

DOCKET NO. 485 – MCM Holdings, LLC and Cellco Partnership } Connecticut
d/b/a Verizon Wireless application for a Certificate of }
Environmental Compatibility and Public Need for the construction, } Siting
maintenance, and operation of a telecommunications facility at one } Council
of two sites: 1542 Boston Post Road or at the end of Kirtland Street, }
Westbrook, Connecticut.

August 15, 2019

Opinion

On April 1, 2019, MCM Holdings, LLC and Cellco Partnership d/b/a Verizon Wireless (collectively the Applicant) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 130-foot monopole wireless telecommunications facility at one of two proposed sites: 1542 Boston Post Road (Site A) or at the end of Kirtland Street (Site B), Westbrook, Connecticut.

The United States Congress recognized a nationwide need for high quality wireless services through the adoption of the Federal Telecommunications Act of 1996 and directed the Federal Communications Commission (FCC) to establish a market structure for system development and develop technical standards for network operations. The FCC preempts state or local regulation on matters that are exclusively within the jurisdiction and authority of the FCC, including, but not limited to, network operations and radio frequency emissions. Preservation of state or local authority extends only to placement, construction and modifications of telecommunications facilities based on matters not directly regulated by the FCC, such as environmental impacts. The Council's statutory charge is to balance the need for development of proposed wireless telecommunications facilities with the need to protect the environment.

MCM Holdings, LLC (MCM) owns and/or operates numerous facilities in the state. MCM would construct, maintain and own the proposed facility and would be the Certificate Holder. Cellco Partnership d/b/a Verizon Wireless (Cellco) is licensed by the FCC to provide personal wireless communication service throughout the state, and would lease space on the proposed tower for their telecommunications equipment.

The purpose of the proposed facility is to permanently replace a former 121-foot tall water tank on property owned by the Connecticut Water Company (CWC) at 1542 Boston Post Road that previously supported multiple wireless service providers. The water tank was determined to be obsolete by the CWC, and was subsequently decommissioned and demolished in 2018.

Prior to demolition of the water tank, on December 7, 2017, the Council approved a petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, filed by MCM to install a 163-foot temporary monopole at the water tank property in order for the Old Saybrook Police Department (OSPD), AT&T, T-Mobile and Cellco to maintain wireless service to the surrounding area until a new, permanent wireless facility could be constructed in the area. Neither the Council nor MCM had any jurisdiction or authority to request that the CWC retain the existing water tank for telecommunications purposes.

The site search for a new permanent facility focused on properties in the area around the water tank that had similar ground elevations in order to maintain the existing established wireless carrier networks and to minimize the height of the tower to the extent feasible. Once a new permanent tower is constructed, MCM would establish a 60-day timeline for carriers to relocate their equipment from the temporary tower to the new tower.

While the existing temporary facility meets Cellco's near term needs, the Applicant seeks to have a permanent solution to replace the wireless service lost by the decommissioning of the water tank. A permanent facility at either Site A or Site B is an integral component of Cellco's network in this area of Westbrook. Cellco's former water tank facility was established around 1998 and served as an anchor site in Cellco's network, facilitating the design of other subsequent, adjacent sites. A permanent facility at either site would allow Cellco to continue to provide coverage to large areas of Westbrook including residential and commercial uses along Route 1 and Route 153 including wireless services in the 700, 800, 1900, and 2100 MHz frequency bands.

Cellco would install 12 panel antennas at a centerline height of 126 feet above ground level (agl) at either proposed site. Although the OSPD, T-Mobile and AT&T are also located on the temporary facility, none of these entities applied for party or intervenor status in the proceeding. However, all three entities expressed support of a permanent facility at either proposed site through correspondence with the Applicant. AT&T and T-Mobile intend to locate at the 116 and 106-foot levels of the tower, respectively, and the OSPD would install a whip antenna at the top of the tower.

Proposed Site A is located on a 0.61-acre parcel at 1542 Boston Post Road zoned Neighborhood Commercial District. Surrounding land use is a mix of residential, commercial, and undeveloped properties. A 163-foot tall temporary tower is located in the southeast corner of the site, near the Boston Post Road. An existing 6,405 square-foot compound area that surrounded the former water tank remains in the southern portion of the property. The compound area, enclosed by an existing six-foot tall chain link fence, contains existing ground equipment operated by Cellco, AT&T, T-Mobile and the OSPD that is currently connected to the respective antennas on the temporary tower. Existing emergency power sources, if any, for each carrier would be maintained.

At proposed Site A, a new 130-foot monopole would be constructed within the footprint of the former water tank. It would be designed to support four levels of platform-mounted antennas. All ground equipment and emergency power sources for each a carrier would remain in place within the existing compound, with the exception of new connecting cable runs to the proposed tower. Site access and utilities to the equipment compound from Boston Post Road would remain unchanged. The nearest property line from the existing compound fence is three feet to the east at 1552 Boston Post Road, a commercially zoned property.

Proposed Site B is comprised of two parcels of land totaling 2.31 acres, approximately 300-350 feet northwest of proposed Site A. One of the parcels is known as Kirtland Street, a private paved road extending north from Boston Post Road for a distance of approximately 400 feet. The tower site is located in a wooded area at the end of Kirtland Street, with a portion of the tower site extending onto an adjacent, undeveloped parcel. Both parcels comprising the proposed site, and several nearby undeveloped parcels to the east, are owned by Dattilo Family Holdings LLC. The proposed tower/compound location is within the Medium Density Residential District.

Proposed Site B would consist of a 130-foot monopole within a 50-foot by 60-foot equipment compound, enclosed by an eight-foot high chain link fence. Cellco would install three equipment cabinets on a 9-foot by 16-foot concrete pad within the compound. Ground equipment for AT&T, T-Mobile, and the OSPD would also be installed within the compound. Cellco proposes to install a diesel-fueled generator for its emergency power needs; however, a shared emergency generator is possible given that proposed Site B is a raw land site.

An approximate 70-foot long, 12-foot wide gravel drive would be constructed at the end of Kirtland Street to the proposed compound, which would be served by underground utilities. The nearest residential structure, a single family house at 37 Kirtland Street, is located approximately 65 feet

southeast of the proposed site, and the compound fence would be five feet from abutting, residentially-zoned properties to the north and west.

The tower radius for both proposed towers extends beyond the nearest property boundaries. Accordingly, the Council will require that a tower be designed with a yield point to ensure that the tower radius remains within the boundaries of the subject property.

Both proposed facilities are within the Connecticut Coastal Management Act's (CCMA) coastal boundary. No coastal resources, as defined in the CCMA, would be adversely affected by development of either proposed facility. Both proposed facilities are not within any designated flood zone nor would they have direct impacts to wetlands. Although two wetlands are near Site A, no impact is expected since the compound is already developed and tower installation would occur in the central portion of the existing compound. The proposed project would be constructed in compliance with the *2002 Connecticut Guidelines for Soil Erosion and Sedimentation Control*.

No records of any species listed on the Department of Energy and Environmental Protection's Natural Diversity Database occur at the subject parcels. The design of the proposed facilities would comply with United States Fish and Wildlife Service guidelines for minimizing the potential impact of telecommunications towers to bird species.

The Westbrook Town Center Historic District is located approximately a half-mile west of the proposed sites. The Applicant consulted with the State Historic Preservation Office (SHPO) and SHPO indicated that Site A was preferable.

Soil mapping indicates that Site A is located on Prime Farmland Soil but the site is disturbed and unsuitable for farming. Site B does not contain any Prime Farmland Soil. Development of Site A would not require the removal of any trees. All work would be within the existing compound or adjacent, previously disturbed areas. Development of Site B would require the removal of 10 trees as well as shrub and understory vegetation. Clearing would occur up to the property line to the north and west. As a raw land site, construction of Site B would entail approximately 5,410 square feet of ground disturbance.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the radio frequency power density level of Cellco's antennas would 29.7 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure, as measured at the base of the proposed 130-foot tower. This is conservatively based on all antennas of a given sector pointing down to the ground and emitting maximum power. This percentage is well below federal standards established for the frequencies used by wireless companies. If federal standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower. The Telecommunications Act of 1996 prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. Regarding potential harm to wildlife from radio emission; this, like the matter of potential hazard to human health, is a matter of federal jurisdiction. The Council's role is to ensure that the tower meets federal permissible exposure limits.

Generally, long-range views of both towers are similar with views from open coastline areas and across salt marshes, particularly from Seaside Avenue approximately 1.0 mile to 1.5 miles to the southwest, and from Salt Island Road, approximately 0.4 mile southwest. Within a quarter-mile, Site A is anticipated to be more visible than Site B from Route 1, the Water's Edge Resort and Spa property, and residentially developed Ripley Road, while Site B is anticipated to be more visible than

Site A from the residences on Kirtland Street and from the residentially developed Stone Hedge Road, Maple Ridge Road and Fawn Hill Drive north of the sites.

After considering the record in this proceeding, the Council finds that Site A is preferable as it would require less ground disturbance than Site B, is located in a commercial area, and would be less costly to MCM, Cellco, and other entities that already have equipment within the compound compared to installing all new equipment at Site B. Site A is also preferred by the Town Board of Selectmen. The existing Site A compound has been in place for decades and is an already established feature within the commercial district it resides in. Site B on the other hand, is located in a residential zone and would require new construction in a wooded area, immediately adjacent to residential properties. Site clearing would be up to the property line and would be unnecessarily disruptive to the existing neighborhood when the already developed Site A option exists. Visibility of both towers is similar but Site B would impact more residential areas when compared to Site A. Although no landscaping is proposed at Site A, the Council will order a landscape plan to lessen the visual impact to Boston Post Road. To address concerns regarding the tower radius extending onto adjacent properties, the Council will order a tower yield point at the 87-foot level of the tower to ensure that the tower radius remains within the boundaries of the subject property.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, and maintenance of the telecommunications facility at proposed Site A, including effects on the natural environment, ecological balance, public health and safety, scenic, historic, and recreational values, agriculture, forests and parks, air and water purity, and fish, aquaculture and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate to MCM for the construction, maintenance, and operation of a 130-foot monopole telecommunications facility at proposed Site A, 1542 Boston Post Road, Westbrook, Connecticut.