

CONNECTICUT SITING COUNCIL
DOCKET NO. 482

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
LEBANON, CONNECTICUT

APPLICANT'S POST-HEARING BRIEF

Submitted by:

Kenneth C. Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103
(860) 275-8200

May 30, 2018

TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY.....	1
Facility Description.....	1
Public Need.....	2
Nature of Probable Impacts.....	2
Visibility	2
Public Input.....	3
Conclusion	4
I. INTRODUCTION.....	5
II. PROCEDURAL BACKGROUND.....	5
III. FACTUAL BACKGROUND	6
A. Pre-Application History	6
B. Local Contacts.....	7
C. Tower Sharing.....	8
D. The Lebanon Center Facility Proposal.....	9
IV. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50P FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED	9
A. A Public Need Exists for a Lebanon Center Facility	10
B. The Nature of Probable Environmental Impacts are not Sufficient Reasons to Deny the Application	12
1. Natural Environment and Ecological Balance	12
2. Public Health and Safety.....	13
3. Scenic Values.....	14
4. Historical Values.....	14
5. Recreational Values	15
6. Forests and Parks	15
7. Agriculture	15
8. Air and Water Quality.....	15
9. Fish and Wildlife.....	16

TABLE OF CONTENTS
(continued)

	Page
C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts	17
V. CONCLUSION	18

EXECUTIVE SUMMARY

On March 12, 2018, Cellco Partnership d/b/a Verizon Wireless (“Cellco”) filed an application (“Application”) with the Connecticut Siting Council (“Council”) for a Certificate of Environmental Capability and Public Need (“Certificate”) to construct a wireless telecommunications facility on a 38.17-acre parcel at 917 Exeter Road in Lebanon, Connecticut (the “Property”). The Property is owned by the Town of Lebanon (the “Town” or “Owner”) and is the site of the Lyman Memorial High School (“LMHS”). The cell site is identified as Cellco’s “Lebanon Center Facility”.

Facility Description

Cellco proposes to construct a 150-foot monopole tower in the southerly, wooded portion of the Property. Cellco would install up to twelve (12) panel-type antennas and nine (9) Remote Radio Heads (“RRHs”) on a square antenna platform at a centerline height of 140 feet above ground level (“AGL”). The Town would install municipal and emergency service antennas at the top of the tower. Equipment associated with Cellco’s and the Town’s antennas will be installed on the ground near the base of the tower within a 50’ x 50’ fenced compound (100’ x 100’ leased area). Cellco will also install a 35 kW propane fueled back-up generator and a 1000 gallon propane fuel tank in the facility compound. The generator will provide back-up power to Cellco’s and the Town’s communications equipment. Vehicular access to the Lebanon Center Facility would extend from Exeter Road over the paved driveway and parking areas at the LMHS, a distance of approximately 2,100 feet then over a new gravel driveway extension an additional distance of approximately 325 feet to the facility compound.

While alternative tower locations behind the LMHS were considered, ultimately, the Town determined that the new tower should be located in the wooded portion of the Property, so as not to disrupt current agricultural education uses at the Property.

Public Need

The proposed Lebanon Center Facility is needed primarily to fill significant coverage gaps along portions of Routes 207, 87, 16 and 289 in Lebanon, on the Property and in the surrounding residential, commercial and agricultural areas. The Lebanon Center Facility will also provide capacity relief to Cellco's existing Franklin North (Gamma sector) cell site which is currently operating at or beyond its existing capacity limits.

Nature of Probable Impacts

The construction, maintenance and operation of the Lebanon Center Facility would not have a significant adverse impact on the environment. Cellco has presented evidence in this docket that the location and development of the Lebanon Center Facility will have no effect on historic properties in the area; will not adversely impact federal or State listed, threatened or endangered species or State species of special concern; will not have any direct or indirect impact on wetlands, watercourses and/or vernal pools on the Property; will not require any FAA marking or lighting; and will operate well within Maximum Permissible Exposure (MPE) limits established by the FCC for radio frequency emissions.

Visibility

The proposed Lebanon Center Facility will not have a significant visual impact on the community. The areas where the proposed tower would be visible above the tree canopy comprise approximately 288 acres, or 3.6 percent of the two-mile radius (8,042 acre) study area. Year-round

visibility of the proposed tower would generally occur within approximately one mile, to the north and south of the cell site where open agricultural fields allow for unobstructed views. Areas where seasonal views are anticipated comprise approximately 667 additional acres, or 11.8 percent of the two-mile radius (8,042 acre) study area.

There are no residences within 1,000 feet of the Lebanon Center Facility. The closest off-site residence is located at 894 Exeter Road, approximately 1,800 feet to the north of the tower site. The Lebanon Center Facility is not within 250 feet of a building containing a school or commercial daycare facility.

Public Input

Cellco approached the Town in the Summer of 2015, to discuss its interest in sharing the Town's existing 80-foot lattice tower on the Property. The existing tower is currently used to support municipal and emergency service antennas, but could not support (structurally) both the Town's and Cellco's antennas and related equipment. During lease negotiations, the Town and Cellco discussed the development of a replacement tower in three (3) alternative locations on the Property, including the area adjacent to the existing tower and two (2) other locations in the wooded (southerly) portion of the Property. To avoid interference with existing uses of the Property, including but not limited to the LMHS agricultural education program, the Town selected the proposed tower location in the southerly, wooded portion of the Property.

On May 23, 2017, Cellco appeared at a Lebanon Board of Selectmen ("BOS") public hearing to discuss the tower proposal. Cellco made a formal presentation on the new tower site and answered questions from the BOS and members of the public in attendance. On July 10, 2017, the BOS held a Special Town Meeting to discuss and vote on the proposed leasing of a portion of the

Property to Cellco for the new tower site. Cellco made a formal presentation to the BOS and the general public in attendance at the Special Town Meeting. The Option and Land Lease Agreement was ultimately approved at the Town meeting that evening.

In November 2017, Lebanon's First Selectwoman Betsy Petrie, referencing the municipal consultation and local input process already completed, requested that Cellco proceed immediately to the submission of the Council application and formally waived the need for any further municipal consultation on the tower proposal.

Conclusion

The unrefuted evidence in the record clearly demonstrates that there is a need for the proposed Lebanon Center Facility and that the environmental impacts from the proposed facility location would be minimal.

I. INTRODUCTION

On March 12, 2018, 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 “Lebanon Center Facility”) on a 38.17-acre parcel at 917 Exeter Road in Lebanon, Connecticut (the “Property”). The Property is owned by the Town of Lebanon and is occupied by the Lyman Memorial High School (“LMHS”) (Cellco Exhibit 1 (“Cellco 1”); April 19, 2018 Council Site Visit). The Lebanon Center Facility is needed to provide service to significant coverage gaps along portions of Routes 207, 87, 16 and 289 and residential, commercial and agricultural areas in Lebanon and capacity relief to Cellco’s existing Franklin North cell site. (Cellco 1, pp. 6-8, Tab 1 and Tab 6; May 1, 2018 (Afternoon) Hearing Transcript (“Tr. 1”), p. 30).

II. PROCEDURAL BACKGROUND

On May 1, 2018, the Council conducted an evidentiary hearing and an evening public hearing on the Application. (Tr. 1, p. 4; May 1, 2018 (Evening) Hearing Transcript (“Tr. 2”), p. 4). Prior to the evidentiary hearing, at 2:00 p.m. the Council conducted a site visit to the Property. On the day of the site visit, Cellco flew a balloon to simulate the height of the tower as prescribed by the Council. A red balloon, approximately four-foot in diameter was aloft between 7:45 a.m. and 6:00 p.m., and during the Council’s site visit. (Cellco 1, p. 14; May 1, 2018 Site Visit; Tr. 1, pp. 61-62).

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.”). (Tr. 2, p. 15). 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 in Lebanon and throughout Connecticut. Initially, Cellco will deploy only 700 MHz and 2100 MHz frequencies at the Lebanon Center Facility. Cellco currently provides wireless service in Lebanon from nine (9) existing facilities identified as Cellco's Colchester, Colchester East, Columbia South, Coventry South, Franklin, Franklin North, Gilman, Lebanon and Lebanon South cell sites. (Cellco 1, pp. 8-9, Tab 6). The Lebanon Center Facility will provide reliable wireless service to existing "coverage gaps" along portions of Routes 207, 87, 16 and 289, as well as local roads and residential, commercial and agricultural land uses in the area and capacity relief to Cellco's existing Franklin North facility. (Cellco 1, pp. 8-9; Cellco 3, Q. 11, Q. 12, Q. 13 and Q. 14).

Before proposing to build a new tower, Cellco investigated the use of existing, non-tower structures in an area as an alternative to building a new tower. No existing non-tower structures of suitable height exist in the area around the proposed Lebanon Center Facility. If 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 facility could be reduced to the greatest extent possible. (Cellco 1, pp. 12-13 and 14-15, Tab 6, Tab 8 and Tab 9).

Cellco investigated the use of the Town's existing 80-foot lattice tower located on the Property to the east of the LMHS building. It was determined that the existing Town tower was not structurally capable of supporting both the Town's and Cellco's equipment. (Cellco 1, pp. 12-13, Tab 1; Tr. 1, p. 53).

Cellco and the Town investigated three (3) alternative replacement tower locations on the Property. (Cellco 3, Q. 3). Ultimately, the Town selected the location in the wooded portion in the southerly portion of the Property for the construction of a new tower. (Tr. 2, pp. 9-12). Cellco determined that an antenna centerline height of 140 feet AGL at this location would satisfy its wireless service objectives. Municipal and emergency service antennas would be mounted at the top of the proposed tower to satisfy its communications needs. (Tr. 1, pp. 6-8; Tr. 2, pp. 9-12).

B. Local Contacts

Section 16-50l(e) of the Connecticut General Statutes, as amended, requires local input on matters before the Council. Cellco approached the Town in the Summer of 2015, to discuss its interest in sharing the Town's existing tower at the Property. The existing tower is currently used to support municipal and emergency service antennas, but could not support both the Town's and Cellco's antennas and related equipment. The Town and Cellco explored the use of three (3) alternative locations on the Property for the development of a replacement tower, including the area adjacent to the existing tower and two (2) locations in the wooded portion of the Property. To avoid interference with activity at the Property, including the use of portions of the Property by the LMHS agricultural education program, the Town selected the ultimate tower location in the southerly wooded portion of the site. (Cellco 1, pp. 12-13, Tab 8; Cellco 3, Q. 8; Tr. 2, pp. 9-12).

On May 23, 2017, Cellco appeared at a Lebanon Board of Selectmen (“BOS”) public hearing to discuss the proposed tower proposal. Cellco made a formal presentation on the proposed tower site and answered questions from the BOS and members of the public in attendance. On July 10, 2017, the BOS held a Special Town Meeting to discuss and vote on the proposed leasing of a portion of the Property to Cellco for the new tower site. Cellco made a formal presentation to the BOS and the general public in attendance on the tower proposal. The Option and Land Lease Agreement was approved at the Town meeting that evening. (Cellco 1, pp. 23-24).

In November 2017, Lebanon’s First Selectwoman Betsy Petrie, referencing the municipal consultation and local input process already completed, requested that Cellco proceed immediately to the submission of the Council application and formally waived the need for any further municipal consultation on the tower proposal. (Cellco 1, Tab 16).

C. Tower Sharing

Cellco will design the Lebanon Center Facility tower, foundation and compound to be shared by the Town and other wireless carriers, if a need exists. As of the date of this filing no wireless carrier has approached Cellco about sharing the proposed facility. (Cellco 1, p. 13; Tr. 1, pp. 60-61). Cellco will relocate the Town’s municipal and emergency service antennas from the existing tower to the new tower structure and the existing tower will be taken down. (Tr. 1, p. 17). 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. Cellco would design the tower and its foundation for an extension of the tower, up to 20 feet to accommodate future tenants. Cellco will also share its generator with the Town, providing its radio equipment with reliable back-up power. (Cellco 1, pp. 7-8, 13; Tr. 1, pp. 18-19, 28).

D. The Lebanon Center Facility Proposal

The Lebanon Center Facility would be located within a 50' x 50' fenced compound (100' x 100' leased area) in the southerly, wooded portion, of the Property. (Cellco 1, pp. ii, 1-2; Cellco 3, Q. 8; Tr. 2, pp. 9-12).

At the new proposed location, Cellco would construct an 150-foot self-supporting monopole tower. Cellco would install up to twelve (12) panel-type antennas and nine (9) RRHs on a square platform at the 140-foot level on the tower. Municipal and emergency service antennas would be installed at the top of the new tower. Vehicular access to the site compound would extend from Exeter Road over the existing LMHS driveway and parking area a distance of approximately 2100 feet, then over a new gravel driveway extension an additional 325 feet to the cell site. Underground electric service will extend from an existing transformer adjacent to the LMHS building. Telephone service will extend from existing service along Exeter Road. (Cellco 1, pp. iii, 1-2, 7-10, Tab 1; Tr. 2, p. 8).

Cellco would install its radio equipment, a 35 kW back-up generator and 1,000 gallon propane tank within a 50' x 50' fenced compound. (Cellco 1, pp. 7-10, Tab 1). Cellco's equipment 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. 7-10, 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.” 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 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 Lebanon Center Facility

As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. The Federal Telecommunications Act of 1996 (the “Telecommunications Act”) emphasized and

expanded on these aspects of the FCC's 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. (Cellco 1, pp. 4-7; Council Adm. Notice 4).

In 2009, President Obama issued Presidential Proclamation 8460, in which "cellular phone towers" were identified as critical infrastructure vital to national security. (Cellco 1, p. 6; Council Adm. Notice 11). 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." (Cellco 1, pp. 4-7; Council Adm. Notice 20).

The proposed Lebanon Center 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, and the cell site proposed in this Application has been selected, 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, pp. 4-7). As the Council is aware, Cellco holds FCC licenses to provide wireless services in the 700 MHz, 850

MHz, 1900 MHz and 2100 MHz frequency ranges in New London County, and throughout the State of Connecticut. (Cellco 1, Tab 5). Initially, Cellco will deploy only 700 MHz and 2100 MHz frequencies at the Lebanon Center Facility. Additional frequencies will be deployed as capacity requirements in the area grow. (Cellco 1, p. 7; Cellco 3, Q. 10).

The record contains ample, written evidence and testimony that Cellco's antennas at a height of 140 feet AGL at the Lebanon Center Facility would allow Cellco to satisfy its wireless service objectives in Lebanon and portions of the surrounding towns. (Cellco 1, p. 7, Tab 6).

Principally, the proposed Lebanon Center Facility would provide reliable wireless service to significant gaps in Lebanon and along portions of Routes 207, 87, 16 and 289, as well as local roads in the area and surrounding residential, commercial and agricultural areas. (Cellco 1, p. 7, Tab 6). The Lebanon Center Facility will maintain an overall coverage footprint of 48.69 square miles at 700 MHz; and 9.05 square miles at 2100 MHz. The Lebanon Center Facility will also provide capacity relief to Cellco's existing Franklin North cell site which is currently operating at its existing capacity limits. (Cellco 1, p. 8, Tab 6; Cellco 3, Q. 11 and Q. 12).

B. The Nature of Probable Environmental Impacts are not Sufficient Reasons to Deny the Application

The Docket No. 482 record demonstrates that the probable environmental impacts of the Lebanon Center Facility are not sufficient reason to deny the Certificate Application.

1. Natural Environment and Ecological Balance

The proposed development of the Lebanon Center Facility has eliminated, to the extent possible, impacts on the natural environment. All facility improvements would be located within a 50' x 50' fenced compound. Access to the tower site would extend from Exeter Road over the LMHS existing paved driveway and parking areas, a distance of approximately 2100 feet then

over a new gravel driveway extension, an additional distance of 325 feet. Twelve (12) trees (minimum 6" diameter at breast height) will need to be removed and minimal grading would be required for construction of the facility compound and gravel portion of the access drive. (Cellco 1, pp. 1-2, Tab 1; Cellco 3, Q. 10). Overall, development of the Lebanon Center Facility 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 Lebanon Center 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 Telecommunications Industry Association (TIA) standards. The closest off-site residence is located approximately 1800 feet to the north of the proposed tower site. (Cellco 3, Q. 3).

Second, worst-case potential public exposure to Radio Frequency ("RF") emissions from the proposed facility would be 4.66% of the FCC Safety Standards. (Cellco 1, p. 18, Tab 1, p. 8, Tab 14).

If approved, the Cellco will design the facility tower and compound to be shared by the Town and three additional wireless carriers. This type of tower sharing arrangement would reduce, if not eliminate, the need for other carriers, the Town or other emergency service entities to develop a separate tower in this same area in the future. (Cellco 1, p. 13, Tab 1).

Overall, the nature and extent of potential, adverse public health and safety impacts resulting from construction and installation of the Lebanon Center 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

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 balloon floats and extensive field reconnaissance to obtain photographs for use in the Visibility Analysis. APT presented photo documentation from 28 locations around the proposed cell site. (Cellco 1, Tab 9). APT determined that top portions of the tower would be visible above the tree canopy from approximately 288 acres or 3.6 percent of the two-mile radius (8,042 acre) study area. Unobstructed views of the top portion of the tower, above the tree canopy, would occur within one mile north and south of the Property as these areas are fairly open with little or no vegetation. (Cellco 1, pp. 14-15, Tab 9; Tr. 1, pp. 23-24). Areas where seasonal views are anticipated comprise approximately 667 additional acres. Overall, the proposed Lebanon Center Facility will, therefore, not have a significant visual effect on the surrounding community. (Cellco 1, pp. 14-15, Tab 9). Finally, there are no schools or commercial daycare facilities located within 250 feet of the facility. (Cellco 1, Tab 9).

4. Historical Values

Cellco has completed a Preliminary Historic Resources Determination for the Lebanon Center Facility which reveals that no resources listed or eligible for listing on the National Register of Historic Places are located ½ mile of the tower site. Further, no State-registered historic place is proximate to the cell site. Cellco anticipates that it will receive a no adverse

effect determination from the State Historic Preservation Officer after a filing is made. (Cellco 1, Tab 12; Cellco 3, Q. 24; Tr. 1, pp. 20-21).

5. Recreational Values

There are no recreational activities or facilities on the Property or in the vicinity of the Property that would be adversely impacted by development of the Lebanon Center Facility. (Cellco 1, Tab 1 and Tab 9; Tr. 1, pp. 22-23).

6. Forests and Parks

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

7. Agriculture

The southerly portion of the Property, including the area that will be impacted by the Lebanon Center Facility contains “Locally Important” farmland soil. A portion of the 325-foot gravel driveway extension may contain “Prime” farmland soils. (Cellco 1, p. 18, Tab 13). According to the Lebanon Town Planner much of the area around the Property has been permanently preserved for agricultural use. (Tr. 1, pp. 7-8).

8. Air and Water Quality

a. Air Quality.

Under normal operating conditions, the Cellco equipment at the Lebanon Center Facility would generate no air emissions. During power outage events and periodically for maintenance purposes, Cellco would utilize a diesel-fueled generator to provide emergency 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. 25, Tab 1, p. 7).

b. Water Quality.

The proposed Lebanon Center 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 with APT, conducted a field investigation and completed a wetlands investigation for the Lebanon Center Facility. The proposed Lebanon Center Facility would be located approximately 109 feet to the south of a small isolated wetland pocket (Wetland No. 1) and 107 feet southwest of a more complex wetland system, (Wetland No. 2) potentially containing a vernal pool. A portion of the gravel access driveway extension will extend within 26 feet of Wetland No. 1. To avoid unintentional impacts during construction, APT has developed certain best management practices (BMPs) to protect nearby wetland resources. Provided these BMPs are properly implemented during construction, the construction and operation of the proposed Lebanon Center Facility will not adversely impact the vernal pool and wetland resources at the Property. (Cellco 1, pp. 21-23, Tab 1 and Tab 11). Finally, the proposed Lebanon Center Facility is located approximately five (5) miles from the Aquifer Protection Area (APA), Judd Brook APA and 4.3 miles from the closest public water supply watershed. (Cellco 3, Q. 25).

9. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco has reviewed the proposed Lebanon Center Facility for compliance with the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Connecticut Department of Energy and Environmental Protection (“DEEP”) impact requirements related to federal and State listed

threatened or endangered species, including migratory birds in order to determine if the proposed facility would have an adverse effect on these species. According to the Preliminary USFWS, Migratory Birds and NDDDB Compliance Determination dated November 15, 2017, one (1) federally listed “threatened” species, the *Northern Long-Eared Bat* (NLEB) may occur in Lebanon, Connecticut. The Lebanon Center Facility would be located in a wooded area adjacent to an open pasture, requiring minimal tree clearing, the proposed Lebanon Center Facility is not likely to adversely affect an NLEB. In addition, the Lebanon Center Facility will also comply with the USFWS recommended guidelines for reducing impacts to migratory birds. (Cellco 1, p. 16, Tab 10). Finally, according to the DEEP, no State-listed species are known to occur in the vicinity of the proposed Lebanon Center Facility.

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 Lebanon Center 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.

As discussed above, the only potential adverse impact from the proposed tower involves “scenic values.” As the record overwhelmingly demonstrates, the Lebanon Center Facility would have minimal impacts on scenic values in the area. (Cellco 1, Tab 9). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of the facility. Unlike many other types of development, telecommunications


facilities do not cause indirect environmental impacts, such as increased traffic and related pollution. The limited aesthetic and environmental impacts of either alternative site can be further mitigated by the sharing of the facility. Cellco intends to design the tower so that it could be shared by other wireless carriers, if a need exists and the Town's municipal services and emergency service providers. (Cellco 1; Tr. 2, pp. 9-12).

In sum, the potential environmental impacts from the Lebanon Center 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 Lebanon Center 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,
CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS

By: 
Kenneth C. Baldwin
ROBINSON & COLE LLP
280 Trumbull Street
Hartford, CT 06103-3597
Its Attorneys