

**CONNECTICUT SITING COUNCIL**  
**DOCKET NO. 484**

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  
POMFRET, CONNECTICUT

APPLICANT'S POST-HEARING BRIEF

---

Submitted by:

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

*OCTOBER 16, 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.....	3
I.    INTRODUCTION.....	4
II.   PROCEDURAL BACKGROUND.....	4
III.  FACTUAL BACKGROUND.....	5
A.    Pre-Application History.....	5
B.    Local Contacts.....	6
C.    The Pomfret Center Facility Proposal.....	7
1.    Site A.....	7
2.    Site B.....	8
3.    Site C.....	8
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 Need Exists for a Pomfret 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.    Avian Resources.....	15

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
9. Air and Water Quality.....	16
a. Air Quality .....	16
b. Water Quality .....	16
10. Fish and Wildlife.....	18
C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts .....	19
V. CONCLUSION.....	20

## EXECUTIVE SUMMARY

On July 9, 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 627-acre parcel at 72 Ragged Hill Road in Pomfret, Connecticut (the “Property”). The Property is owned by the Raynham Incorporated (the “Owner”). The cell site is identified as Cellco’s “Pomfret Center Facility”.

### Facility Description

Cellco proposes to construct a monopole tower within a 50-foot x 50-foot fenced compound at one of three alternative locations, identified as Site A, Site B and Site C, all in the westerly portion of the Property. The Site A and Site B towers would extend to a height of 150 feet above grade. The Site C tower would extend to a height of 130 feet above grade. Cellco would install six (6) panel-type antennas and six (6) remote radio heads on an antenna platform at the top of the approved tower. Cellco’s antennas would extend approximately four (4) feet above the top of the tower. Radio equipment, a battery cabinet and a back-up generator would be located on a 10-foot x 16-foot concrete pad, with a steel canopy roof, within the facility compound. Vehicular access would extend from Swedetown Road a distance of approximately 260 feet to Site A; 675 feet to Site B; and 2,020 feet to Site C. To the extent possible, Cellco would utilize and make improvements to existing logging roads on the Property to access the alternate cell site locations and limit site disturbance and tree removal. Utilities would extend underground from existing service along Swedetown Road along the access driveway to each of

the alternative cell sites.

**Public Need**

The proposed Pomfret Center Facility is needed to fill significant gaps in wireless service in the Towns of Pomfret, Eastford and Woodstock, and along portions of State Routes 44, 244 and 198 in the area.

**Nature of Probable Impacts**

The construction, maintenance and operation of the Pomfret Center Facility would not have a significant adverse impact on the environment. Celco has presented evidence in this docket that the location and development of the Pomfret 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, for Site A, and Site B, have any direct or indirect impact on wetlands, watercourses and/or vernal pools on the Property;<sup>1</sup> 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**

Due to the dense tree cover on the Property and in the area, visual impacts of the Site A, Site B and Site C towers would be minimal. The only area where all three alternative tower sites would be visible is from the Hopkins Road area, approximately 1.5 miles northwest of the Property. In fact, this was the only location in the area where Site C was visible at all. An area along Quarry Road, approximately 0.8 miles to the north, may provide seasonal (when leaves are off the trees) views of a Site A or Site B tower. Seasonal views may also occur along Ragged Hill Road and

---

<sup>1</sup> Development of Site C would require improvements to an existing access driveway and wetland crossing resulting in some temporary and permanent wetlands impacts.

Swedetown Road immediately west of the Property.

The nearest off-site residence to Site A is located at 50 Swedetown Road, approximately 420 feet to the southwest. The nearest off-site residence to Site B is also located at 50 Swedetown Road, approximately 530 feet to the west. The nearest off-site residence to Site C is located at 123 Ragged Hill Road, approximately 1,500 feet to the west.

### **Public Input**

On or about May 18, 2017, Cellco commenced the ninety (90) day municipal consultation process by submitting technical information regarding the proposed telecommunications facility to local officials in Pomfret, Eastford and Woodstock.<sup>2</sup> At this time, Site A was the only tower location proposed. Cellco hosted a Public Information Meeting (“PIM”) about the tower proposal on August 23, 2017 at the Pomfret Senior Center. Notice of the PIM was published in the *Putnam Town Crier* and was sent to abutting landowners. The PIM was attended by approximately thirty-five (35) residents. At the PIM, Cellco discussed the need for the Pomfret Center Facility and the Council’s application process. Neighbors attending the PIM expressed concern with the tower location (Site A) and asked Cellco to consider alternative locations on the Property. Two alternative locations were added to the Application with the permission of the Owner.

### **Conclusion**

The unrefuted evidence in the record clearly demonstrates that there is a need for the proposed Pomfret Center Facility and that the environmental impacts of the proposed Site A, Site B and Site C facility locations, would be minimal.

---

<sup>2</sup> The proposed Pomfret Center Facility is located within 2,500 feet of the Eastford and Woodstock municipal boundaries.

## **I. INTRODUCTION**

On July 9, 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 “Pomfret Center Facility”) at one of three alternative locations on a 627-acre parcel at 72 Ragged Hill Road in Pomfret, Connecticut (the “Property”). The Property is owned by Raynham Incorporated (Cellco Exhibit 1 (“Cellco 1”)); September 18, 2018 Council Site Visit). The Pomfret Center Facility is needed to fill significant gaps in wireless service in the Towns of Pomfret, Eastford and Woodstock, along portions of State Routes 44, 244 and 198 and in residential, commercial and agricultural areas around the Property. (Cellco 1, pp. 6-8, Tab 1 and Tab 6; Cellco 3, Q. 13, Q. 14, Q. 17, Q. 18; September 18, 2018 (Afternoon) Hearing Transcript (“Tr. 1”), pp. 4-6).

## **II. PROCEDURAL BACKGROUND**

On September 18, 2018, the Council conducted an evidentiary hearing and an evening public hearing on the Application. (Tr. 1, p. 4; September 18, 2018 (Evening) Hearing Transcript (“Tr. 2”), p. 4). Prior to the evidentiary hearing, at 1:30 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 at each of the three alternate sites as prescribed by the Council. Cellco flew a blue balloon at Site A, and purple balloon at Site B and a red balloon at Site C. All of the balloons were approximately four feet in diameter and were aloft prior to 8:00 a.m. and during the Council’s site visit. (Cellco 1, p. 16; September 18, 2018 Site Visit; Tr. 1, pp. 11-12).

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. 39). 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 Pomfret and throughout Connecticut. Initially, Cellco will deploy only 700 MHz and 2100 MHz frequencies at the Pomfret Center Facility. Cellco currently provides wireless service in Pomfret from eleven (11) existing wireless facilities in Pomfret and the surrounding Towns. These existing facilities are identified as Cellco’s Pomfret East, Brooklyn West, Ashford CT Relo, Ashford North, Eastford, Westford, Union West, Woodstock NW, Coatney Hill, Woodstock Relo and Woodstock Valley cell sites. (Cellco 1, pp. 8-9, Tab 6; Cellco 3, Q. 17). The Pomfret Center Facility will provide reliable wireless service to existing “coverage gaps” in the Towns of Pomfret, Eastford and Woodstock, along portions of Routes 44, 244 and 198, as well as local roads and residential, commercial and agricultural land uses in the area. (Cellco 1, pp. 6-7, 10-11; Cellco 3, Q. 11 – Q. 14, Q. 18 and Q. 21).

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 Pomfret 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. 15-16, Tab 6, Tab 8 and Tab 9).

B. Local Contacts

Section 16-50l(e) of the Connecticut General Statutes, as amended, requires local input on matters before the Council. On or about May 18, 2017, Cellco commenced the ninety (90) day municipal consultation process by submitting technical information about the proposed telecommunications facility to local officials in Pomfret, Eastford and Woodstock.<sup>3</sup> At this time, Cellco was proposing only one tower location (Site A) on the Property.

Efforts to meet directly with Pomfret's First Selectman Craig Baldwin at that time, were unsuccessful. The Pomfret First Selectman did, however, ask Cellco to host a Public Information Meeting ("PIM") to present the tower proposal. Notice of the PIM was published in the *Putnam Town Crier* on August 3, 2017, and was sent to abutting landowners. The PIM was held on August 23, 2017 at the Pomfret Senior Center, and was attended by approximately thirty-five (35) residents. At the PIM, Cellco discussed the need for the Pomfret Center Facility and the Council's application process. Neighbors attending the PIM expressed concern with the tower location (Site A) and asked Cellco to consider alternative locations on the Property. In response to the neighbors' concerns, two additional alternative tower locations were investigated, evaluated and presented to the Council for its consideration. (Cellco 1, pp. 23-24, Tab 8, Tab 17; Cellco 3, Q. 8; Tr. 1, pp. 23-24, 60-62).

---

<sup>3</sup> Because the Property is located within 2,500 feet of the Eastford and Woodstock municipal boundaries, copies of the technical information were provided to the First Selectman, Planning and Zoning Commission Chairs and Inland Wetlands Commission Chairs of Eastford and Woodstock in addition to Pomfret.

C. The Pomfret Center Facility Proposal

The proposed Pomfret Center Facility would be located in the northwesterly portion of the Property. In response to concerns raised by adjoining landowners to the west, Cellco is asking the Council to consider three (3) alternative cell site locations on the Property. (Cellco 1, pp. 23-24).

1. Site A

The Site A facility is the original tower location presented to the Town in Cellco's Technical Report and is located approximately 260 feet east of Swedetown Road. (Cellco 1.a.). At Site A, Cellco would construct a 150-foot self-supporting monopole telecommunications tower within a 50' x 50' fenced compound and 100' x 100' leased area. Cellco would install a total of six (6) panel-type antennas and six (6) remote radio heads on a triangular antenna platform at the top of the tower. Cellco's antennas will extend approximately four (4) feet above the top of the tower. Equipment associated with Cellco's antennas, including a back-up battery cabinet and a 30 kW diesel-fueled back-up generator would be located near the base of the tower within the facility compound. Vehicular access to Site A would extend from Swedetown Road over a portion of an existing dirt driveway, then over a new gravel driveway extension a total distance of approximately 260 feet. Utilities will extend from existing service along Swedetown Road (Cellco 1, pp. 7-8, Tab 1; Cellco 3, Q. 25-Q. 28; Cellco 5).

The proposed Site A facility would provide reliable wireless service to an approximately 1.7 mile portion of Route 44; an approximately 3.6 mile portion of Route 244; an approximately 3.4 mile portion of Route 198, and an overall area of 20 square miles at 700 MHz frequencies. The overall area of 2100 MHz service is limited to approximately 1.15 square (Cellco 1, p. 8,

Tab 6; Tr. 1, pp. 66-68).

2. Site B

The Site B facility is located approximately 475 feet northeast of Site A and approximately 570 feet east of Swedetown Road. At Site B, Cellco would construct a 150-foot self-supporting monopole telecommunications tower within a 50' x 50' fenced compound and 80' x 125' leased area. Cellco would install a total of six (6) panel-type antennas and six (6) remote radio heads on a triangular antenna platform at the top of the tower. Cellco's antennas will extend approximately four (4) feet above the top of the tower. Equipment associated with Cellco's antennas, including a back-up battery cabinet and a 30 kW diesel-fueled back-up generator would be located near the base of the tower within the facility compound. Vehicular access to Site B would extend from Swedetown Road over an existing dirt driveway, then over a new gravel driveway extension a total distance of approximately 675 feet. Utilities will extend from existing service along Swedetown Road. (Cellco 1, pp. 8-9, Tab 1; Cellco 3, Q. 25-Q. 28; Cellco 5).

The proposed Site B facility would provide reliable wireless service to an approximately 1.0 mile portion of Route 44; an approximately 3.0 mile portion of Route 244; an approximately 2.4 mile portion of Route 198, and an overall area of 16 square miles at 700 MHz frequencies. The overall area of 2100 MHz service is limited to approximately 1.14 square miles. (Cellco 1, p. 9, Tab 6; Tr. 1, pp. 66-68).

3. Site C

The Site C facility is located approximately 1,200 feet southeast of the Site A location and approximately 1,300 feet east of Ragged Hill Road. At Site C, Cellco would construct a 130-foot self-supporting monopole telecommunications tower within a 50' x 50' fenced

compound and 100' x 100' leased area. Cellco would install a total of six (6) panel-type antennas and six (6) remote radio heads on a triangular antenna platform at the top of the tower. Cellco's antennas will extend approximately four (4) feet above the top of the tower. Equipment associated with Cellco's antennas, including a back-up battery cabinet and a 30 kW diesel-fueled back-up generator would be located near the base of the tower. Vehicular access to Site C would extend from Swedetown Road over a portion of an existing dirt driveway, then over a new gravel driveway extension a total distance of approximately 2,020 feet to the Site C location. Utilities will extend from existing service along Swedetown Road. (Cellco 1, pp. 9-10; Tab 1; Cellco 3, Q. 25-Q. 28; Cellco 5).

The proposed Site C facility would provide reliable wireless service to an approximately 2.4 mile portion of Route 44; an approximately 3.0 mile portion of Route 244; an approximately 2.2 mile portion of Route 198, and an overall area of 21 square miles at 700 MHz frequencies. The overall area of 2100 MHz service is limited to approximately 0.81 square miles. (Cellco 1, pp. 9-10, Tab 1; Tr. 1, pp. 66-68).

#### **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 Need Exists for a Pomfret 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 Pomfret 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 throughout the State of Connecticut. (Cellco 1, pp. 2 and 6, Tab 5). Initially, Cellco will deploy only 700 MHz and 2100 MHz frequencies at the Pomfret Center Facility. Additional frequencies will be deployed as capacity requirements in the area grow. (Cellco 1, p. 6; Cellco 3, Q. 12).

The record contains ample, written evidence and testimony that Cellco's antennas at a height of 150 feet above grade at Site A and Site B and 130 feet above grade at Site C would allow Cellco to satisfy its wireless service objectives in Pomfret and portions of the surrounding towns. (Cellco 1, p. 6-7, Tab 6; Cellco 3, Q. 13, Q. 14, Q. 15, Q. 17).

Principally, the proposed Pomfret Center Facility would provide reliable wireless service to significant gaps in portions of Pomfret, Eastford and Woodstock and along portions of State Routes 244, 44 and 198, as well as local roads in the area and surrounding residential, commercial and agricultural areas. (Cellco 1, p. 6-7, Tab 6, Tr. 1, pp. 69-70). The Pomfret Center Facility will maintain an overall coverage footprint at 700 MHz of 20 square miles from Site A; 16 square miles at Site B ; and 21 square miles at Site C. (Cellco 1, pp. 7-10, Tab 6; Cellco 3, Q. 11, Q. 13, and Q. 14).

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

The Docket No. 484 record demonstrates that the probable environmental impacts of the Pomfret Center Facility are not sufficient reason to deny the Certificate Application.

1. Natural Environment and Ecological Balance

The proposed development of the Pomfret Center Facility has eliminated, to the extent possible, impacts on the natural environment. All of the facility improvements, at any of the alternative locations, would be located within a 50' x 50' fenced compound. Access to each of the alternative tower sites would extend from Swedetown Road over portions of existing logging roads on the Property, extending approximately 260 feet to Site A, 675 feet to Site B and 2,020 feet to Site C. The existing logging road servicing the approved cell site will be upgraded with a sub-base and finished course of gravel. (Cellco 1, Tab 1; Tr. 1, pp. 12-14, 50-52). Cellco does

not anticipate the need to remove any trees to perform upgrades to the new access driveway. (Tr. 1, p. 14). The number of trees (6-inches or greater at breast height) that will be removed to construct the facility compounds would total four (4) at Site A, twenty-two (22) at Site B and one (1) at Site C. (Cellco 1, pp. 1-2, Tab 1). Overall, development of any of the alternative tower locations 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 Pomfret Center Facility would be minimal or nonexistent.

First, the potential for the proposed 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 420 feet to the southwest of Site A; 530 feet southwest of Site B and 1,500 feet west of Site C. (Cellco 1, p. 16; Tab 1, p. 3).

Second, worst-case potential public exposure to Radio Frequency (“RF”) emissions from the proposed facility would be 21.85% of the FCC Safety Standards for the Site A and Site B towers and 29.09% of the FCC Safety Standard for the Site C tower. (Cellco 1, p. 19, Tab 1, p. 8, Tab 15).

If approved, the Cellco will design the tower and facility compound to be shared by the three (3) additional wireless carriers, the Town and local emergency service entities, if a need exists. 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. 14).

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

According to the Visual Assessment the only area where all three (3) of the alternative tower sites would be visible is from the Hopkins Road area, approximately 1.5 miles northwest of the Property. Photo-location no. 12 was the only photo-location where Site C was visible at all. An area along Quarry Road, approximately 0.8 miles to the north, may provide seasonal views of a Site A or Site B tower. Areas where seasonal views are anticipated include areas along Ragged Hill Road and Swedetown Road immediately west of the Property. (Cellco 1, pp. 15-16, Tab 9; Cellco 3, Q. 32 and Q. 33; Tr. 1, pp. 33-37).

### 4. Historical Values

Cellco has completed a Preliminary Historic Resources Determination for the Pomfret Center Facility which reveals that no resources listed or eligible for listing on the National Register of Historic Places are located within one-half mile of any of the proposed tower sites. 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. The proposed facility will also not adversely impact the Last Green Valley Heritage Corridor. (Cellco 1, p. 18, Tab 13; Tr. 1, pp. 40-41).

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 Pomfret Center Facility. (Cellco 1, Tab 1 and Tab 9; Tr. 1, pp. 40-41).

6. Forests and Parks

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

7. Agriculture

The southwest portions of the Property, contain “Prime” and “Statewide Important” farmland soil. None of these areas will be impacted by the construction of the Site A, Site B or Site C facility compounds. The Connecticut Department of Agriculture has not purchased the development rights to any portion of the Property. (Cellco 1, pp. 18-19, Tab 14).

In 1996, the Property was classified under the Act 490 program as Tillable D farm land (57.44 acres); forest land (562.0 acres); and swamp land (7.60 acres). The Town records do not indicate exactly where the farm, forest and swamp lands are located. The Act 490 designation for the Property remains in place. Because the designation was established more than ten years ago, however, the Property owner would not be subject to any property tax penalties under the program for changes in use. The Act 490 designation does not restrict the use of the Property for the development of a telecommunications facility as described in the Application. (Cellco 1, pp. 18-19, Tab 14; Cellco 3, Q. 7).

8. Avian Resources

None of the proposed alternate facilities are not proximate to any Important Bird Areas

and each would comply with the United States Fish and Wildlife Service (USFWS) Guidelines for minimizing impacts on birds. (Cellco 1, p. 18, Tab 12).

9. Air and Water Quality

a. Air Quality

Under normal operating conditions, the Cellco equipment at the Pomfret 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 Pomfret 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 and vernal pool investigation for each of the three (3) alternative facility locations as well as the proposed access driveways to each alternative site described in the Application.

The closest wetland area to Site A is located approximately 160 feet to the southeast (Wetland 1). The closest wetland area to Site B is located approximately 140 feet to the east (Wetland 2). Provided appropriate soil erosion and sedimentation control measures are installed and maintained during construction in accordance with the 2002 Guidelines for Soil Erosion and Sedimentation Control, no likely adverse impact on these nearby wetland resources is anticipated

from the development of either the Site A or Site B compounds including the proposed access driveway to each location. (Cellco 1, pp. 21-22, Tab 11).

No direct wetland impacts would occur from the development of the proposed Site C facility compound. The closest wetland area to the Site C compound is located approximately 90 feet to the east (Wetland 3). Provided appropriate erosion and sedimentation control measures are installed and maintained during construction, no likely adverse impact to this nearby wetland area is anticipated from the proposed development of the Site C facility compound.

Access to Site C would utilize an existing logging road on the Property which Cellco would improve with a gravel surface. (Tr. pp. 52-53). The current road that would be used to access Site C includes an existing wetland crossing (Wetland 2), and an existing culvert that was previously installed at the eastern edge of Wetland 2 conveying water under the existing logging road. Cellco intends to reconstruct this portion of the wetlands crossing by installing a “french mattress.”<sup>4</sup> (Tr. 1, p. 17). Making these logging road improvements to Site C will require temporary and permanent impacts on wetland resources.

The Wetland and Vernal Pool Analysis (“WVP Analysis”) also confirms that six (6) potential vernal pools were identified on the Property. (Cellco 1, Tab 11). No vernal pools, however, would be directly impacted by the development activities associated with the Site A, Site B or Site C facility compounds. Activities would occur within a critical terrestrial habitat zone as described in the WVP Analysis. The proposed location of site development activity within the critical terrestrial habitat (“CTH”) area resulted in the recommendation of certain best

---

<sup>4</sup> A french mattress is course gravel wrapped in geo-textile fabric used at the wetland crossing as a road base layer and provides for the subsurface conveyance of water from one side of the road to the other. (Tr. 1, p. 17).

management practices to both protect the nearby wetland resources from temporary impacts and avoid unintentional impact or mortality on vernal pool species during construction activity.

(Cellco 1, pp. 21-23, Tab 1 and Tab 11).

Finally, the nearest Aquifer Protection Area is nearly seven (7) miles to the east. None of the alternative site locations presented in the Application are located within a public water supply watershed. The Willimantic Reservoir Public Water Supply Watershed abuts Swedetown Road and Ragged Hill Road immediately west of the Property. (Cellco 3, Q. 30).

#### 10. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco has reviewed the proposed Pomfret 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 May 5, 2017, one federally-listed threatened species is known to occur in the vicinity of the Property documented as the *Northern Long-Eared Bat* (“NLEB”). For the reasons discussed in the attached compliance determination, Cellco submits that the proposed Pomfret Center Facility will not adversely affect the NLEB. Likewise, the CTDEEP has confirmed that no documented occurrences of State-Listed Endangered, Threatened and Special Concern Species occur in the vicinity of the Property and, therefore, the development of the proposed wireless telecommunications facility will not have an adverse impact to any State-listed species. (Cellco 1, pp. 16-17, Tab 10).

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 Pomfret 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 Pomfret 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 municipal services and emergency service providers.

In sum, the potential environmental impacts from the Pomfret Center Facility would be minimal when considered against the benefits to the public. These impacts are insufficient to deny the Application. The proposal, 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 and unrefuted evidence in the record, the Applicant has established that there is a need for a Pomfret Center Facility and that the environmental impacts associated with any of the proposed alternative cell sites 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