

CONNECTICUT SITING COUNCIL
DOCKET NO. 467

IN THE MATTER OF:

APPLICATION OF HOMELAND TOWERS, LLC AND 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 AT 100 POCONO ROAD IN
BROOKFIELD, CONNECTICUT

POST-HEARING BRIEF

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EXECUTIVE SUMMARY

On June 6, 2016, Homeland Towers, LLC (“Homeland”) and Cellco Partnership d/b/a Verizon Wireless (“Cellco”) (collectively, the “Applicant”) filed an application (“Application”) with the Siting Council for a Certificate of Environmental Capability and Public Need (“Certificate”) to construct a wireless telecommunications facility (the “Brookfield South Facility”) in the southern-most portion of a 43.28-acre parcel at 100 Pocono Road in Brookfield, Connecticut (the “Property”). The Brookfield South Facility would provide Cellco customers with improved wireless telecommunications services in Brookfield. The tower will also be shared by the Town to improve its emergency service communications network.

Facility Description

Homeland proposes to construct and maintain a monopole tower, no taller than 150 feet above ground level (“AGL”), in the southerly portion of the Property. This portion of the Property is currently used for outdoor materials storage by the Town of Brookfield Public Works Department. Cellco would install twelve (12) panel-type antennas and nine (9) remote radio heads (“RRHs”) on a low profile platform at the 146-foot level on the tower. Cellco would install its radio equipment and a propane-fueled back-up generator on a 12’ x 30’ steel platform with a canopy roof near the base of the tower. The tower, equipment platform and 500 gallon propane tank would be located within a 55’ x 70’ fenced compound. Access to the tower site would extend from Pocono Road over the existing paved and gravel driveway on the Property, a distance of approximately 730 feet.

Public Need

The proposed Brookfield South Facility will allow Cellco to provide reliable wireless service to existing gaps in service along portions of Routes 7, 202, 25 and 133 in Brookfield and will provide capacity relief to Cellco's existing Brookfield and Bethel North cell sites.

Nature of Probable Impacts

The record contains ample evidence to support a finding by the Council that the Brookfield South 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 Brookfield South 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 Brookfield South Facility tower may be visible year round (above the tree line), is conservatively estimated to be approximately 348-acres, approximately 4.3 percent of the 8,042-acre study area. Seasonal views, through intervening trees and branches are anticipated to occur in some locations within a 752-acre area around the tower site. There are only four (4) residential structures within 1,000 feet of the Brookfield South Facility, one of which is unoccupied and is in a dilapidated condition. The closest residence is located approximately 315 feet to the southeast at 88 Pocono Road.

Public Input

Cellco commenced its local input process by meeting with Brookfield First Selectman, Stephen C. Dunn on December 16, 2015. Cellco provided Mr. Dunn with copies of technical information summarizing plans to establish the Brookfield South Facility. Homeland and Cellco hosted a public information meeting at Brookfield Town Hall on January 14, 2016. The First Selectman, the Town's Fire Chief and the Manager of the Police Department's emergency communications center all appeared at the Council's public hearing and spoke in favor of the Application.

Conclusion

The unrefuted evidence in the record clearly demonstrates that there is a need for the proposed Brookfield South 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 June 6, 2016, Homeland and Cellco filed with the Siting Council (“Council”) an application for a certificate of environmental compatibility and public need, 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 “Brookfield South Facility”) in the southern-most portion of the Property. The proposed Brookfield South Facility will be used by Cellco to provide enhanced wireless service to significant portions of Brookfield and by the Town to improve emergency service communications. (Applicant’s Exhibit 1 (“App. 1”); August 2, 2016 Afternoon Transcript (“Tr. 1”), pp. 5-7).

II. PROCEDURAL BACKGROUND

On August 2, 2016, the Council conducted an evidentiary hearing and an evening public hearing on the Application. 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 August 2, 2016, Homeland caused a red balloon to be flown as prescribed by the Council. (Admin. Record; App. 1, p. 15; Tr. 1, pp. 25-26).

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

Homeland has developed and continues to maintain numerous telecommunications

facilities in Connecticut. Cellco is licensed to provide wireless services in the 700 MHz, 850 MHz, 1900 MHz and 2100 MHz frequency ranges throughout Connecticut. Together, Homeland and Cellco propose the development of the Brookfield South Facility which will provide Cellco customers with reliable and enhanced wireless service to gaps in service, along portions of Routes 7, 202, 25 and 133, and capacity relief to several of its surrounding cell sites. (App. 1, pp. 6-7, Tab 6). The new tower will also support emergency service antennas and allow for significant improvement to the Town's emergency service communications network. (Tr. 1, pp. 5-7).

B. Local Contacts

On December 16, 2015, Homeland representatives met with First Selectman Stephen C. Dunn, to commence the ninety (90) day municipal consultation process. Mr. Dunn received copies of Homeland's technical information summarizing its plans to establish a telecommunications facility at the Property (the "Technical Report"). At this meeting, Homeland discussed, in detail, all aspects of the proposed Brookfield South Facility, the site location being considered, the need for wireless service improvements in the area and the Connecticut Siting Council application process. Pursuant to Council Guidelines copies of the technical information was also forwarded to the Planning and Zoning Commission and Inland Wetlands Agency in Brookfield. The Applicant hosted a public information meeting on January 14, 2016, at Brookfield Town Hall. Notice of this meeting was sent to abutting landowners and were published in *The News-Times*. (App. 1, pp. 21-22; App. 1.d.).

C. Tower Sharing

Homeland has designed the facility tower and compound to be shared by Cellco, the Town of Brookfield and other wireless carriers, 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 another tower in this same area in the future. (App. 1, p. 13).

D. The Brookfield South Facility Proposal

The Brookfield South Facility would be located within a 55' x 70' fenced compound and 75' x 75' leased area in the southern-most portion of the 43.28-acre parcel at 100 Pocono Road in Brookfield. The Property is owned by the Town and used by Brookfield's Department of Public Works ("DPW") as a debris and landscaping material storage area. At this location, Homeland would construct a self-supporting monopole tower not taller than 150 feet AGL. Cellco would install twelve (12) panel-type antennas and nine (9) remote radio heads ("RRHs") on a low profile platform at the 146-foot level. A majority of the Town of Brookfield's emergency service antennas would extend off the top of the tower. Another antenna and a small dish antenna may be located on lower portions of the tower. Vehicular access to the site would extend from Pocono Road over existing an existing paved and gravel driveway to the cell site, a distance of approximately 730 feet. Homeland anticipates that utilities will extend from existing service along Pocono Road, to the south of the Fire Department building, to the cell site. (App. 1, p. 2, Tab 1).

Cellco would install a 12' x 30' equipment platform on concrete piers with a canopy roof near the base of the tower to support its receiving, transmitting, switching, processing and performance monitoring equipment and the propane-fueled back-up generator. A 500 gallon

propane tank would also be located within the facility compound to fuel Cellco's generator. The tower and equipment platform would be surrounded by an 8-foot high security fence and gate.

(App. 1, pp. 2, 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 Brookfield South 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; App. 1, pp. 5-7).

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; App. 1, pp. 5-7). 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; App. 1, pp. 5-7).

The proposed Brookfield South 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. (App. 1, p. 10). 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 Brookfield South Facility. Cellco's 1900 MHz frequencies would be added as necessary to meet future network capacity demands. (App. 1, Tab 5; App. 3, Q. 2; Tr. 1, p. 32-34).

The record contains ample, written evidence and testimony that an antenna height of 146 feet AGL at the Brookfield South Facility would allow Cellco to satisfy its wireless service objectives in Brookfield. (App. 1, pp. 7-10, Tab 6).

B. The Nature of Probable Environmental Impacts of the Proposed Facility Would Be Minimal

1. Natural Environment and Ecological Balance

The proposed development of the Brookfield South Facility has eliminated, to the extent possible, impacts on the natural environment. All facility improvements would be located within a 75' x 75' leased area and 55' x 70' fenced facility compound. No tree clearing and minimal grading of the compound area would be required for construction of the tower and site compound. Access to the tower site would extend from Pocono Road over the DPW's existing paved and gravel driveway at the Property, to the cell site, a distance of approximately 730 feet. Power and telephone service will extend underground from Pocono Road along the southerly property boundary, south of the Firehouse to the cell site compound. The remaining Property

would remain unchanged by the construction and operation of the cell site. (App. 1, Tab 1).

Overall, Brookfield South Facility development would have a negligible impact on the physical environment of the Property and surrounding properties. No evidence to refute this conclusion was presented to the Council.

2. Public Health and Safety

The Applicant has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the Brookfield South 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 315 feet to the southeast of the proposed tower site at 88 Pocono Road. (App. 1, p. 15, Tab 1).

Second, worst-case potential public exposure to Radio Frequency (“RF”) emissions from the proposed facility would be well below the FCC Safety Standards. (App. 1, pp. 17-18, Tab 1, p. 8, Tab 14).

Homeland has designed the facility tower and compound to be shared by other wireless carriers, and the Town’s emergency service providers. 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. (App. 1, p. 13; Tr. 1, pp. 5-7).

Overall, the nature and extent of potential, adverse public health and safety impacts resulting from construction and installation of the Brookfield South Facility would be minimal or 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. Homeland's and 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, Homeland and Cellco avoid construction of a new tower by first attempting to identify and use existing towers or other tall non-tower structures in or near a particular search area. Within approximately four (4) miles of the Brookfield South Facility, Cellco maintains five (5) macro cell facilities. These sites will interact with the proposed Brookfield South Facility. However, these adjacent sites cannot satisfy Cellco's need for wireless service in and near the designated Brookfield South Facility search area. Homeland and 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. (App. 1, pp. 8-9, Tab 6, Tab 8).

If a new tower must be constructed, Homeland 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. Homeland and Cellco explored the use of three (3) possible alternative sites in Brookfield and selected the Property as a suitable location for its Brookfield South Facility to present to the Council. (App. 1, Tab 8).

The Applicant 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. (App. 1, Tab 9).

APT determined that top portions of the tower would be visible above the tree canopy from approximately 348-acres or 4.3% of the 8,042-acre study area. Year-round visibility of the Brookfield South Facility is generally limited to locations to the east and north of the Property along Pocono Road and Silvermine Road. Areas where seasonal views are anticipated comprise approximately 752 additional acres (approximately 3.2% of the 8,042-acre study area) around the tower site. (App. 1, pp. 14-15, Tab 9). There are no buildings containing schools or commercial daycare facilities within 250 feet of the tower site. (App. 1, Tab 9).

4. Historical Values

On November 19, 2015, the Connecticut State Historic Preservation Office determined that no historic properties will be affected by the proposed Brookfield South Facility. (App. 1, p. 17, Tab 13). 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 Brookfield South Facility. (App. 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 Brookfield South Facility tower. (App. 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 equipment at the Brookfield South Facility would generate no air emissions. Periodically and for maintenance purposes, Cellco would utilize a 15 kW propane-fueled generator to charge its back-up battery system. 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. (App. 1, p. 23).

b. Water Quality.

The proposed Brookfield South 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 Brookfield South Facility. According to this evaluation, the closest wetland area to the tower is located approximately 390 feet northwest of the proposed tower site. In the wetlands report Mr. Gustafson concludes that the Brookfield South Facility will have no direct impact to this wetland area. (App. 1, pp. 20-21, Tab 1, Tab 12). 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, the Applicant received comments on the Brookfield South 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 Compliance Determination, there are no federally listed or proposed, threatened or endangered species or critical habitat known to occur in the project area. The USFWS goes onto state that while the project area would occur within the range of the *Bog Turtle* (a wetland dependent species) and *Northern Long-Eared Bat*, the Property is highly disturbed and suitable habitat for these species is not present. Absent suitable habitat, the potential

for impacts on these species is remote. (App. 1, p. 16, Tab 10; Tr. 1, pp. 48-50).

Likewise, the DEEP has determined that two (2) State Special Concern Species, the *Eastern Box Turtle* and the *Wood Turtle*, may be located in the general vicinity of the Brookfield South Facility, likely either on the west side of Route 7 or from the Still River, a portion of which runs through the northwest portion of the Property. (App. 1, p. iv., Tab 1; Tr. 1, p. 50). Typically, the development of certain protective measures to avoid unintentional mortality of turtle species during construction might be proposed. However, given the lack of suitable turtle habitat in the southerly portion of the Property and the significant distance to the closest any likely turtle habitat area, the need for such protective measures is not necessary. (App. 1, pp. 16-17, Tabs 10 and 11; Tr. 1, pp. 49-53).

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 Brookfield South 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 Brookfield South 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 Brookfield South 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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