

CONNECTICUT SITING COUNCIL
DOCKET NO. 462

IN THE MATTER OF:

APPLICATION OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY IN
DANBURY, CONNECTICUT

APPLICANT'S POST-HEARING BRIEF

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TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY.....	1
Facility Description.....	1
Public Need.....	1
Nature of Probable Impacts.....	2
Public Input.....	3
Conclusion	3
I. INTRODUCTION.....	4
II. PROCEDURAL BACKGROUND.....	4
III. FACTUAL BACKGROUND.....	5
A. Pre-Application History	5
B. Local Contacts.....	5
C. Tower Sharing.....	5
D. The Bethel West 2 Facility Proposal.....	6
IV. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50P FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED.....	7
A. A Public Need Exists for a Bethel West 2 Facility.....	8
B. Nature of Probable Impacts.....	9
1. Natural Environment and Ecological Balance.....	9
2. Public Health and Safety.....	10
3. Scenic Values.....	11
4. Historical Values.....	12
5. Recreational Values	12
6. Forests and Parks	12
7. Air and Water Quality.....	13
8. Fish and Wildlife.....	13
C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts.....	14
V. CONCLUSION.....	15

EXECUTIVE SUMMARY

On July 7, 2015, Cellco filed an application (“Application”) with Council for a Certificate of Environmental Capability and Public Need (“Certificate”) to construct a wireless telecommunications facility (the “Bethel West 2 Facility”) on an approximately 14-acre parcel at 15 Great Pasture Road in Danbury, Connecticut (the “Property”). The Bethel West 2 Facility would provide enhanced wireless telecommunications services in northeast portions of Danbury and northwest portions of Bethel, particularly along portions of Routes 53 and 302, and along local roads in the area surrounding the Property.

Facility Description

Cellco proposes to construct a monopole tower no taller than 120 feet above ground level (“AGL”) in the southwest corner of the developed portion of the Property. This portion of the Property is currently used for outdoor materials storage. Cellco would install twelve (12) panel-type antennas and nine (9) remote radio heads (“RRH”) on a low profile platform at the top of the tower. The top of Cellco’s antennas would extend approximately three (3) feet above the top of the tower. Cellco would also install a 12’ x 26’ shelter on the ground near the base of the tower to house its radio equipment and a propane-fueled back-up generator. The tower, equipment shelter and 1000 gallon propane tank would be located within a 50’ x 50’ fenced compound and leased area. Access to the tower site would extend from Great Pasture Road over the existing paved driveway at the Property, a distance of approximately 645 feet.

Public Need

The proposed Bethel West 2 Facility will provide reliable wireless service to significant

coverage gaps, particularly in Cellco's 1900 MHz and 2100 MHz frequencies and will provide significant capacity relief to Cellco's Bethel, Bethel West and Danbury 3 cell sites. The proposed Bethel West 2 Facility will provide reliable wireless service to a 1.55 mile portion of Route 53, a 0.4 mile portion of Route 302, and an overall area of 7.82 square miles at 700 MHz frequencies; a 1.4 mile portion of Route 53, a 0.3 mile portion of Route 302, and an overall area of 7.15 square miles at 850 MHz frequencies; a 0.9 mile portion of Route 53, a 0.2 mile portion of Route 302, and an overall area of 4.32 square miles at 1900 MHz frequencies; and a 0.75 mile portion of Route 53, a 0.2 mile portion of Route 302, and an overall area of 4.6 square miles at 2100 MHz frequencies.

Nature of Probable Impacts

The record contains ample evidence to support a finding by the Council that the Bethel West 2 Facility would not have a significant adverse impact on the environment at the Property or the surrounding area. Cellco has presented evidence that the location and development of the Bethel West 2 Facility will have no effect on historic or archeological resources; will not adversely impact federal or State listed, threatened or endangered species or State species of special concern; will not have any direct impact on wetlands near the cell site; will not be considered to be an obstruction or hazard to air navigation and, therefore, will not require any FAA marking or lighting; and will operate well within safety limits established by the FCC for radio frequency emissions.

Generally speaking, the primary impact of any telecommunications facility is visual. The overall area where some portion of the proposed Bethel West 2 Facility tower may be visible year round (above the tree line), is conservatively estimated to be approximately 38-acres, approximately 0.47 percent of the 8,042-acre study area. The areas of potential year-round visibility are generally

limited to select locations within approximately one-half (1/2) mile of the cell site. At locations nearer the Property, primarily within the industrial park along Great Pasture Road, larger portions of the tower may be visible. Beyond 0.25 miles from the tower site, views become more sporadic and intervening vegetation and existing infrastructure serve to obstruct views of the Bethel West 2 Facility. Seasonal views, through intervening trees and branches are anticipated to occur in some locations within a 255-acre area (3.2% of the 8,042-acre study area) around the tower site. There are ten (10) residential structures within 1,000 feet of the Bethel West 2 Facility. The closest residence is located approximately 612 feet to the northeast at 13 Great Pasture Road.

Public Input

Cellco commenced its local input process by meeting with Danbury Mayor Mark Boughton on March 3, 2015. Cellco provided Mayor Boughton with copies of technical information summarizing Cellco's plans to establish the Bethel West 2 Facility. Town comments were received on April 7, 2015, and submitted to the Council in the Application.

Conclusion

The unrefuted evidence in the record clearly demonstrates that there is a need for the proposed Bethel West 2 Facility and that the environmental impacts from the proposed facility location would be limited and outweighed by the benefits to the public.

I. INTRODUCTION

On July 7, 2015, Cellco Partnership d/b/a Verizon Wireless (“Cellco” or “Applicant”) filed with the Connecticut Siting Council (“Council”) an application (the “Application”) for a certificate of environmental compatibility and public need (“Certificate”), pursuant to Sections 16-50g *et seq.* of the Connecticut General Statutes (“Conn. Gen. Stat.”), for the construction, maintenance and operation of a wireless telecommunications facility (the “Bethel West 2 Facility”) on an approximately 14-acre parcel at 15 Great Pasture Road in Danbury, Connecticut (the “Property”). The proposed Bethel West 2 Facility will provide enhanced wireless service to northeast portions of Danbury and northwest portions of Bethel and significant capacity relief to surrounding cell sites. (Cellco Exhibit 1 (“Cellco 1”).)

II. PROCEDURAL BACKGROUND

On September 15, 2015, the Council conducted an evidentiary hearing and an evening public hearing on the Application (September 15, 2015 Transcript (“Tr. 1” and “Tr. 2,” respectively)). Prior to the evidentiary hearing, at 2:00 p.m., the Council conducted a site visit at the Property. Between the hours of approximately 8:00 a.m. and 6:00 p.m. on September 15, 2015, Cellco caused a red balloon to be flown as prescribed by the Council. (Admin. Record; Cellco 1, p. 14; Tr. 1, pp. 14-15).

This Post-Hearing Brief is filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”). The brief evaluates the Application in light of the Council’s review criteria, as set forth in Section 16-50p of the Connecticut General Statutes and addresses other issues raised throughout the course of this proceeding.

III. FACTUAL BACKGROUND

A. Pre-Application History

Cellco is licensed to provide wireless services in the 700 MHz, 850 MHz, 1900 MHz and 2100 MHz frequency ranges throughout Connecticut. The Bethel West 2 Facility will provide reliable and enhanced wireless service to gaps in service, particularly in Cellco's 1900 MHz and 2100 MHz frequencies, and capacity relief to several of its surrounding cell sites. (Cellco 1, pp. 6-7, Tab 6).

B. Local Contacts

On March 3, 2014, Cellco representatives met with Mayor Mark Boughton, to commence the ninety (90) day municipal consultation process. Mayor Boughton received copies of Cellco's technical information summarizing its plans to establish a telecommunications facility at the Property (the "Technical Report"). At this meeting, Cellco discussed, in detail, all aspects of the proposed Bethel West 2 Facility, the site location being considered, the need for wireless service improvements in the area and the Connecticut Siting Council application process.¹ Because the proposed facility is located within 2,500 feet of the Bethel Town line, copies of the technical information were also delivered to Bethel First Selectman Matt Knickerbocker. Pursuant to Council Guidelines copies of the technical information was also forwarded to the Planning and Zoning Commission and Inland Wetlands Agency in Danbury and Bethel. (Cellco 1, pp. 20-21; Cellco 1.d.).

C. Tower Sharing

Cellco will design the facility tower and compound to be shared by other wireless carriers

¹ Cellco received comments on the tower proposal from the Danbury Planning and Zoning Department which were incorporated into the Application. (Cellco 1, Tab 14).

and the City of Danbury, if a need exists. This type of tower sharing arrangement would reduce, if not eliminate, the need for these other carriers or municipal entities to develop a separate tower in this same area in the future. As of the date of this filing, no other wireless carriers have expressed any interest in the East Street Facility. (Cellco 1, p. 12; Tr. 1, pp. 15-16).

D. The Bethel West 2 Facility Proposal

The Bethel West 2 Facility would be located within a 50' x 50' fenced compound and leased area in the southwest corner of the developed portion of an approximately 14-acre parcel at 15 Great Pasture Road in Danbury. The Property is owned by Eppoliti Industrial Realty, Inc. and used for industrial purposes. At this location, Cellco would construct a self-supporting monopole tower not taller than 120 feet AGL. Cellco would install twelve (12) panel-type antennas and nine (9) remote radio heads ("RRHs") on a low profile platform at the 120-foot level. Vehicular access to the site would extend from Great Pasture Road over existing paved surfaces to the cell site, a distance of approximately 645 feet. Utilities will extend from existing service along the north side of the building on the Property. (Cellco 1, p. 2, Tab 1).

Cellco would install a 12' x 26' equipment shelter near the base of the tower to house its receiving, transmitting, switching, processing and performance monitoring equipment and the required heating and cooling equipment. A propane-fueled back-up generator would also be installed in a segregated room inside the shelter for use during power outages and periodically for maintenance purposes. A 1000 gallon propane tank would be located within the 50' by 50' compound. (Cellco 1, pp. 2, 7-8, Tab 1; Tr. 1, p. 11). The tower and equipment shelter would be surrounded by an 8-foot high security fence and gate. Cellco's equipment shelter would be equipped with a silent intrusion and system alarms and will be monitored on a 24-hour basis to

receive and to respond to incoming alarms or other technical problems. (Cellco 1, pp. 7-8, Tab 1).

IV. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50P FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Section 16-50p of the Public Utility Environmental Standards Act (“PUESA”), Conn. Gen. Stat. § 16-50g *et seq.*, sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate 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) . . . a public need for the facility and the basis of the need; (B) The nature of the probable environmental impact . . . including a specification of every significant adverse effect . . . 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 . . . 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

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility and the basis of the need.” Conn. Gen. Stat. § 16-50p(a)(3)(A). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(3)(B), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3)(C). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a

Certificate.

A. A Public Need Exists for a Bethel West 2 Facility

The first step in the review of the pending Application addresses the public need for the proposed facility. As noted in the Application, the Federal Telecommunications Act of 1996 (the “Act”) recognized, among other things, an important nationwide need for high-quality wireless telecommunication services of all varieties. The Act also expressly promotes competition and seeks to reduce federal, state and local government regulation in all aspects of the telecommunications industry, including facility siting, in order to foster lower prices for consumers and to encourage the rapid deployment of new and advance wireless service and technologies. (Council Adm. Notice 4; Cellco 1, pp. 4-6).

In 2009, President Obama issued Presidential Proclamation 8460, in which “cellular phone towers” were identified as critical infrastructure vital to national security. (Council Adm. Notice 11; Cellco 1, pp. 4-6). The same year, the United States Congress directed the FCC to develop a national broadband plan to ensure that every American has access to (wireless) broadband capability. The FCC released Connecting America: The National Broadband Plan (the “Broadband Plan”) a year later, which recognized broadband as a “foundation for economic growth, job creation, global competitiveness and a better way of life.” One of the Plan’s goals for 2020 is for the United States to “lead the world in mobile innovation, with the fastest and most extensive wireless networks of any nation.” (Council Adm. Notice 19; Cellco 1, pp. 4-6).

The proposed Bethel West 2 Facility would be part of Cellco’s expanding wireless telecommunications network envisioned by the Telecommunications Act and the Broadband Plan and has been developed to help meet these nationwide goals. In particular, Cellco’s system has

been designed so as to maximize the geographical coverage, improve network capacity and improve the overall quality of wireless service to allow for the efficient and reliable use of Cellco's network. (Cellco 1, p. 9). As the Council is aware, Cellco holds licenses to provide wireless services in the 700 MHz, 850 MHz, 1900 MHz and 2100 MHz frequency ranges in Fairfield County, and throughout the State of Connecticut. Initially, Cellco will deploy its LTE services (700 MHz and 2100 MHz) at the Bethel West Facility. Cellco's 1900 MHz frequencies would be added as necessary to meet future network capacity demands. (Cellco 1, Tab 5; Cellco 4, Q. 16).

The record contains ample, written evidence and testimony that an antenna height of 140 feet AGL at the Bethel West 2 Facility would allow Cellco to satisfy its wireless service objectives in the area and continue to provide high-quality reliable wireless service in westerly portions of the Town. (Cellco 1, pp. 6-8, Tab 6).

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the Bethel West 2 Facility and particularly the following factors:

1. Natural Environment and Ecological Balance

The proposed development of the Bethel West 2 Facility has eliminated, to the extent possible, impacts on the natural environment. All facility improvements would be located within a 50' x 50' leased area and fenced compound. Access to the tower site would extend from Greater Pasture Road over existing paved surfaces at the Property, to the cell site, a distance of approximately 645 feet. No tree clearing and minimal grading of the compound area would be required for construction of the tower and site compound. Power and telephone service will

extend underground from Great Pasture Road along the access easement to the cell site compound. The remaining Property would remain unchanged by the construction and operation of the cell site. (Cellco 1, Tab 1).² Overall, Bethel West 2 Facility development would have a negligible impact on the physical environment of the Property. No evidence to refute this conclusion was presented to the Council.

2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the Bethel West 2 Facility would be minimal or nonexistent.

First, the potential for the facility tower to fall does not pose an unreasonable risk to health and safety. The approved tower would be designed and built to meet Electronic Industries Association standards. The closest off-site residence is located approximately 612 feet to the northeast of the proposed tower site at 13 Great Pasture Road. (Cellco 1, Tab 1; Tr. 1, p. 18).

Second, worst-case potential public exposure to Radio Frequency (“RF”) emissions from the proposed facility would be well below the FCC Safety Standards. (Cellco 1, p. 17, Tab 1, p. 8).

If approved, the Cellco will design the facility tower and compound to be shared by other wireless carriers, and the Town’s emergency service providers, if a need exists. This type of tower sharing arrangement would reduce, if not eliminate, the need for other carriers or municipal entities to develop a separate tower in this same area in the future. (Cellco 1, p. 12).

Overall, the nature and extent of potential, adverse public health and safety impacts resulting from construction and installation of the Bethel West 2 Facility would be minimal or

² All site development activity associated with the Bethel West 2 proposal will avoid the existing DEEP Dig Restricted Area on the Property. (Cellco 1, Tab 1; Tr. 1, pp. 16-17; Cellco 4, Q. 22).

nonexistent. The public safety benefits, however, would be substantial. No evidence to refute these conclusions was presented to the Council.

3. Scenic Values

As noted in the Application, the primary impact of any tower is visual. Cellco's site search methodology, described in the Site Search Summary, is designed in large part to minimize such visual impacts. As discussed above, wherever feasible, Cellco avoids construction of a new tower by first attempting to identify use and existing towers or other tall non-tower structures in or near a particular search area. Cellco currently maintains five (5) existing cell sites (Danbury Hospital (roof-top); Danbury 3 (roof-top); Bethel West (tower); Bethel (tower); and Germantown (tower)), all within approximately two (2) miles of the Bethel West 2 location. These sites will interact with the proposed Bethel West 2 Facility. However, these adjacent sites cannot satisfy Cellco's need for wireless service in and near the designated Bethel West 2 Facility search area. Cellco also regularly investigates the use of existing, non-tower structures in an area, when available, as an alternative to building a new tower. No existing non-tower structures of suitable height exist or were available for lease. (Cellco 1, pp. 8-9, Tab 6, Tab 8; Tr. 1, pp. 26-28).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the site may be reduced to the greatest extent possible. Cellco explored the use of eight (8) possible alternative sites in Danbury and Bethel and selected the Property as a suitable location for its Bethel West 2 Facility to present to the Council. (Cellco 1, Tab 8).

Cellco submitted a Visibility Analysis prepared by All-Points Technology Corporation ("APT") as a part of the Application. Prior to preparing its report, APT conducted a balloon float

and field reconnaissance to obtain photographs for use in the Visibility Analysis. (Cellco 1, Tab 9).

APT determined that top portions of the tree tower would be visible above the tree canopy from approximately 38-acres or 0.47% of the 8,042-acre study area. Year-round visibility of the Bethel West 2 Facility is generally limited to locations within ½ mile of the Property. Areas where seasonal views are anticipated comprise approximately 255-acres (approximately 3.2% of the 8,042-acre study area) around the tower site. (Cellco 1, pp. 13-14, Tab 9). There are no buildings containing schools or commercial daycare facilities within 250 feet of the tower site. (Cellco 1, Tab 9).

4. Historical Values

There are no historic resources within ½ mile of the proposed Bethel West 2 Facility. Regardless, Cellco filed a request for State Historic Preservation Office (“SHPO”) review of this tower proposal. On July 7, 2015, SHPO determined that the proposed facility will have no effect on any historic properties in the area. (Cellco 1, p. 16, Tab 12; Cellco 3). No evidence to refute this conclusion was presented to the Council.

5. Recreational Values

There are no recreational activities or facilities on the Property that would be adversely impacted by development of the Bethel West 2 Facility. (Cellco 1, Tab 9).

6. Forests and Parks

There is no State or local forests or park land that will be adversely impacted as the proposed Bethel West 2 Facility tower. (Cellco 1, Tab 9). No evidence to refute this conclusion was presented to the Council.

7. Air and Water Quality

a. Air Quality.

Under normal operating conditions, the Cellco equipment at the Bethel West 2 Facility would generate no air emissions. During power outage events and periodically for maintenance purposes, Cellco would utilize a propane-fueled generator to provide back-up power. Cellco's back-up generator will be managed to comply with the "permit by rule" criteria established by the Connecticut Department of Energy and Environmental Protection ("DEEP") Bureau of Air Management pursuant to R.C.S.A. § 22a-174-3b, and therefore is exempt from general air permit requirements. (Cellco 1, p. 22).

b. Water Quality.

The proposed Bethel West 2 Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private waste water disposal system. Dean Gustafson, Professional Soil Scientist and Senior Environmental Scientist with APT, conducted a field investigation and completed a Wetlands Investigation report for the Bethel West 2 Facility. According to this evaluation, the closest wetland area to the tower is located approximately 80 feet south of the proposed tower. In the wetlands report Mr. Gustafson concludes that the Bethel West 2 Facility will have no direct impact to this wetland area. (Cellco 1, pp. 19-20, Tab 1, Tab 11). No evidence to refute these conclusions was presented to the Council.

8. Fish and Wildlife

As a part of its National Environmental Policy Act ("NEPA") Checklist, Cellco received comments on the Bethel West 2 Facility from the U.S. Department of Interior, Fish and Wildlife Service ("USFWS") and the Connecticut Department of Energy and Environmental Protection

("DEEP"). According to the USFWS and CT DEEP Compliance Determination, there are two (2) federally-listed threatened species, including *Bog Turtle* (a wetland dependent species) and *Northern Long-Eared Bat*, that have been documented in the vicinity of the Property. Because the proposed facility is located in an upland area and will not impact nearby wetlands, the facility will not result in an adverse impact on the *Bog Turtle*. Likewise, because no trees need to be removed, development of the facility will not impact potential roosting habitat for the *Northern Long-Eared Bat*.

In addition, two (2) State Special Concern Species, the *Eastern Box Turtle*, the *Wood Turtle*, may also occur in the vicinity of the Bethel West 2 Facility. Cellco has developed certain protective measures to avoid unintentional mortality of these turtle species during construction. With adherence to these guidelines, Cellco does not anticipate any adverse impacts on these species. (Cellco 1, pp. 15-16, Tabs 10 and 11; Cellco 5; Cellco 6; Tr. 1, pp. 23-25 and 34-47).

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the Bethel West 2 Facility site, Conn. Gen. Stat. § 16-50p requires that the Applicant demonstrate why these impacts "are not sufficient reason to deny the Application." Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application.

In sum, the potential environmental impacts from the Bethel West 2 Facility would be minimal when considered against the benefits to the public. These impacts are insufficient to deny the Application. The site, therefore, satisfies the criteria for a Certificate pursuant to Conn. Gen.

Stat. § 16-50p, and the Applicant's request for a Certificate should be granted.

V. CONCLUSION

Based on the overwhelming evidence in the record, the Applicant has established that there is a need for a Bethel West 2 Facility and that the environmental impacts associated with the Application would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application. Therefore, the Council should approve the Application as submitted.

Respectfully submitted,
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WIRELESS

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