



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Web Site: portal.ct.gov/csc

**VIA ELECTRONIC MAIL & CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

December 20, 2024

Anne Hathaway
SBA Communications Corporation
8051 Congress Avenue
Boca Raton, FL 33487-9457
AHathaway@sbsite.com

RE: **DOCKET NO. 307** - SBA Infrastructure LLC Certificate of Environmental Compatibility and Public Need for the construction and maintenance of a telecommunications facility located at one of two sites at 71 Pleasant View Road, Derby, Connecticut. **Enforcement Action Final Order.**

Dear Anne Hathaway:

On October 4, 2024, pursuant to CGS §16-50u, the Connecticut Siting Council (Council) initiated an Enforcement Action related to Condition No. 3 of the Council's April 27, 2006 Decision and Order for the above-referenced facility. SBA Infrastructure LLC (SBA) is the Certificate Holder of record.

SBA did not request a public hearing, nor did it submit a proposed consent order within 20 days from receipt of the Council's October 4, 2024 Notice of Enforcement Action.

During a public meeting held on December 19, 2024, the Council voted to approve a final order for the Docket No. 307 facility as follows:

1. Replace **Condition No. 3** of the April 27, 2006 D&O in Docket No. 307 with the existing August 31, 2006 D&M Plan condition in Docket No. 307 – "An American flag shall be flown on the structure consistent with The Flag Code, Title 4, United States Code, Chapter 1";
2. Add a second sentence to replacement **Condition No. 3** referenced above – "The Certificate Holder shall install and maintain a sign, in legible condition, at a location common to all tower tenants, such as the utility meter or other conspicuous location, that instructs tower tenants and/or tower technicians to 'REPLACE FLAG UPON COMPLETION OF EQUIPMENT INSTALLATION,' for the life of the facility;"
3. Add **Condition No. 13** to the April 27, 2006 D&O in Docket No. 307 – "This Certificate may be surrendered by the Certificate Holder upon written notification and acknowledgment by the Council;"
4. Add **Condition No. 14** to the April 27, 2006 D&O in Docket No. 307 – "Deployment of any 5G services must comply with Federal Communications Commission and Federal Aviation Administration guidance relative to air navigation, as applicable;"
5. Add **Condition No. 15** to the April 27, 2006 D&O in Docket No. 307 – "Radio frequency access restriction and caution signage shall be installed at the site in compliance with FCC guidance;"

6. Add **Condition No. 16** to the April 27, 2006 D&O in Docket No. 307 – “The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under CGS §16-50v;”
7. Add **Condition No. 17** to the April 27, 2006 D&O in Docket No. 307 – “The Certificate Holder shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this D&O and D&M Plan approved by the Council on August 31, 2006;”
8. SBA shall submit evidence of compliance with Replacement Condition No. 3 of the April 27, 2006 D&O for Docket No. 307 for the facility site ***no later than February 28, 2025;*** and
9. Impose a ***\$5,000 fine with additional fines of \$500 per day*** if compliance with this Final Order is not reached by February 28, 2025.

In addition, the Council will add a condition of approval for all exempt modification request, tower share requests and petitions for declaratory rulings proposed for this facility site to “REPLACE FLAG UPON COMPLETION OF EQUIPMENT INSTALLATION” consistent with Replacement Condition No. 3 for Docket No. 307.

Enclosed are the Council’s Enforcement Action Staff Report and Final Order.

Thank you for your attention to this very important matter.

Sincerely,



Executive Director

Enclosures: Staff Report, dated December 19, 2024
 Final Order, dated December 19, 2024

c: Stephen Roth, SBA (sroth@sbsite.com)
 Mark Luther, SBA (mluther@sbsite.com)
 Tim Marren (gotflowman@yahoo.com)
 Nancy Marren (nanmar15@yahoo.com)

MAB/RDM/laf



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DOCKET NO. 307 - SBA Infrastructure LLC Certificate of Environmental Compatibility and Public Need for the construction and maintenance of a telecommunications facility located at one of two sites at 71 Pleasant View Road, Derby, Connecticut. **Enforcement Action**

Staff Report December 19, 2024

Existing Certificated Telecommunications Facility

On April 27, 2006, the Connecticut Siting Council (Council) issued a Certificate of Environmental Compatibility and Public Need (Certificate) to National Grid Communications, Inc. d/b/a Gridcom (Gridcom or Original Certificate Holder) for the construction, maintenance and operation of a 120-foot flagpole telecommunications facility at 71 Pleasant View Road in Derby, Connecticut.¹ The facility was designed to accommodate the antennas of T-Mobile and other entities, both public and private, including, but not limited to, the City of Derby (City).

During the proceedings held on the Certificate application, the City participated as a party and the Pleasant View Hilltop Committee participated as an intervenor.

Condition No. 2 of the Council's April 27, 2006 Decision and Order (D&O) required Gridcom to submit a Development and Management (D&M) Plan for the facility in compliance with Regulations of Connecticut State Agencies (RCSA) §16-50j-75 to §16-50j-77. This included, but was not limited to, submission of a final site plan with specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping.

Condition No. 3 of the Council's April 27, 2006 D&O required that prior to submission of the D&M Plan to the Council, Gridcom shall discuss a tower design with the City and agree upon a tower design, but any differences would be resolved by the Council.

On August 18, 2006, Gridcom submitted the D&M Plan for the certificated facility that included T-Mobile antennas at the 117-foot level. In compliance with Condition No. 3 of the Council's D&O, the D&M Plan included a tower design agreed upon by the City for a flagpole or structure with internally mounted antennas capable of flying a national flag with a light at the base of the structure.

The Council approved Gridcom's D&M Plan for the certificated facility on August 31, 2006 with the condition that an American flag be flown on the structure consistent with The Flag Code, Title 4, United States Code, Chapter 1.

On December 15, 2008, in compliance with CGS §16-50k(b), SBA Infrastructure, LLC (SBA or Certificate Holder) requested a transfer of the Certificate for this facility from Gridcom to SBA. The Council approved the transfer of the Certificate to SBA on January 8, 2009.

¹ Council Docket No. 307 Record, available at https://portal.ct.gov/csc/1_applications-and-other-pending-matters/applications/2_docketnos200-399/docket-307

Although Condition No. 12 of the Council's April 27, 2006 D&O requires compliance with Regulations of Connecticut State Agencies §16-50j-77, neither the Original Certificate Holder nor SBA provided the Council with written notice two weeks prior to the commencement of site construction activities, written notice of the completion of site construction or written notice of the commencement of site operation.

Council Jurisdiction

Pursuant to CGS §16-50i(a)(6) of the Public Utility Environmental Standards Act (PUESA), the Council has jurisdiction over "*facilities*," such as "telecommunication towers, including associated telecommunications equipment, owned or operated by the state, a public service company or a certified telecommunications provider or used in a cellular system, as defined in the Code of Federal Regulations Title 47, Part 22, as amended," throughout the state. (Emphasis added). The existing facility located at 71 Pleasant View Road in Derby is subject to the Council's jurisdiction under CGS §16-50i(a)(6) because it is a telecommunications tower that was certificated by the Council with conditions in 2006.

Under CGS §16-50u, "If the council finds that any person... has failed to comply with any certificate..., the council shall fine such person, order such person to pay restitution or order such person to pay a combination of a fine and restitution. The council may assess civil penalties in an amount not less than one thousand dollars per day for each day of... operation in material violation of... any certificate..."

"If the council has reason to believe that a violation has occurred for which a civil penalty is authorized ..., the council shall notify the alleged violator by certified mail, return receipt requested, or by personal service. The notice shall include: (1) A reference to ... any condition or requirement of such certificate; (2) A short and plain statement of the matter asserted or charged; (3) A statement of the prescribed civil penalty for the violation; and (4) A statement of the person's right to a hearing."

"The person to whom the notice is addressed shall have twenty days from the date of receipt of the notice in which to deliver to the council a written application for a hearing. If a hearing is requested, then, after a hearing and upon a finding that a violation has occurred, the council may issue a final order If a hearing is not requested, or if such a request is later withdrawn, then the notice shall, on the first day after the expiration of the twenty-day period or on the first day after the withdrawal of the request for hearing, whichever is later, become a final order of the council and the matters asserted or charged in the notice shall be deemed admitted, unless the notice is modified by a consent order before it becomes a final order. A consent order shall be deemed a final order."

Enforcement Action

On January 14, 2020, Tim and Nancy Marren, representatives of the Pleasant View Hilltop Committee (the Marrens), submitted correspondence to the Council expressing concerns with the absence of an American flag and lack of compliance with overall design requirements at the facility site as portions of the outer antenna shroud were missing. On January 16, 2020, the Council contacted SBA about the Marrens' concerns and SBA's Site Operations Manager acknowledged receipt of the correspondence.²

On May 5, 2020, the Marrens submitted additional correspondence to the Council acknowledging the facility site had been secured and requesting a status update as to the absence of an American flag at the facility site. On May 5, 2020, the Council contacted SBA's Site Operations Manager about the Marrens' concern and SBA indicated there were manufacturing delays for the antenna shroud parts required to be installed before a flag could be flown on the tower.

² Mr. Stephen Roth is SBA's Connecticut Site Operations Manager. On several occasions over the last four years, he has offered to provide the Marrens with his cell phone number.

On October 27, 2020 and November 30, 2020, the Marrens submitted additional correspondence to the Council requesting a status update as to the absence of an American flag at the facility site. On December 2, 2020, the Council contacted SBA's Site Operations Manager about the Marrens' concern and SBA acknowledged receipt of the correspondence. SBA indicated crews would be at the facility site on December 7, 2020 to resolve the issue.

On July 8, 2022, Dish Wireless, LLC (Dish) submitted a tower share request to the Council for an antenna installation at the 97-foot level of the facility. The structural analysis indicated a 12' x 18' flag was on the tower. The Council approved the tower share request on August 5, 2022.

On March 8, 2024, the Council received notification of completion of construction of the approved Dish antenna installation at the existing facility. The notification included a representative photograph of the facility modification. The American flag is flying at the top of the tower in compliance with the Council's August 31, 2006 D&M Plan condition of approval for the existing facility.³

On October 2, 2024, the Marrens submitted correspondence regarding the absence of an American flag at the facility site.

On October 4, 2024, pursuant to CGS §16-50u, the Council initiated an Enforcement Action and provided notice via certified mail, return receipt requested to SBA representatives of record. See Attachment 1.

The Council's October 2, 2024 notice to the Certificate Holder included: (1) A reference to Condition No. 3 of the April 27, 2006 Certificate and associated August 31, 2006 D&M Plan condition; (2) A short and plain statement of the history related to the absence of the American flag at the facility site; (3) A statement of the assessment of civil penalties in an amount not less than one thousand dollars per day; and (4) A statement of the Certificate Holder's right to a hearing.

On October 4, 2024, SBA's Site Operations Manager acknowledged receipt of the Council's Enforcement Action by email. On October 9, 2024, a second email from the SBA's Site Operations Manager indicated a new flag was to be delivered to the site and installed at the facility.

The Certificate Holder received notice of the Council's Enforcement Action by certified mail on October 15, 2024. See Attachment 2.

On October 23, 2024, prior to the expiration of the statutory deadline to request a hearing, the Council requested to have a discussion with SBA for options to ensure compliance with the Council's August 31, 2006 D&M Plan approval for the American flag to be flown at the facility. SBA did not respond to the Council's request to have a discussion on settlement options related to the Council's Enforcement Action, nor did SBA request a hearing.

On November 13, 2024, after the expiration of the statutory deadline to request a hearing, the Council requested to have a discussion with SBA on settlement options related to the Council's Enforcement Action. Later that afternoon, the Council and SBA's Site Operations Manager discussed settlement options, including, but not limited to, modifications to the existing Certificate, conditions to replace the flag upon completion of facility modifications, and amendments to the SBA tenant leases related to the flag. These options were shared via email with SBA's Legal Department. See Attachment 3.

³ [TS-DISH-037-220708](#) - Dish Wireless, LLC request for an order to approve tower sharing at an existing telecommunications facility located at 71 Pleasant View Road, Derby, Connecticut. [Town Letter Decision Notice of Construction Completion](#)

The Council requested a response with a suggested written compliance plan by November 27, 2024. SBA did not respond.

SBA is the Certificate Holder of record for the existing facility, and is responsible for its management, operation and maintenance.

Conclusion

Staff recommends the Council vote to approve a final order for **Docket No. 307** as follows:

1. Replace **Condition No. 3** of the April 27, 2006 D&O in Docket No. 307 with the existing August 31, 2006 D&M Plan condition in Docket No. 307 – “An American flag shall be flown on the structure consistent with The Flag Code, Title 4, United States Code, Chapter 1”;
2. Add a second sentence to replacement **Condition No. 3** referenced above – “The Certificate Holder shall install and maintain a sign, in legible condition, at a location common to all tower tenants, such as the utility meter or other conspicuous location, that instructs tower tenants and/or tower technicians to ‘REPLACE FLAG UPON COMPLETION OF EQUIPMENT INSTALLATION,’ for the life of the facility;”
3. Add **Condition No. 13** to the April 27, 2006 D&O in Docket No. 307 – “This Certificate may be surrendered by the Certificate Holder upon written notification and acknowledgment by the Council;”⁴
4. Add **Condition No. 14** to the April 27, 2006 D&O in Docket No. 307 – “Deployment of any 5G services must comply with Federal Communications Commission and Federal Aviation Administration guidance relative to air navigation, as applicable;”
5. Add **Condition No. 15** to the April 27, 2006 D&O in Docket No. 307 – “Radio frequency access restriction and caution signage shall be installed at the site in compliance with FCC guidance;”
6. Add **Condition No. 16** to the April 27, 2006 D&O in Docket No. 307 – “The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under CGS §16-50v;”
7. Add **Condition No. 17** to the April 27, 2006 D&O in Docket No. 307 – “The Certificate Holder shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this D&O and D&M Plan approved by the Council on August 31, 2006;”
8. SBA shall submit evidence of compliance with Replacement Condition No. 3 of the April 27, 2006 D&O for Docket No. 307 for the facility site ***no later than February 28, 2025***; and
9. Impose fines for lack of compliance with the Certificate in an amount to be determined by the Council; **OR**
No fines shall be imposed if SBA complies with Item No. 8 above. If SBA does not comply with Item No. 8 above, the Council shall reopen and modify this final order in accordance with the provisions of CGS §16-50u, which include, but are not limited to, imposition of fines.

Staff also recommends the Council consider the addition of a condition of approval for all exempt modification requests, tower share requests and petitions for declaratory rulings proposed for this facility

⁴ The April 27, 2006 final decision in Docket No. 307 predates the Council’s standard condition related to the surrender of a Certificate that was prompted by the Council’s September 24, 2013 final decision in Docket No. 190B, available at: https://portal.ct.gov/csc/1_applications-and-other-pending-matters/applications/1_docketnos1-199/docket-no-190b

site to “REPLACE FLAG UPON COMPLETION OF EQUIPMENT INSTALLATION” consistent with Replacement Condition No. 3 for Docket No. 307.

Attachment 1 – Council October 4, 2024 Enforcement Action Correspondence



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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**VIA ELECTRONIC MAIL & CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

October 4, 2024

Anne Hathaway
SBA Communications Corporation
8051 Congress Avenue
Boca Raton, FL 33487-9457
AHathaway@sbsite.com

RE: **DOCKET NO. 307** - SBA Infrastructure LLC Certificate of Environmental Compatibility and Public Need for the construction and maintenance of a telecommunications facility located at one of two sites at 71 Pleasant View Road, Derby, Connecticut. **Enforcement Action Notice.**

Dear Anne Hathaway:

The Connecticut Siting Council (Council) is in receipt of additional email correspondence, dated October 2, 2024 from Derby residents, Tim and Nancy Marren (Marrens), the owners of property at 195 Sentinel Hill Road, concerning the absence of an American flag associated with the above-referenced Council-certificated telecommunications facility site.

The Marrens, who actively participated in the Council's 2006 proceedings held on the application for this facility as an intervenor (Pleasant View Hilltop Committee), initially submitted email correspondence to the Council regarding the absence of an American flag and lack of compliance with overall facility site design requirements on January 14, 2020.

The Council contacted SBA Infrastructure LLC (SBA), the Certificate Holder of record for this facility, on January 16, 2020 as notification of the Marrens' concerns regarding the absence of an American flag and lack of compliance with overall design requirements at the facility site. SBA acknowledged receipt of the correspondence.

The Marrens submitted additional email correspondence to the Council on May 5, 2020 acknowledging the facility site had been secured and requesting a status update as to the absence of an American flag and lack of compliance with overall design requirements at the facility site.

The Council contacted SBA on May 5, 2020. SBA acknowledged receipt of the correspondence and indicated there were manufacturing delays for the antenna shroud parts required to be installed before a flag could be flown on the tower.

The Marrens submitted additional email correspondence to the Council on October 27, 2020 and November 30, 2020 requesting a status update as to the absence of an American flag and indicating loud generator noise occurs at the facility site at night. The Council contacted SBA on December 2, 2020. SBA acknowledged receipt of the correspondence and indicated crews would be at the facility site on December 7, 2020 to resolve the identified issues.

Please be advised that under Connecticut General Statutes (CGS) §16-50u, "If the council finds that any person... has failed to comply with any certificate..., the council shall fine such person, order such person to pay restitution or order such person to pay a combination of a fine and restitution. The council may assess civil penalties in an amount not less than one thousand dollars per day for each day of... operation in material violation of... any certificate..."

Pursuant to CGS §16-50u, the Council hereby provides notice of a reason to believe that a violation of Condition No. 3 of the Council's April 27, 2006 Certificate of Environmental Compatibility and Public Need (Certificate) and associated Condition No. 1 of the Council's September 6, 2006 Development and Management (D&M) Plan approval for this facility has occurred.

Condition No. 3 of the Council's April 27, 2006 Certificate states: "Prior to submission of the D&M Plan to the Council, *the Certificate Holder* shall discuss a tower design at this site with the City of Derby. The Town and Certificate Holder shall agree upon a tower design, but any differences would be resolved by the Council." (Emphasis added).

Condition No. 1 of the Council's September 6, 2006 D&M Plan approval states: "An American flag be flown on the structure consistent with The Flag Code, Title 4, United States Code, Chapter 1... This approval applies only to the D&M Plan submitted on August 14 and 18, 2006. Any changes to the D&M Plan require advance Council notification and approval."

This certificated facility site has not been in compliance and is currently not in compliance with Condition No. 3 of the Council's April 27, 2006 Certificate and associated Condition No. 1 of the Council's September 6, 2006 D&M Plan approval.

In accordance with CGS §16-50u, the Council shall fine the Certificate Holder \$1,000/day commencing with the date of this notice letter.

Please be advised that pursuant to CGS §16-50u, the Certificate Holder shall have **20 days** from the date of receipt of this notice to submit a written application for a hearing or a written request for modification of this notice to the Council.

Thank you for your attention to this very important matter.

Sincerely,



Executive Director

Enclosures: Marren Correspondence dated January 16, 2020; May 5, 2020; October 27, 2020; November 30, 2020; and October 2, 2024

c: Stephen Roth, SBA (stroth@sbsite.com)
Mark Luther, SBA (mluther@sbsite.com)
Tim Marren (gotflowman@yahoo.com)
Nancy Marren (nanmar15@yahoo.com)
Council Members

MAB/RDM/laf

Attachment 2 – Council Certified Mail Return Receipt

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature <input checked="" type="checkbox"/> <i>Jerard Hawkins</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
1. Article Addressed to: DO307 Stephen Roth, Regional Site Manager -CT SBA Communications Corporation 8051 Congress Avenue Boca Raton, FL 33487-9457		B. Received by (Printed Name) <i>Jerard Hawkins</i>	C. Date of Delivery <i>10-15-24</i>
2. Article Number (Transfer from service label) 9590 9402 7548 2098 0879 96		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery		<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
7017 2620 0000 5644 8512		all Restricted Delivery	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature <input checked="" type="checkbox"/> <i>J. Hawkins</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
1. Article Addressed to: DO307 Anne Hathaway SBA Communications Corporation 8051 Congress Avenue Boca Raton, FL 33487-9457		B. Received by (Printed Name) <i>J. Hawkins</i>	C. Date of Delivery <i>10-15-24</i>
2. Article Number (Transfer from service label) 9590 9402 7548 2098 0880 23		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery		<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
7017 2620 0000 5644 8505		1 Mail Restricted Delivery (500)	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

Attachment 3 – SBA Responses to Enforcement Action

From: Stephen Roth <sroth@sbasite.com>
Sent: Wednesday, November 13, 2024 3:32 PM
To: Bachman, Melanie <Melanie.Bachman@ct.gov>
Cc: Kaleb Bell <KBell@sbasite.com>; Stephen Roth <sroth@sbasite.com>
Subject: RE: [External] FW: [External] DO307 Enforcement Action Notice

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Good afternoon Melanie, good to talk to you earlier.

Added SBA Council, I am working on the issues mentioned to address them & mitigate future ones.

Stephen Roth

*Regional Site Manager, Operations
CT, LI, RI & MA*

860.539.4920 + 

From: Bachman, Melanie <Melanie.Bachman@ct.gov>
Sent: Wednesday, November 13, 2024 2:10 PM
To: Stephen Roth <sroth@sbasite.com>
Subject: RE: [External] FW: [External] DO307 Enforcement Action Notice

Good afternoon.

Thanks for taking my call this afternoon and discussing some possible resolutions to the flag issue at the 71 Pleasant View, Derby site. I appreciate your willingness to discuss the matter and suggest reasonable solutions.

As noted, recent legislation requires us to commence an enforcement action when there is “reason to believe” a violation has occurred. This site, and a Verizon site in Greenwich, have histories for different reasons (Verizon is vegetation management). We received complaints related to both sites after the legislation took effect.

To summarize the points and options we discussed about a written plan to ensure compliance with the flag condition:

1. SBA could add a condition when tenant leases are amended that any equipment modifications requiring removal of the flag shall replace the flag upon completion of the equipment installation;
2. CSC would add a similar condition that the flag be replaced to the existing Certificate for the facility or CSC could add a variation of SBA’s lease amendment flag condition to the existing Certificate for the facility;
3. When jurisdictional tenants, such as carriers, request to modify their equipment installations at SBA’s tower, if the requests are approved, CSC could add the flag

- replacement condition to the modification approval in addition to the standard condition of approval to submit a photograph that would depict the flying flag; and
4. SBA installation of cameras.

Please circulate this email to the legal department as soon as possible so that we could implement a resolution that works for CSC and SBA.

I intend to resolve this matter and the Verizon matter by the end of the year.

Could you or the SBA legal department please respond with a suggested written plan by November 27, 2024?

Thanks. Have a great day.

Melanie

Melanie A. Bachman, Esq.
Executive Director/Staff Attorney
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051
860-827-2951



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From: Stephen Roth <sroth@sbsite.com>

Sent: Wednesday, November 13, 2024 8:26 AM

To: Bachman, Melanie <Melanie.Bachman@ct.gov>

Cc: Stephen Roth <sroth@sbsite.com>

Subject: RE: [External] FW: [External] DO307 Enforcement Action Notice

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Today after 1 works

Stephen Roth

*Regional Site Manager, Operations
CT, LI, RI & MA*

860.539.4920 + 

From: Bachman, Melanie <Melanie.Bachman@ct.gov>

Sent: Wednesday, November 13, 2024 8:15 AM

To: Stephen Roth <sroth@sbsite.com>

Subject: RE: [External] FW: [External] DO307 Enforcement Action Notice

Thank you!

We could have a discussion any time after 1 PM today, between 8-9:30 AM or after 1 PM tomorrow, and any time on Friday. Do any of these dates/times work for you?

Melanie A. Bachman, Esq.
Executive Director/Staff Attorney
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051
860-827-2951



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From: Stephen Roth <sroth@sbsite.com>
Sent: Wednesday, November 13, 2024 8:10 AM
To: Bachman, Melanie <Melanie.Bachman@ct.gov>
Cc: Stephen Roth <sroth@sbsite.com>
Subject: RE: [External] FW: [External] DO307 Enforcement Action Notice

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Good Morning,

When would be good time to discuss?

Stephen Roth
Regional Site Manager, Operations
CT, LI, RI & MA

860.539.4920 + 

From: Bachman, Melanie <Melanie.Bachman@ct.gov>
Sent: Wednesday, November 13, 2024 8:07 AM
To: Stephen Roth <sroth@sbsite.com>
Subject: [External] FW: [External] DO307 Enforcement Action Notice

Good morning.

Is SBA interested in settling this enforcement action? It's been two weeks since I sent the below offer to negotiate a settlement. If we don't hear back from SBA by the end of this week, we'll pursue the remedies available to the Siting Council in the enforcement statute.

Thanks.

Melanie A. Bachman, Esq.
Executive Director/Staff Attorney
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051
860-827-2951



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From: Bachman, Melanie
Sent: Wednesday, October 23, 2024 8:19 AM
To: Stephen Roth <sroth@sbsite.com>
Subject: RE: [External] DO307 Enforcement Action Notice

Good morning.

Could we please set up a call at a convenient time to discuss options for ensuring compliance with the flag requirement going forward? I have a few ideas that I would like to propose.

Thanks. Have a great day.

Melanie

Melanie A. Bachman, Esq.
Executive Director/Staff Attorney
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051
860-827-2951



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From: Stephen Roth <sroth@sbsite.com>
Sent: Wednesday, October 9, 2024 12:27 PM
To: Fontaine, Lisa <Lisa.Fontaine@ct.gov>
Cc: CSC-DL Siting Council <Siting.Council@ct.gov>; gotflowman@yahoo.com; nanmar15@yahoo.com;
Stephen Roth <sroth@sbsite.com>
Subject: RE: [External] DO307 Enforcement Action Notice

Some people who received this message don't often get email from sroth@sbsite.com. [Learn why this is important](#)

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Good afternoon all,

Following up from last week. Just waiting on new flag to come in, as soon as it does it will be installed.

Stephen Roth

*Regional Site Manager, Operations
CT, LI, RI & MA*

860.539.4920 + 

From: Stephen Roth <sroth@sbsite.com>

Sent: Friday, October 4, 2024 3:17 PM

To: Fontaine, Lisa <Lisa.Fontaine@ct.gov>; ahathaway@sbsite.com

Cc: CSC-DL Siting Council <Siting.Council@ct.gov>; gotflowman@yahoo.com; nanmar15@yahoo.com; Stephen Roth <sroth@sbsite.com>

Subject: RE: [External] DO307 Enforcement Action Notice

Good afternoon, Lisa,

We are in receipt of notice; I have someone headed over their right now to see what's going on and if can be resolved. Odd we just did repairs here, not sure what happened.

Stephen Roth

*Regional Site Manager, Operations
CT, LI, RI & MA*

860.539.4920 + 

From: Fontaine, Lisa <Lisa.Fontaine@ct.gov>

Sent: Friday, October 4, 2024 3:02 PM

To: ahathaway@sbsite.com

Cc: CSC-DL Siting Council <Siting.Council@ct.gov>; Stephen Roth <sroth@sbsite.com>; mluther@sbsite.com; gotflowman@yahoo.com; nanmar15@yahoo.com

Subject: [External] DO307 Enforcement Action Notice

Good Afternoon,

Please see the attached correspondence.

Thank you.

Lisa Fontaine
Fiscal Administrative Officer
CONNECTICUT SITING COUNCIL

DOCKET NO. 307 – National Grid Communications, Inc. d/b/a	}	Connecticut
Gridcom application for a Certificate of Environmental	}	Siting
Compatibility and Pubic Need for the construction, operation, and	}	Council
maintenance of a telecommunications facility located at one of	}	
two sites at 71 Pleasant View Road, Derby, Connecticut.	}	
		December 19, 2024

Modified Decision and Order per Final Order

Pursuant to an Enforcement Action initiated under Connecticut General Statutes (CGS) §16-50u, the Connecticut Siting Council (Council) issued a Final Order for the above-referenced certificated telecommunications facility on December 19, 2024, and hereby rescinds the Decision and Order issued by the Council in Docket No. 307 on April 27, 2006, and issues this new Decision and Order for the certificated telecommunications facility located at Site A, 71 Pleasant View Road, Derby, Connecticut.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council’s record in this matter, and subject to the following conditions:

1. The tower shall be constructed no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of Omnipoint Holdings, Inc. (T-Mobile) and other entities, both public and private, but such tower shall not exceed a height of 120 feet above ground level. The height at the top of the antennas shall not exceed 120 feet above ground level.
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the City of Derby for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound not to exceed 40-feet by 40-feet, radio equipment, access road, utility line, and landscaping; and
 - b) construction plans for site clearing, water drainage, and erosion and sedimentation control consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.
3. An American flag shall be flown on the structure consistent with The Flag Code, Title 4, United States Code, Chapter 1. The Certificate Holder shall install and maintain a sign, in legible condition, at a location common to all tower tenants, such as the utility meter or other conspicuous location, that instructs tower tenants and/or tower technicians to ‘REPLACE FLAG UPON COMPLETION OF EQUIPMENT INSTALLATION,’ for the life of the facility.
4. The Certificate Holder shall, prior to the commencement of operation, provide the Council worst-case modeling of electromagnetic radio frequency power density of all proposed entities’ antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of electromagnetic radio frequency power density is submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.

5. Upon the establishment of any new State or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
6. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
7. The Certificate Holder shall provide reasonable space on the tower for no compensation for any City of Derby public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
8. If the facility authorized herein is not fully constructed and providing wireless services within twelve months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline.
9. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
10. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.
11. Any request for extension of the time periods referred to in Conditions 8, 9, & 10 shall be filed with the Council not later than sixty days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list. Any proposed modifications to this Decision and Order shall likewise be so served.
12. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction and the commencement of site operation.
13. This Certificate may be surrendered by the Certificate Holder upon written notification and acknowledgment by the Council.
14. Deployment of any 5G services must comply with Federal Communications Commission and Federal Aviation Administration guidance relative to air navigation, as applicable.
15. Radio frequency access restriction and caution signage shall be installed at the site in compliance with FCC guidance.
16. The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under CGS §16-50v.

17. The Certificate Holder shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this D&O and D&M Plan approved by the Council on August 31, 2006.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies and CGS §16-50u.