. The proposed Facility would not impact any avian resource areas or migratory bird species. The proposed Facility would comply with the guidelines recommended by the USFW concerning migratory bird species. *(TH Ex. 1, p. 19; TH Ex. 1, At. 17.)*

161. The maximum density calculation from the frequency emissions of AT&T's antennas would not exceed 3.77 percent of the FCC's standard as set forth in the FCC's Office of Engineering and Technology Bulletin No. 65, Edition 97-01 (August 1997) ("OET Bulletin 65"). The cumulative effect of Dunning, Marcus and WBMW would not exceed 25.03 percent of the FCC standard. The cumulative effect of all of the antennas would not exceed 28.80 percent of the FCC standard. *(TH Ex. 1, pp. 19-20; TH Ex. 1, At. 18.)*

162. The Facility would not impact any federal or state regulated wetlands or watercourses. There are no wetlands located on the Property. The nearest wetlands area to the Facility is associated with a man-made stormwater detention basin located on an adjoining parcel, owned by someone other than Tower Holdings, approximately 350 feet to the southwest. *(TH Ex. 1, pp. 18, 24-25; TH Ex. 1, At. 19.)*

Visibility

163. The topography and vegetation within a two mile radius of the proposed Facility ("Study Area") serve to minimize the potential visual impact of the proposed Facility. The existing vegetation in the Study Area is mixed deciduous hardwood species with an average estimated height of sixty feet. *(TH Ex. 1, p. 14; TH Ex. 1, At. 11.)*

164. This vegetation sits on rolling hills that range in ground elevation from approximately 160 feet above mean sea level ("AMSL") to approximately 430 feet AMSL. The tree canopy covers approximately 3,310 acres (or 41 percent) of the 8,042 acre Study Area. *(TH Ex. 1, p. 14; TH Ex. 1, At. 11.)*

165. Only 2.6 percent of the Study Area would have year round views of portions of the Facility as proposed. Those year round views are limited to nearby areas to the west and southwest of the Facility along Brickyard Road and over open fields and water to the southeast. Very few residential properties would have direct and unobstructed views of the Facility as proposed. Most of the views in the Study Area would be obstructed because of heavy forest cover and landscaping within the surrounding neighborhoods. *(TH Ex. 1, p. 14; TH Ex. 1, At. 11; TH Ex. 6.)*

166. An additional 3.1 percent of the Study Area would have seasonal (leaf-off) views of the Facility as proposed; however, most of these views would be from over one mile away and through existing tree mast. Some limited seasonal views may also occur from a short section of the Farmington Canal Heritage Trail, which passes through the industrial zone along Brickyard Road. These limited potential views would be heavily obstructed by intervening forest mast. (TH Ex. 1, p. 14; TH Ex. 1, At. 11; TH Ex. 6.)

167. A combined 6 percent of visibility, including both year round and seasonal views, is an average percentage for potential visual impact. (3.17.15 Tr., pp. 59-60.)

168. A lattice structure is no more visible than a monopole. The lattice design allows for light to penetrate through the infrastructure, which can soften its silhouette against the sky under various light conditions. (TH Ex. 6; 2.3.15 Tr., pp. 40-41.)

169. The relatively narrow dimensions of the proposed Facility would make the Facility less visually intrusive. (TH Ex. 1, At. 1; 2.3.15 Tr., p. 41.)

170. The alternatives to the proposed Facility would allow for an even slimmer profile than the proposed Facility because the taper would start closer to the ground. (3.17.15 Tr., p. 239.)

171. All training activities would occur over short periods of time during leaf-on months further minimizing the potential visual impact of the Facility. (TH Ex. 1, p. 6; TH Ex. 10; 2.3.15 Tr., pp. 32; 3.17.15 Tr., p. 188.)

Respectfully submitted by,

TOWER HOLDINGS, LLC

By: 

Jesse A. Langer
Updike, Kelly & Spellacy, P.C.
265 Church Street
New Haven, CT 06510
(203) 786-8310
Email: jlang@uks.com

CERTIFICATION

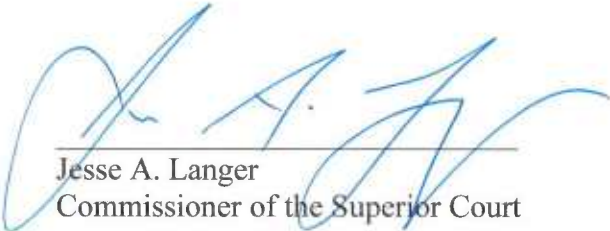
I hereby certify that on this day a copy of the foregoing was delivered by electronic mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

Counsel for New Cingular Wireless PCS, LLC ("AT&T")

Christopher B. Fisher
Lucia Chiocchio
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

Counsel for the Town of Farmington

Kenneth R. Slater, Jr.
Duncan F. Forsyth
Halloran & Sage, LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06106



Jesse A. Langer
Commissioner of the Superior Court

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

DOCKET NO. 454

**APPLICATION OF TOWER HOLDINGS,
LLC FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED FOR THE
CONSTRUCTION, MAINTENANCE
AND OPERATION OF A
TELECOMMUNICATIONS FACILITY
AT 199 BRICKYARD ROAD IN THE
TOWN OF FARMINGTON,
CONNECTICUT**

April 16, 2015

POST-HEARING BRIEF

The Applicant, Tower Holdings, LLC, (“Tower Holdings”), respectfully submits this Post-Hearing Brief in accordance with § 16-50j-31 of the Regulations of Connecticut State Agencies.¹ The cumulative evidence presented in connection with the above-captioned application for a certificate of environmental compatibility and public need (“Application”) amply demonstrates that there is a public need for the telecommunications facility proposed at 199 Brickyard Road, Farmington, Connecticut (“Facility”), and that the nature of the probable environmental impact of the Facility is not sufficient reason to deny the Application.

I. THE PROPOSED FACILITY

A. Facility Description.

The proposed Facility would sit within an irregularly shaped 3,600 square foot area leased to Tower Holdings, located in the eastern portion of 199 Brickyard Road, Farmington, which is an approximately 2.49 acre parcel, consisting of two lots designated as Lots 3A and 3B on Map 25 and 26 by the Town of Farmington Assessor (“Property”). The Facility would

¹ Tower Holdings has filed its proposed findings of fact, in accordance with § 16-50j-31 of the Regulations of Connecticut State Agencies, contemporaneously with this brief.

consist of a 180 foot lattice structure with AT&T's panel antenna array mounted at approximately 140 feet AGL. The highest permanent point of the proposed Facility would be the top of the lattice structure at 180 feet AGL.² (*TH Ex. 1, pp. 12-13; TH Ex. 1, Ats. 1, 5.*)³

The Facility would accommodate AT&T and three additional wireless providers. It would also accommodate other communications operators, such as Marcus Communications, LLC ("Marcus"), radio station "Soft Rock" 106.5 WBMW ("WBMW") and Dunning Sand & Gravel ("Dunning"). Additionally, the Facility could host the emergency services equipment of the Town as well as the Town of Avon should the need arise in the future.⁴ (*TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, Ats. 1, 10; TH Ex. 10.*)

Related equipment cabinets and a fixed back-up generator (diesel fired) would be placed nearby within the leased area. AT&T's equipment cabinet would be approximately twelve feet by twenty feet. The other communications operators would also share an equipment cabinet of similar dimensions. (*TH Ex. 1, At. 1; 3.17.15 Tr., p. 252.*)

The Facility would be enclosed within a fenced and gated compound. The fencing would be eight feet high, containing anti-climb weave fence, and the compound would be accessible by a locked gate. AT&T's shelter is locked and remotely monitored for intrusion twenty-four hours a day. The lot on which the Facility would be located (Lot 3B) is secured by fencing and security cameras. Access to the proposed Facility would be across an existing bituminous drive from Brickyard Road. Utility connections would extend underground from Brickyard Road. (*TH Ex. 1, p. 12; TH Ex. 1, At. 1; TH Ex. 3; 2.3.15 Tr., pp. 16, 61-63.*)

² The Facility would also include a six foot lightning rod, with a diameter of approximately three-quarters of an inch in diameter, which would bring the total height to 186 feet AGL. (*TH Ex. 1, pp. 12-13; TH Ex. 1, At. 1.*)

³ All abbreviations to the record track those used in Tower Holdings' proposed findings of fact.

⁴ Dunning's antenna would be a DB224 Dipole, with a proposed height of 160 feet AGL. Marcus' antennas would be an RFI BA40-67 antenna, with a proposed height of 170 feet AGL. WBMW's antenna would be a DCR-L1 FM radio antenna, with a proposed height of 175 feet AGL. (*TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10.*)

B. The Training Component of the Facility.

1. Northeast Towers, Inc.

Tower Holdings is affiliated with Northeast Towers, Inc. ("NET"), a Connecticut corporation, which is headquartered at 199 Brickyard Road in Farmington, Connecticut. NET was established in 1981 and, since that time, has constructed, modified, reinforced, maintained and decommissioned towers of all types, including broadcast towers, telecommunications facilities, rooftop installations, water tank installations, silos, billboards and smokestacks. NET is experienced with a variety of towers including lattice structures, broadcast towers, monopoles, guyed towers and stealth towers. NET has grown into a premier tower construction company in the northeast (and nationally for broadcast towers) and prides itself on providing extensive training and certification programs for its employees, including continued training on an on-going basis. (*TH Ex. 1, pp.6-7; 2.3.15 Tr., p. 22; 3.17.15 Tr., p. 235.*)

2. Tower Training.

To further NET's goals of developing and maintaining well-trained employees and ensuring overall safety, Tower Holdings has proposed a lattice tower that would host the antennas of various wireless carriers and allow for training. NET would be able to teach its employees on site, in a controlled environment, about new technologies and equipment as they enter the market, and promote safe, efficient and timely installation and repair of towers. (*TH Ex. 1, p. 6; TH Ex. 9; 2.3.15 Tr., p. 17, 23, 56, 102; 3.17.15 Tr., pp 199, 209, 217, 243.*)

For short periods of time, the Facility would host temporary non-operational equipment for training purposes ("Training Equipment"). The Training Equipment would include the following: (1) a satellite dish; (2) an omnidirectional TV antenna flush mounted to the Facility; (3) two-bay FM antenna flush mounted to the Facility; and (4) an approximately sixty foot

(eighteen inch diameter) lattice gin pole. The Training Equipment may change from time to time based upon technological innovation within the communications industry. (*TH Ex. 1, p. 7; TH Ex. 1, At. 6; 2.3.15 Tr., pp. 20, 95; 3.17.15 Tr., pp. 188, 192.*)

Some of the Training Equipment would be located below AT&T's antennas. The Training Equipment would not interfere in any way with AT&T's antennas or those of any future carrier. The training would occur around AT&T's antennas and the arrays of future carriers, which further simulates real work conditions. (*TH Ex. 1, p. 7; TH Ex. 1, At. 1; 2.3.15 Tr., p. 20; 3.17.15 Tr., pp. 189-90.*)

The trainees would learn to install, maintain and remove one antenna per class. Ideally, each antenna would be mounted to the Facility for an approximate one week period. The training would include, among other things, proper climbing techniques, handling the hardware necessary to mount an antenna, using a compass and setting the azimuth required for a particular antenna system. The Training Equipment would not be permanently affixed to the Facility and each type of Training Equipment could be up for approximately one to two working days. (*TH Ex. 1, p. 6; TH Ex. 10; 2.3.15 Tr., 95-96, 100, 120; 3.17.15 Tr., p. 189.*)

The training would also incorporate the use of a gin pole, which is a rigid pole with a pulley or hook used to lift objects and is commonly used for tower construction, maintenance and repair. The use of gin poles is pivotal to the work performed by NET. NET could use a gin pole smaller than sixty feet for training purposes. The necessary training time associated with the gin pole would be approximately one day. NET could also limit its training activities with respect to gin poles between May and August annually. (*TH Ex. 1, pp. 6-7; TH Ex. 9; 2.3.15 Tr., pp. 19, 52-57, 96, 115-16; 3.17.15 Tr., p. 188.*)

NET would like to instruct four to six trainees per course, with four courses offered each year. This would result in the training of approximately sixteen to twenty-four persons a year. NET would limit its training to the leaf-on months, and during the working week, Monday through Friday, and normal business hours. Aside from the camouflage offered by leaf-on conditions, training is facilitated more easily during the warmer weather months, when there is less wind. (*TH Ex. 1, p. 6; TH Ex. 10; 2.3.15 Tr., pp. 31-32; 3.17.15 Tr., p. 188.*)

II. A PUBLIC NEED EXISTS FOR THE PROPOSED FACILITY

General Statutes § 16-50p(a)(3)(A) requires the Connecticut Siting Council (“Council”) to find and determine that there is “a public need for the facility and the basis of the need” before granting an application for certificate of environmental compatibility and public need (“Certificate”).

A. The Facility Would Alleviate An Existing Coverage Gap For New Cingular Wireless PCS, LLC.

The Facility is an integral component of New Cingular Wireless PCS, LLC’s (“AT&T”) network, specifically in the areas of the Town of Farmington (“Town”) surrounding the Facility. There is a gap in coverage in the vicinity of the intersection of Brickyard Road and Harris Road, as well as Wildwood Road, along with the nearby areas in the north-central portions of the Town. An antenna panel array at approximately 140 feet above grade level (“AGL”) would allow AT&T to meet its coverage objectives. AT&T needs the Facility, in conjunction with other existing telecommunications facilities in the Town and in the Town of Avon, to provide reliable services to the public. (*TH Ex. 1, pp 5-6; TH Ex. 1, At. 5; AT&T Exs. 2 – 4, 6; 12; 3.17.15 Tr., pp. 249-52.*)

B. The Facility Would Alleviate Coverage Or Capacity Needs Of Other Communications Providers.

The Facility would also alleviate the coverage needs for WBMW and Dunning, as well as the capacity needs for Marcus. Marcus is a trunked (two-way) radio network operator in Connecticut, providing services to emergency service providers and other important service providers that promote public safety, such as Probation Officers for all of Connecticut, the Capitol Region of Governments Command posts, regional bomb squads, AETNA ambulance, Ambulance Service of Manchester, Hunters Ambulance Service and others. The Facility would serve as a capacity site for Marcus, allowing Marcus to off-load radio signals in the Farmington area from Marcus' site in Avon to the Facility. *(TH Ex. 11; 3.17.15 Tr., 212-13.)*

WBMW is a radio station that services eastern Connecticut and parts of Rhode Island. WBMW would need a location at the top of the Facility as proposed in the Application. *(TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10; 3.17.15 Tr., p. 213.)*

Dunning provides sand, gravel and other landscaping materials to business and residents throughout the community. Dunning also provides trucking services, which require communication between its trucks and Dunning's headquarters located adjacent to the Property. Dunning has communications equipment concerning its operations located on its property, which is adjacent to the Property. The communications equipment is located on a structure approximately fifty feet AGL. The current height does not allow Dunning to communicate effectively. Height is important for the type of coverage Dunning needs to communicate effectively with its trucks. Dunning would relocate its equipment to the Facility at any height above fifty feet AGL. *(TH Ex. 1, pp. 2, 9, 13; TH Ex. 1, At. 10; TH Ex. 3; 3.17.15 Tr., pp. 211-12.)*

C. The Facility Would Alleviate An Important Public Need For Proper and Safe Tower Training.

1. The Council Has Jurisdiction Over The Proposed Facility.

The proposed Facility falls within the definition of “facility” as that term is defined by General Statutes § 16-50i(a)(6).⁵ The involvement of a licensed wireless provider such as AT&T brings the proposed Facility squarely within the definition of “facility.” The Council has exclusive jurisdiction over “facilities” pursuant to General Statutes § 16-50x.⁶

2. The Council Also Has Jurisdiction Over The Height Above AT&T’s Antennas Because An Important Component Of The Council’s Statutory Charge Is To Ensure The Public Safety.

The Council also has the authority to approve the total height requested in Tower Holdings’ Application. This additional height would benefit the public health and safety, which is an important component of the Council’s statutory charge. (*TH Ex. 1, pp. 2, 6, 9, 13; TH Ex. 1, Afs. 1, 10; TH Ex. 9; 2.3.15 Tr., pp. 17, 23, 56, 102; 3.17.15 Tr., pp. 199, 209, 217, 243.*)

The United States Congress has passed several acts to further deployment of emergency services and to encourage the construction and operation of seamless and reliable networks.

⁵ General Statutes § 16-50i(a)(6) provides in relevant part: “‘Facility’ means . . . such telecommunication towers, including associated telecommunications equipment, owned or operated by the state, a public service company or a certified telecommunications provider or used in a cellular system, as defined in the Code of Federal Regulations Title 47, Part 22, as amended, which may have a substantial adverse environmental effect, as said council shall, by regulation, prescribe . . .”

⁶ General Statutes § 16-50x(a) provides in relevant part: “Notwithstanding any other provision of the general statutes, except as provided in section 16-243, the council shall have exclusive jurisdiction over the location and type of facilities and over the location and type of modifications of facilities subject to the provisions of subsection (d) of this section. When evaluating an application for a telecommunication tower within a particular municipality, the council shall consider any location preferences or criteria (1) provided to the council pursuant to section 16-50gg, or (2) that may exist in the zoning regulations of said municipality as of the submission date of the application to the council. In ruling on applications for certificates or petitions for a declaratory ruling for facilities and on requests for shared use of facilities, the council shall give such consideration to other state laws and municipal regulations as it shall deem appropriate. Whenever the council certifies a facility pursuant to this chapter, such certification shall satisfy and be in lieu of all certifications, approvals and other requirements of state and municipal agencies in regard to any questions of public need, convenience and necessity for such facility.”

One such legislation is the Wireless Communications and Public Safety Act of 1999, 47 U.S.C. § 615 *et seq.* (“WCPSA”). The Congress made several findings in support of this legislation, one of which was “improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce” 47 U.S.C. § 615(a)(4). “The purpose of the Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communication needs.” § 615(b). The Congress also passed the 911 Act. Among other findings, the Congress found that “enhanced 911 is a high national priority and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communications services.” 47 U.S.C. § 942(4). (*TH Ex. 11; Council Admin. Notice Nos. 6-7.*)

Like other states, Connecticut implements these policies. The Department of Emergency Services and Public Protection oversees a broad range of public safety services, including Enhanced 911 services and emergency management. *See generally* Chapter 517 of the General Statutes. (*TH Ex. 11; Council Admin. Notice Nos. 43-45.*)

The Council also plays a pivotal role in implementing the aforementioned federal policies through the siting of “facilities.” An important component of the Council’s charge is to ensure that a proposed “facility” furthers the policies of the State and the Federal Governments, particularly the public health and safety. General Statutes § 16-50p(a)(3)(A) and (B) requires the Council to consider, among other factors, the public need for the “facility,”

basis for that need and whether the proposed “facility” conflicts with the environmental and public health and safety policies of the State.⁷ (*TH Ex. 1, p. 1; TH Ex. 11.*)

Connecticut’s policy to avoid the unnecessary proliferation of towers also offers important guidance to the Council. General Statutes § 16-50aa(a) provides: “The General Assembly finds that the sharing of towers for fair consideration whenever technically, legally, environmentally and economically feasible, and whenever such sharing meets public safety concerns, will avoid the unnecessary proliferation of towers and is in the public interest.” (Emphasis added.) In furtherance of this policy the Council has required applicants to make space available on their “facilities” for municipal public safety equipment at no charge to the host municipality. To this end, the Council has approved “facilities” at heights greater than those required for the wireless provider because those approvals have met “public safety concerns.” (*TH Ex. 1, p. 12; TH Ex. 11.*)

In Docket No. 391 – Old Lyme, T-Mobile Northeast, Inc. (“T-Mobile”) filed an Application for a Certificate for a 100 foot AGL telecommunications facility. The initial proposal increased to 110 feet AGL to remedy the coverage needs of AT&T, which the Council ultimately approved. The Council, however, also required T-Mobile to install the “facility” so that it could be expandable to 160 feet AGL. The Council included this condition because the Town of Old Lyme had requested that the “facility” be approved at 160 feet AGL to

⁷ General Statutes § 16-50p(a)(3) provides in relevant part: “The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (A) Except as provided in subsection (b) or (c) of this section, a public need for the facility and the basis of the need; (B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife; (C) Why the adverse effects or conflicts referred to in subparagraph (B) of this subdivision are not sufficient reason to deny the application” (Emphasis added.)

accommodate a future upgrade of its municipal equipment. The Council found that the fifty feet of additional height “would be prudent on behalf of public safety, and will order a tower with the capability for such expansion.” (Emphasis added.) (*Council Admin Notice No. 25.*)

In Docket No. 421 - Trumbull, T-Mobile filed an Application for a Certificate for a 150 foot AGL “facility.” The height was driven not by T-Mobile’s need, but by the Town of Trumbull’s desire to locate its upgraded emergency communications system at the top of the “facility.” The Town, however, was in a preliminary study phase and the emergency communications upgrade was contingent upon funding sources not yet available. Accordingly, the Council decided that “[i]n order not to impeded any future upgrades to the Town’s emergency communication system, [it] will require that the facility be capable of supporting an extension.” (*Council Admin Notice No. 26.*)

In both Dockets, the Council indicated that future requests for the extended heights would be subject to the Council’s approval. (*Council Admin Notice Nos. 26-27.*)

The Town also requested that the Council notice three dockets administratively. Those dockets included: (1) Docket 421 – Trumbull; (2) Docket 425 – Redding; and (3) Docket 449 – Redding. Docket 421 is addressed above and supports the height requested above AT&T’s proposed antenna array.

Dockets 425 and 449 address proposed telecommunications facilities in the Town of Redding. The Town focused on the Council’s findings concerning the replacement of the existing lattice towers with monopoles. In Docket 425, the proposal involved the replacement of a guyed lattice tower with a monopine. In both Dockets, the existing structure was reaching the end of its useful life.⁸ The replacement structures in both Dockets were taller. Also, in

⁸ Docket 421 also addressed the replacement of a self-supporting lattice tower nearing the end of its useful life with a taller monopole.

Docket 449, the host municipality's emergency services equipment was moved to a higher location on the replacement structure.

Dockets 425 and 449 do not support the Town's position. They do not stand for or support the proposition that the Council cannot approve a Certificate for a height above a wireless provider's antenna array in the interest of the public health and safety. Also, these Dockets do not stand for the proposition that the Council cannot approve a lattice structure.

Additionally, the Council noticed Petition No. 561 ("Petition") administratively. The Petition asked the Council to determine whether a certain telecommunications tower proposed in the Town was exempt from the Council's jurisdiction. Prior to the filing of the Petition, the Town had issued a request for proposal ("RFP"):

to construct a communications tower and support building, to be deeded to the Town for no cost, . . . [to] accommodate the Town's communication equipment as well as three wireless telecommunication service providers.

The tower would be located at the Town's police department. Sprint Spectrum ("Sprint") was selected to build the 190 foot AGL tower. The Town and Sprint filed a Special Permit Application with the Town's Plan & Zoning Commission ("Commission") concerning the tower, which the Commission approved. Thereafter, Sprint filed a tower share application with the Council to locate its antennas on the tower. (*Council Admin Notice No. 27.*)

The Council concluded that the tower was a municipal tower exempt from the Council's jurisdiction. The Council based its decision on two factors: (1) ownership and (2) primary purpose of the tower. The Town would own the tower as evidenced by an existing lease agreement. The Council also concluded that the primary purpose of the tower was to support municipal communications equipment. Thirty feet of the tower (between 140 and 170 feet AGL) would be used for wireless providers and the "highest and most advantageous locations

on the tower, as well as other locations, [were] dedicated for municipal uses.” (*Council Admin Notice No. 27.*)

The Petition is not applicable to the proposed Facility. First, the Facility is not located on municipal land and is not owned by a municipality. Second, at the moment, the Facility would not host any municipal communications equipment. Third, AT&T is an intervenor in this Docket (as opposed to filing a tower share application subsequent to any approval). Third, the other communications operators are private entities and most of the training would involve NET’s employees, which is a private entity. Tower Holdings readily acknowledges, and the record amply demonstrates, that the Facility would provide a significant benefit to the public health and safety; however, that benefit does not render this Docket analogous to the facts presented in the Petition.

The additional height requested in Tower Holding’s Application is similar to the requests made in Docket Nos. 391 and 421. Although the Application does not include a request by a municipality, at least at this juncture, Marcus’ network serves emergency service providers and other important service providers that promote public safety. Marcus has a demonstrable need for collocating its equipment on the Facility to address capacity concerns associated with its network. Also, as set forth in Part II.C.3, *infra*, the training component of the Facility would provide a significant benefit to the public health and safety.

3. *Tower Training Would Benefit The Public Health And Safety.*

As discussed throughout the Application, its supporting materials and the testimony provided by representatives of Tower Holdings, the training component of the Facility is instrumental to the public health and safety. The Facility would play an important role in ensuring that the State’s telecommunications infrastructure and, by extension, the country’s

telecommunications infrastructure, operates as seamlessly as possible and, when part of that infrastructure goes down, it is repaired as quickly and safely as possible.

Since 2003, the tower industry has suffered approximately 128 fatalities, with half of those involving lifting devices. In the last year and half, there have been three fatalities associated with the use of a gin pole. *(TH Ex. 9; 2.3.15 Tr., pp. 53, 56; 3.17.15 Tr., p. 198.)*

Currently, the tower industry has to perform on-the-job training because of the lack of available training facilities. Most tower owners are reluctant to allow training on their facilities because of the increased exposure to liability. It is essential that individuals training to construct, maintain and repair telecommunications towers do so in a controlled environment, with a formal training program. The lack of a controlled environment for training raises workplace safety and liability concerns. To date, there is only one known facility designated for gin pole training, which is located in Indiana. *(TH Ex. 9; 2.3.15 Tr., p. 52,56, 115-16; 3.17.15 Tr., pp. 195-96, 199, 209, 217, 242-43.)*

In 2013, the National Association of Tower Erectors (“NATE”) met and developed industry guidelines for gin pole training, which were published in January 2014. Those involved in the construction, maintenance and repair of telecommunications towers are now required to, among other things, demonstrate proficiency in assembling and inspecting a gin pole system, verifying satisfactory tower and ground anchorages and performing adequate load tests prior to lifting a gin pole. The publication of the NATE gin pole guidelines will likely require controlled training facilities. *(TH Ex. 9; 2.3.15 Tr., pp. 52-57.)*

The NATE guidelines coincide with the tower industry’s transition back to the use of gin poles and lifting poles to make alterations to top mounted cell systems and for the installation or de-stacking of towers taller than 250 feet AGL. Aside from the general transition of the tower

industry back to the use of gin poles and lifting poles, the tower industry anticipates that the somewhat recent mandate by the FCC requiring television stations to relocate to different channels will necessitate a significant use of gin poles as most of the television antennas to be relocated are located on very tall lattice towers. The FCC mandated change-out is scheduled to start in late 2016 and will likely last several years. *(TH Ex. 9.)*

Tower Holdings and NET would make the Facility available for the training of those local municipal first responders who work on towers or related structures. NET would provide competent climbing and rescue training at no cost to the municipal employees of Farmington and the surrounding municipalities of Avon, Canton and Simsbury. NET would provide training to these municipal employees over the course of one business day, twice a year. The training would consist of some classroom instruction and time on the Facility. Each municipal employee training session would likely cover a standard business day and would occur during the leaf on months. *(TH Ex. 1, pp. 7-8; TH Exs. 9-10; 2.3.15 Tr., pp. 50, 105-07, 120.)*

The Town has conceded that the training NET would perform on the proposed Facility is not “needless” as set forth in pre-filed testimony of the Town Manager, Kathleen Eagen. The Town has also conceded, albeit reluctantly, that the Commission does not regulate the training of employees generally. *(3.17.15 Tr., pp.276-78, 290-91.)*

There would be no added risk to the public if the Council approved the Facility. The Facility would benefit the public interest and promote public safety, in part, because it would provide important training to NET employees whom construct, install, maintain, repair and decommission broadcast towers, as well as other towers, and their appurtenances. *(TH Exs. 9-10; 2.3.15 Tr., pp. 50, 52-57, 105-07, 120; 3.17.15 Tr., pp. 195-96, 198-99, 209, 217, 225, 235-36, 242-43.)*

D. The Facility Must Be A Lattice Structure.

It is essential that the Facility be of a lattice design. Broadcast towers are typically of a lattice design, as are most towers above 200 feet AGL. Approximately 80 percent of the structures NET works on are of a lattice design. NET performs some of its work on lattice structures over 1000 feet AGL and up to 2000 feet AGL. (*TH Ex. 1, p. 7; TH Ex. 9; 2.3.15 Tr., p. 22; 3.17.15 Tr., p. 235, 257.*)

NET must train its employees on lattice structures because the broadcast industry is not moving away from lattice structures. Lattice structures remain a relevant and viable form of infrastructure for the telecommunications industry. NET has been involved in the construction of approximately twenty-five lattice towers in Connecticut over the past five years.⁹ (*TH Ex. 9; 2.3.15 Tr., pp. 64, 86; 3.17.15 Tr., pp. 221-22, 257-58.*)

A lattice design also allows for more flexibility in training because of their relative size and loading capacity and would also enable NET to alter the configuration of the non-operational Training Equipment as new technologies and equipment emerge in the market. A monopole is insufficient for the type of training NET employees need in part because (a) most of the structures NET works on are of a lattice design and (b) there is only one climbing apparatus, which limits the number of individuals at the same elevation to one. (*TH Ex. 1, p. 7; TH Exs. 6, 10; 2.3.15 Tr., pp. 64, 116; 3.17.15 Tr., p. 218.*)

Moreover, gin poles are designed for tall tower work, specifically lattice towers. They are not designed to be attached to larger diameter poles, such as monopoles, which are generally 150 feet AGL and lower in the Connecticut market. (*TH Ex. 1, p. 7; TH Exs. 6, 10; 2.3.15 Tr., pp. 64, 116; 3.17.15 Tr., pp. 221-22, 257-58.*)

⁹ In addition to the testimony of Mr. Savino and Mr. Ernest Jones and Mr. Jones' pre-filed testimony, Mr. Martin Lavin, an AT&T representative, also testified that "Lattice probably not as common in our industry, but certainly for broadcast and think like that it is often--" (*3.17.15 Tr., p. 258.*)

Because the majority of NET's business involves broadcast lattice towers, which exceed 200 feet AGL, it is particularly important to simulate real world conditions as much as possible. Ideal training conditions would include forty feet of clear space, which would start above AT&T's panel array at 140 feet AGL, and which would provide the added benefit of actual height for training purposes. To help imitate heights in excess of 200 feet AGL up to 2,000 feet AGL, the structure would be designed to taper from approximately eighteen feet per face at the base to five feet per face at 130 feet AGL, and tapers every twenty feet by two feet to the top of the structure.¹⁰ (*TH Ex. 1, pp. 8-9; TH Ex. 1, At. 1; TH Ex. 9; 2.3.15 Tr., pp. 22, 73-74, 78-79; 3.17.15 Tr., pp. 207-08.*)

E. A Two Tower Scenario Is Not Feasible.

It is not possible to construct two separate structures on the Property, one for telecommunications use and one for tower training use. The construction and installation of two facilities is not economically or spatially feasible. (*TH Ex. 3; 2.3.15 Tr., p. 69.*)

The Property is not large enough to host two facilities primarily because of the ground operations performed by NET.¹¹ A separate training structure would likely need to have an eighteen by eighteen square foot base to support the necessary height to conduct training, as well as the training equipment, instructors and trainees. Such a facility would also need additional room for adequate fencing, access and "tag" lines associated with training. (*TH Ex. 3.*) (*TH Ex. 3; 2.3.15 Tr., p. 69.*)

¹⁰ AT&T can locate its equipment on lattice structures as well as other structures. From a radio frequency perspective, the key factors are height and location. The nature of the construction and design of the structure is of no consequence. (*3.17.15 Tr., pp. 262.*)

¹¹ NET stores some of the equipment necessary for its business on site and needs to maintain adequate space to load that equipment onto tractor-trailer trucks and receive deliveries from these large trucks. These trucks require a u-shaped path on the Property from Brickyard Road for ingress and egress. (*TH Ex. 1, At. 1; TH Ex. 3.*)

A structure with a smaller base would have to be guyed. Under the two structure scenario, the Property could not host a guyed structure because of its relatively limited size, the presence of a second structure for telecommunications, the existing office building and parking area, and NET's existing ground operations. Additionally, Tower Holdings would not construct the Facility if approved as a monopole because it is insufficient for the training NET needs to perform and because there is insufficient room on the Property for two facilities. *(TH Ex. 1, p. 7; TH Exs. 3, 6, 10; 2.3.15 Tr., pp. 64, 69, 116; 3.17.15 Tr., p. 218, 221-22, 257-58.)*

F. Alternative Configurations to the Facility.

The Facility as proposed would best enable NET to perform its training. However, NET could provide effective training to its employees with any of the following alternatives (in order of the most effective configuration): (1) a permanent 140 foot AGL lattice structure, with the ability to add temporary lattice segments up to 180 feet AGL ("Alternative A"); (2) a permanent 140 foot AGL lattice structure with the ability to attach a gin pole up to 180 feet AGL ("Alternative B"); or (3) a permanent 140 foot AGL lattice structure ("Alternative C").

With Alternative A, NET could add temporary lattice segments to the permanent 140 foot AGL lattice structure. NET could use two lattice segments for training purposes as the installation of the segments would provide excellent training opportunities for the trainees. The lattice segments would each be approximately twenty feet in length. The lattice segments would be installed and removed during the limited training months between May and August and only over a four week period. *(3.17.15 Tr., pp. 207-08, 233-35.)*

With Alternative B, NET would design the Facility such that NET would have access to forty feet of clear space for training purposes. Such a design would also include a narrower taper closer to the ground to simulate higher elevations. Training would be more effective if

NET could affix the gin pole to the lattice structure so that the gin pole rises above the 140 AGL level, but no higher than 180 feet AGL, to simulate real world conditions more effectively. The additional height reached by the gin pole would be limited to the brief training periods. Finally, although not ideal, NET could also perform gin pole training remaining at or below the 140 feet AGL level of a lattice structure (Alternative C). Regardless of whether the Council approves the Facility as proposed or in an alternative configuration, Tower Holdings and NET would wholeheartedly adhere to whatever height restrictions are imposed by the Council. (2.3.15 Tr., pp. 18-19, 23, 58-59; 3.17.15 Tr., pp. 217-18, 239.)

Any of the alternatives to the Facility would be redesigned so that the narrow taper starts much closer to the ground; thus, providing at least forty feet of straight tower section for training purposes. Such a design would also improve the potential visual impact of the Facility. Ultimately, either alternative to the Facility would benefit the public interest and promote the public safety because it would provide important tower training to NET's employees. (TH Ex. 9, 3.17.15, pp. 236-37, 239.)

III. THE NATURE OF THE PROBABLE ENVIRONMENTAL IMPACT OF THE FACILITY IS NOT SUFFICIENT REASON TO DENY THE APPLICATION

General Statutes § 16-50p(a)(3)(B) and (C) require the Council to find and determine that the "nature of the probable environmental impact" of the Facility is "not sufficient reason to deny the [A]pplication."¹² The Facility is proposed on a developed parcel in an industrial zone; accordingly, the probable environmental impact is *de minimis*.¹³ The nature of the

¹² See note 5, *supra*.

¹³ The Property is an excellent site for a telecommunications facility because it is zoned for industrial uses, it is fully developed, the adjacent land uses are largely commercial or industrial, and the absence of an impact on any natural resources. Regardless, Tower Holdings worked with AT&T to vet other parcels in the area to determine if any them were more suitable for the location of a telecommunications facility. None of them were more suitable. (TH Ex. 1, pp. 11-12; TH Ex. 1, At. 9; TH Ex. 3; AT&T Exs. 2 - 4; 3.17.15 Tr., pp. 261-62, 266-67.)

probable environmental impact is primarily visual and the potential views of the Facility are not enough to deny the Application.

A. The Facility Would Not Have A Significant Visual Impact On The Surrounding Area.

The topography and vegetation within a two mile radius of the proposed Facility (“Study Area”) serve to minimize the potential visual impact of the proposed Facility. The existing vegetation in the Study Area is mixed deciduous hardwood species with an average estimated height of sixty feet. This vegetation sits on rolling hills that range in ground elevation from approximately 160 feet above mean sea level (“AMSL”) to approximately 430 feet AMSL. The tree canopy covers approximately 3,310 acres (or 41 percent) of the 8,042 acre Study Area. (*TH Ex. 1, p. 14; TH Ex. 1, At. 11.*)

Only 2.6 percent of the Study Area would have year round views of portions of the Facility as proposed. Those year round views are limited to nearby areas to the west and southwest of the Facility along Brickyard Road and over open fields and water to the southeast. Very few residential properties would have direct and unobstructed views. Most of the views in the Study Area would be obstructed because of heavy forest cover and landscaping within the surrounding neighborhoods. (*TH Ex. 1, p. 14; TH Ex. 1, At. 11; TH Ex. 6.*)

An additional 3.1 percent of the Study Area would have seasonal (leaf-off) views of the Facility as proposed; however, most of these views would be from over one mile away and through existing tree mast. Some limited seasonal views may also occur from a short section of the Farmington Canal Heritage Trail, which passes through the industrial zone along Brickyard Road. These limited potential views would be heavily obstructed by intervening forest mast. (*TH Ex. 1, p. 14; TH Ex. 1, At. 11; TH Ex. 6.*)

A combined 6 percent of visibility, including both year round and seasonal views, is an average footprint for potential visual impact. Thus, the potential views of the proposed Facility would not be sufficient reason in which to deny the Application. (3.17.15 Tr., pp. 59-60.)

Furthermore, a lattice structure is no more visible than a monopole. The lattice design allows for light to penetrate through the infrastructure, which can soften its silhouette against the sky under various light conditions. The relatively narrow dimensions of the proposed Facility would make the Facility less visually intrusive.

Moreover, the alternatives to the proposed Facility would allow for an even slimmer profile than the proposed Facility because the taper would start closer to the ground. Relatedly, the reduced height of the permanent structure would likewise reduce the potential visual impact somewhat. It is also important to emphasize that all of the training activities would occur over short periods of time during leaf-on months, further minimizing the potential visual impact of the Facility. (TH Ex. 1, p. 6; TH Ex. 1, At. 1; TH Exs. 6, 10; 2.3.15 Tr., pp. 32, 40-41; 3.17.15 Tr., p. 188, 239.)

Lastly, the Town has offered no credible evidence in the form of a visibility analysis or similar evaluation to rebut the fact that the lattice tower would be no more visible than a monopole. (TH Ex. 1, pp. 13-15; TH Ex. 1, At. 11; Farm. Exs. 2-3; 2.3.15 Tr., pp. 40-41.) Mr. Philip Dunn, the chairperson of the Commission, simply testified that he “heard from the various neighbors” that “they do not want to see any structure.” It is clear that the Town does not want to see any facility on the Property even though it is an excellent site for a telecommunications facility. (3.17.15 Tr., pp. 285.)

B. The Facility Would Not Have A Significant Impact On The Environment.

The Property lies in an industrial zone and is very developed,¹⁴ which is an ideal location for a telecommunications facility. The Facility would have a *de minimis* impact on the natural environment and would only serve to improve the public health and safety.

The Facility would not impact any federal or state regulated wetlands or watercourses. There are no wetlands located on the Property. The nearest wetlands area to the Facility is associated with a man-made stormwater detention basin located on an adjoining parcel, owned by someone other than Tower Holdings, approximately 350 feet to the southwest. (*TH Ex. 1, pp. 18, 24-25; TH Ex. 1, At. 19.*)

The Facility is not designated as a wilderness area and is not located in any areas identified as a wildlife preserve or in a USFW National Wildlife Refuge. There are no National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Gamelands located in the vicinity of the proposed Facility. The Facility would not be located within a floodplain. The construction of the Facility would not require the removal or relocation of any trees. (*TH Ex. 1, pp. 12, 18 n.1, n.2, 19; TH Ex. 1, Ats. 8, 16.*)

The United States Fish and Wildlife Service (“USFW”) confirmed that there are no threatened or endangered species, or any proposed and final designated critical habitat, that may occur within the boundaries of the site for the proposed Facility. The USFW also confirmed that there are no such species or habitat that may be affected by the proposed Facility. (*TH Ex. 1, p. 17; TH Ex. 1, At. 14.*)

¹⁴ The Property is zoned Industrial C1. The immediately adjacent land uses are not residential. Zoning beyond the immediate parcels include industrial, earth excavation and residential. The Property currently hosts an office building and employee parking, as well as designated areas for storage and deliveries in connection with NET’s operations. (*TH Ex. 1, p. 11; TH Ex. 1, Ats. 1, 5; 3.17.15 Tr., pp. 235-36.*)

The closest Important Bird Area to the site of the proposed Facility is approximately 12.4 miles to the northeast. The proposed Facility would not impact any avian resource areas or migratory bird species. The Facility would comply with the guidelines recommended by the USFW concerning migratory bird species. (*TH Ex. 1, p. 19; TH Ex. 1, At. 17.*)

On October 25, 2013, the Department of Energy and Environmental Protection (“DEEP”) stated that the Natural Diversity Database (NDDB) records “indicate that many state-listed sand barren-obligate plant and invertebrate species occur at [the site of the proposed Facility].” However, DEEP concluded that “it is unlikely that this project will impact the remaining sand barren habitat that exist on-site” because the Facility is proposed within an existing graveled lot. Although DEEP concluded that the proposed Facility would not impact biological resources, Tower Holdings performed an additional survey concerning the possible existence of sand barren habitat on or near the Property and, if such habitat existed, whether that habitat would be impacted by the Facility. (*TH Ex. 1, p. 16; TH Ex. 1, At. 12.*)

The area referenced by DEEP as Critical Habitat is located on property, owned by others, which is adjacent to the Property. The Critical Habitat consists of an area with current compost and sand and gravel operations. Any construction activities, as well as maintenance and operation, would occur on the Property, within existing developed areas and separated by an existing chain link fence. (*TH Ex. 1, pp. 16-17; TH Ex. 1, At. 12.*)

Furthermore, the referenced Critical Habitat sand barren areas, to the extent they still exist, would not be impacted by the construction, maintenance and operation of the Facility. It was recommended that sedimentation and erosion controls be designed, installed and maintained during construction pursuant to the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*. (*TH Ex. 1, pp. 16-17; TH Ex. 1, At. 12.*)

On May 30, 2014, the State Historic Preservation Office, as a component of the Department of Economic & Community Development (SHPO) determined that “there will be no historical properties affected by the proposed 180’ lattice tower and associated equipment” and that the proposed “location contain[s] little, if any, possibility to yield cultural deposits.” *(TH Ex. 1, p. 17; TH Ex. 1, At. 13.)*

The Federal Aviation Administration conducted an aeronautical study of the proposed Facility and determined that the Facility would not be a hazard to air navigation. Similarly, the FCC determined that the height and elevation of the proposed Facility did not require registration with the FCC. *(TH Ex. 1, p. 17; TH Ex. 1, At. 15; TH Ex. 4.)*

The Facility would be unmanned, requiring infrequent monthly maintenance visits by each carrier that typically last approximately one hour in duration. AT&T would monitor its equipment at the Facility, which would be monitored twenty-four hours a day, seven days a week from a remote location. The Facility would not require a water supply or wastewater utilities. The Facility would not require outdoor storage or solid waste receptacles and the Facility would not create or emit any smoke, gas, dust or other air contaminants, noise, odors or vibrations. *(TH Ex. 1, p. 18; TH Ex. 1, At. 1.)*

In the event of a temporary power outage, the Facility would require the limited use of an on-site diesel fuel generator. The generator would comply with all applicable DEEP regulations. By email dated March 16, 2015, the Department of Public Health confirmed that the proposed Facility would not be located within an Aquifer Protection Area (“APA”), specifically the APA of Connecticut Water Company – Unionville (CT Sand and Stone APA). *(TH Ex. 1, p. 18; TH Ex. 1, At. 19; TH Ex. 12.; 3.17.15 Tr., pp. 178-79, 183.)*

The maximum density calculation from the frequency emissions of AT&T's antennas would not exceed 3.77 percent of the FCC's standard as set forth in the FCC's Office of Engineering and Technology Bulletin No. 65, Edition 97-01 (August 1997) ("OET Bulletin 65"). The cumulative effect of Dunning, Marcus and WBMW would not exceed 25.03 percent of the FCC standard. The cumulative effect of all of the antennas would not exceed 28.80 percent of the FCC standard. (*TH Ex. 1, pp. 19-20; TH Ex. 1, At. 18.*)

IV. THE EVIDENCE PRESENTED BY THE TOWN IS LARGELY IRRELEVANT AND/OR IMMATERIAL

Nearly all of the evidence presented by the Town attempted to persuade the Council that Tower Holdings initially considered constructing a "training tower" instead of a telecommunications facility. The remainder of the evidence either touched upon a hypothetical training school that is not part of the Application or was duplicative of the materials included in Tower Holdings' bulk filing.¹⁵ The Town offered no technical or otherwise credible evidence to rebut the public need for the Facility, the basis for that need or that the probable environmental impact of the Facility would not be a sufficient reason to deny the Application. The Town offered two witnesses, Dunn and Eagen. Neither witness offered any technical credentials, testimony or reports that would have any impact on the Council's decision. Tower Holdings respectfully requests that the Council find that the evidence submitted by the Town is irrelevant, immaterial and/or lacking credibility in accordance with General Statutes § 4-178(1) and § 16-50j-28(b) of the Regulations of State Agencies.

¹⁵ A more detailed discussion of the Town's "pre-hearing submission" is addressed in Tower Holdings' objection to preclude from the record most of the Town's submission, dated March 13, 2015. On March 17, 2015, the Council overruled Tower Holdings' objection.

A. The Genesis Of The Facility Is Irrelevant To The Proceedings.

Tower Holdings provided a detailed outline and proffered testimony of the events leading up to the filing of this Application. (*TH Exs. 9-11; AT&T Ex. 6; Farm. Ex. 4; 2.3.15 Tr., pp. 34-35, 48-49, 52, 56, 81-82, 90-92, 103, 115-16; 3.17.15 Tr., pp. 199, 209, 217, 226-30, 242-43.*) These events were simply serendipitous and a function of NET's involvement in the telecommunications industry and represented a business synergy such that NET would be able to use the Facility for training and AT&T could alleviate a coverage gap in the area of the Property.¹⁶ There is simply nothing untoward about how the Facility came to the Council.

Similarly, the Town has greatly exaggerated the very early and informal meetings between representatives of Tower Holdings or NET and the Town and the import of the conceptual photo-simulations provided to the Town. It cannot be emphasized enough that Tower Holdings provided the conceptual photo-simulations to demonstrate its sincere interest in being a good corporate citizen, particularly since AT&T had not finalized the height needed to address its coverage objectives.¹⁷ Furthermore, although negotiations were underway in earnest, AT&T and Farmington River Properties, LLC, the owner of the Property, had not yet finalized a lease. It is beyond dispute that the Facility was in its infancy at the time of the early and informal meetings and the provision of the conceptual photo-simulations.

Furthermore, the Town, specifically Mr. Dunn, has repeatedly referred to Tower Holdings' willingness to meet with the Town and to submit conceptual information as an

¹⁶ Mr. Savino testified that AT&T was a significant factor in moving forward with the proposed Facility in January 2013 and he eventually learned that a tower with a wireless carrier would be subject to the exclusive jurisdiction of the Council. (*TH Ex. 11; 2.3.15 Tr., pp. 35, 84; 3.17.15 Tr., pp. 227-28.*)

¹⁷ The Town has argued that the proposed Facility did not have a telecommunications component at the time Tower Holdings submitted the photo-simulations to the Town in April 2013. This argument is belied by the testimony of Chuck Regulbuto (*2.3.15 Tr., pp. 34-35, 81-82*), the timeline provided by Tower Holdings (*TH Ex. 11*) and the interrogatory responses provided by AT&T (*AT&T Ex. 6*).

“application” and, moreover, as an “application” that was withdrawn because, according to the Town, Tower Holdings wanted to avoid certain height restrictions contained in the Town’s Zoning Regulations.¹⁸ These statements are misleading and disingenuous, particularly from a Town official, let alone the Chair of the Commission. Tower Holdings did not submit anything that could remotely resemble an application for a special permit or any other permit, assuming for the sake of argument that such a permit was required. Tower Holdings did not complete the required zoning application, submit a site plan or remit a filing fee.¹⁹

Ultimately, the genesis of the Facility is irrelevant to the Council’s decision on the Application. The factors set forth in General Statutes § 16-50p do not remotely touch on the events well before the filing of the Technical Report with the Town. Accordingly, the Council should consider these facts irrelevant and immaterial to the Application pursuant to General Statutes § 4-178(1) and § 16-50j-28(b) of the Regulations of State Agencies.

B. The Application Does Not Propose A Training School.

The Town expended great effort arguing that NET would draw a significant number of people to its “training school.” The simple truth is that NET needs to train its employees and would like to do so on the Facility and, to promote the public health and safety further, has

¹⁸ Ironically, Tower Holdings performed a comprehensive zoning analysis and determined that the Facility would comport with most of the Town’s land use regulations applicable to telecommunications facilities.¹⁸ The Facility would comply with the lot size, height and fall zone requirements, as well as the minimum distances from residential properties, schools and historic districts. The Facility would also comply with those requirements concerning public safety. *Finally and importantly, the Zoning Regulations expressly provide for the construction of lattice towers.* (TH Ex. 1, pp. 21-25; TH Ex. 1[a].)

¹⁹ Aside from these misleading statements, the Town also referred to the Facility as “needless” even though it would provide invaluable training to NET’s tower climbers as well as interested local municipal first responders. (3.17.15 Tr., pp. 276-78.) Additionally, the Town also indicated that Tower Holdings never approached the Town about alternative sites to the Facility’s proposed location. These statements were blatantly false. Finally, for the first time, at the March 17, 2015 hearing, the Town suggested an alternative that was closer to residences, which can only lead one to conclude that the Town was not seriously considering alternative sites, but rather looking for any possible way to derail the Application. (TH Ex. 1, p. 25; TH Ex. 1, At. 20; 3.17.15 Tr., pp. 295-98.)

offered to train local municipal first responders in competent tower climbing and rescue.²⁰ Although Mr. Savino, Jr., testified that he would certainly like to impart the knowledge he has gained over the last thirty years in the telecommunications industry with those new to the industry, that endeavor is not before the Council in this Docket. Should Tower Holdings and NET wish to train other private entities in the future, they will seek all permits necessary under local, State and Federal law. (*TH Ex. 1, pp. 6-7; TH Exs. 9-11; 2.3.15 Tr., pp. 17-19, 103.*)

V. CONCLUSION

The record amply supports the finding of a public need, the basis of that need and a finding that the probable environmental impact is not a sufficient reason to deny the Application. Furthermore, the Council's charge to ensure the public health and safety provides the Council with jurisdiction and authority over Tower Holdings' request for the height above AT&T's proposed location on the Facility. The record demonstrates that the Facility would be instrumental to the public health and safety in that AT&T would be able to provide reliable service in the area, including enhanced 911 services, NET would be able to perform essential tower training and other communications providers, such as Marcus, would be able to alleviate coverage or capacity needs.

²⁰ The Town also argued that Tower Holdings has not met with first responders in the Town and surrounding municipalities. First, this statement is untrue; Mr. Savino did speak to some first responders. Second, the ultimate point is that Tower Holdings is willing to do so and has expressed this position since it filed its Technical Report in February 2014. This is a sincere offer to help promote the public health and safety. (*TH Ex. 1, pp. 7-8; TH Ex.10; 2.3.15 Tr., p. 105; 3.17.15 Tr., pp. 194-95.*)

WHEREFORE, Tower Holdings respectfully requests that the Council approve a Certificate for the Facility as follows (in order of most effective configuration):

1. As proposed in the Application;
2. Alternative A;
3. Alternative B; or
4. Alternative C.

Respectfully submitted by,

TOWER HOLDINGS, LLC

By: 

Jesse A. Langer
Updike, Kelly & Spellacy, P.C.
265 Church Street
New Haven, CT 06510
(203) 786-8310
Email: jlanger@uks.com

CERTIFICATION

I hereby certify that on this day a copy of the foregoing was delivered by electronic mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

Counsel for New Cingular Wireless PCS, LLC ("AT&T")

Christopher B. Fisher
Lucia Chiocchio
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

Counsel for the Town of Farmington

Kenneth R. Slater, Jr.
Duncan F. Forsyth
Halloran & Sage, LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06106



Jesse A. Langer
Commissioner of the Superior Court