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August 31, 2007

VIA HAND DELIVERY

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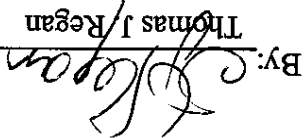
RE: Docket No. 334 Sprint/Redding – Post-Hearing Brief

Dear Mr. Phelps:

Enclosed for filing in this matter are an original and 20 copies of Sprint Nextel Corporation's Post-Hearing Brief. An electronic copy has been e-mailed to Ms. Fontaine, Ms. Mulcahy and Mr. Perrone. Please do not hesitate to contact me with any questions.

Very truly yours,

BROWN RUDNICK BERLACK ISRAELS LLP

By: 
Thomas J. Regan

Enclosures

cc: Service List

40243579 v1 - MERCI ECM - 060563/3232

CONNECTICUT SITING COUNCIL

In re:

Sprint Nextel Corporation's Application for a
Certificate of Environmental Compatibility and
Public Need for the Construction, Maintenance and
Operation of a Telecommunications Facility Located
at 186 Black Rock Turnpike, Redding, Connecticut. :
August 31, 2007

SPRINT NEXTEL CORPORATION'S POST-HEARING BRIEF

I. INTRODUCTION

The record in this matter unequivocally demonstrates that Sprint Nextel Corporation's ("Sprint") proposal to construct a telecommunications facility in Redding, Connecticut is necessary and will have minimal environmental impact. This brief summarizes Sprint's position concerning the evidence presented in its application to the Connecticut Siting Council ("Council") for a certificate of environmental compatibility and public need ("Certificate") authorizing the construction, maintenance and operation of a wireless telecommunications facility ("Facility") at 186 Black Rock Turnpike in Redding (the "Application") and during the Application process.

II. JURISDICTION

Pursuant to Conn. Gen. Stat. § 16-50k, the Council has jurisdiction over the construction, operation and maintenance of certain "facilities" that may have a substantial adverse environmental effect on the state. Specifically,

[N]o person shall ... commence the construction or supplying of a facility, or commence any modification of a facility, that may, as determined by the council, have a substantial adverse environmental effect, in the state without having first obtained a certificate of environmental compatibility and public need...

Conn. Gen. Stat. § 16-50k.

Under Conn. Gen. Stat. § 16-50i(a)(6), a "facility" includes "telecommunication towers, including associated telecommunications equipment, owned or operated by the state, a public service company or a certified telecommunications provider" (emphasis added). In this case, Sprint is the "operator" of the facility because it proposed that the Redding Fire Department ("Fire Department") replace its existing 75-foot tower with a new 120-foot tower *solely* to accommodate the additional 45 feet needed for its antennas and the antennas of other commercial carriers.

It is September 5, 2002 decision on Petition No. 561¹, the Council set forth two key provisions, *both* of which must be met in order for a tower to be considered a "municipal facility." The first provision requires that the town own the tower. According to Sprint's Site Lease Agreement with the Fire Department, "[u]pon the commencement of construction ... of the New Tower, [the Fire Department] shall have full ownership and control of the New Tower."² The Fire Department is part of the municipality of Redding and, therefore, the first provision of the Council's two-fold test has been met.

The second provision set forth by the Council to decide whether a tower is a "municipal facility" is determine whether the primary purpose of the tower is it to support public safety or for commercial purposes. In Petition No. 561, "the reason for [the] tower's existence [was] to support public safety communications. It was the Town that conceived of the tower and determined its location and height. The highest and most advantageous locations on the tower... [were] dedicated for municipal uses. Only 30 feet of tower space... [was] set aside for private

¹ On May 3, 2002 Robert J. Rigney, et al., petitioned the Council for a declaratory ruling as to whether the 190-foot tower owned by the Town of Farmington, located at 319-321 New Britain Avenue, was a "municipal" tower exempt from the Council's jurisdiction or a "commercial" tower subject to the Council's jurisdiction ("Petition No. 561"). A copy of the Decision in Petition No. 561 is attached under Tab 1.

² SP-2, Lease at p. 1.

³ Transcript of Public Hearing dated 8/1/07 ("Tr.") at 9.
⁴ SP-2, Lease.
⁵ Sprint Spectrum, L.P.'s application for a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a 156-foot telecommunications facility on property owned by the Town of Farmington (used as a sewage treatment facility) at 1 Westenberg Drive in Farmington ("Docket No. 282").

telecommunications providers." Decision, Petition No. 561, p.3 [emphasis added]. Clearly, in this Docket, that second provision has not been met.

Although the Town of Redding ("Town") has reserved the right to locate its antennas at the top of the tower, the sole purpose for constructing the new tower is to meet the coverage needs of Sprint and other wireless carriers. These coverage needs drove the height of the tower and were the nexus of the need to replace the existing 75-foot tower. No evidence was presented to indicate that the Town's current communication needs are not being met by the existing facility. In fact, Redding Fire Commissioner Pardee testified that "we have had 10 successful years of operation with a single carrier at our site. We've had no problems that we're aware of in the community because of this."³ Therefore, the Town's communication needs did not, in any way, factor into the height of the tower.

Further proof that Sprint is indeed the "operator" of the facility is contained in the Site Lease Agreement which sets forth that Sprint is responsible for all construction, licenses, permits and approvals and "shall maintain [the] New Tower until the termination or expiration of the Agreement." In addition, Sprint must maintain the access road and obtain insurance for the Facility.⁴

In contrast, Sprint's Certificate in Docket No. 282⁵ provides an example of the Council retaining jurisdiction over a facility even though the Town of Farmington had issued a Request for Proposal to build the facility, the Town of Farmington owned the property and the Town reserved the right to place its antennas on the tower. As in the subject Docket, in Docket No.

282, Sprint drove the height of the 156-foot tower based on its coverage needs, as well as the needs of Intervenor Omnipoint Communications, Inc. d/b/a T-Mobile, Intervenor Nextel Communications of the Mid-Atlantic, Inc., and Cellico Partnership d/b/a Verizon Wireless ("Verizon").⁶

Consequently, given that both of the Council's provisions as set forth in its Decision on Petition No. 561 to consider this a "municipal facility" were not met, the Council has jurisdiction over this facility in the subject Docket.

The criteria guiding the Council's decision to grant Sprint's Application are set forth in Conn. Gen. Stat. § 16-50p(a), which provides that the Council must determine:

(1) A public need for the facility and the basis of the need; (2) the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, 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, aquaculture and wildlife; (3) why the adverse effects or conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application

Sprint has established, by a preponderance of the evidence as set forth below, its need for a wireless telecommunications facility in Redding as well as the lack of any significant adverse environmental impact.

II. BACKGROUND

Sprint began its site search to fill its significant coverage gap in Redding by creating a computer model identifying the area where a telecommunications facility must be located to provide the requisite coverage. Once the area was designated, Sprint searched for existing structures in the area suitable for its purposes. However, in this low density rural area, Sprint

⁶ Sitting Council's Findings of Fact in Docket No. 282 dated June 9, 2004, Findings No. 19-56 (provided under Tab 2).

⁷ Sprint's Exhibit ("SP")-1 at 8.
⁸ Tr. 3:10 p.m. at 43.
⁹ Tr. 3:10 p.m. at 8.
¹⁰ SP-1 at 4.

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found only four existing structures to investigate, one of them being the existing 75-foot lattice tower behind the Redding Fire Department at 186 Black Rock Turnpike (the "Site"). Sprint pursued the Site because, although the existing 75-foot lattice tower did not work, Sprint anticipated that a taller monopole built in its place would meet its coverage needs and have less impact than a monopole built on raw land at a different location.⁷ Sprint then negotiated with the Fire Department to replace the existing lattice tower with a larger, 120-foot, monopole to accommodate Sprint's coverage needs. The Fire Department kept ownership of the tower and leased space to Sprint and other wireless carriers.⁸ In November 2006, once Sprint had an agreement in place with the Fire Department for the use of the property, Sprint consulted with the Redding Historical Society and the Town Historian on its proposed plans. On December 13, 2006, Sprint presented a 60-day notice of the filing of the application to First Selectman Ketcham of Redding for comment. At the Siting Council's public hearing on this docket, First Selectman Ketcham stated that the Town has two preferences for the siting of telecommunications facilities, 1) that they are located on Town property, and 2) that collocation is possible to avoid the proliferation of towers in Redding. First Selectman Ketcham went on to note that "this particular application for Black Rock Turnpike is consistent with both of those preferences."⁹ Approximately six weeks prior to filing the Application with the Council, in mid-February 2007, Sprint published notice of its intent to file the Application in the Danbury News Times and the Redding Pilot.¹⁰ Concurrently, Sprint also sent registered letters to the abutting

11 Id.
12 Id.
13 SP-1.
14 Id.
15 Record.
16 Tr. 3:10 p.m. at 16.
17 Tr. 3:10 p.m. at 51.
18 Record.

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property owners notifying them of Sprint's intent to file the Application.¹¹ All of the return

receipts were received.¹² On April 3, 2007, Sprint proceeded to file its Application with the

Council.¹³ On June 7, 2007 the Council granted Verizon Intervenor status in this docket.¹⁴

The Council, after giving due notice thereof, held a public hearing on this Application on

August 1, 2007, pursuant to Conn. Gen. Stat. § 16-50m, at the Redding Community Center (the

"Public Hearing").¹⁵ Sprint flew a red balloon at 120 feet on the day of the Public Hearing in

order for the public to ascertain the visibility of the Facility.¹⁶ Sprint also posted a sign with the

Public Hearing information at the subject property on July 16, 2007.¹⁷ The Public Hearing

began at 3:00 p.m. and reconvened at 7:00 p.m.¹⁸ Prior to the Public Hearing, the Applicant,

Verizon, the Council and the Council's staff completed a field inspection of the site beginning at

2:00 p.m.¹⁹

III. NEED

The first prong of the Council's decision making process as to whether or not a

Certificate should be granted is to determine the requisite need for the Facility. The United

States Congress, in the Telecommunications Act of 1996, determined that there exists a national

need for wireless services such as those provided by Sprint. In making such a determination, the

Federal government preempted the states' need to make that determination. The

Telecommunications Act of 1996 also sought to foster competition in the marketplace and

prohibit states from discriminating against functionally equivalent wireless carriers. Therefore,

although a particular area may already have wireless coverage provided by a different carrier, Sprint has the right to also offer its services in that same area.²⁰

Specifically, the Council must find adequate need for this particular Facility. To that end, Sprint unquestionably demonstrated through testimony and exhibits its need for a Facility in Redding. The coverage plots, computer modeling, dropped call data and Public Hearing testimony all verify Sprint's gap in wireless coverage along Route 58 as well as in the immediately surrounding areas of Redding.²¹ Currently, coverage in this area is well below Sprint's minimum acceptable signal strength of -92 dBm.²² With this Facility, Sprint will be able to provide approximately 3,935 square miles of coverage.²³ To fulfill these deficiencies in coverage while allowing for collocation and the ability to hand off to surrounding sites, Sprint's minimum antenna centerline necessary is 120 feet.²⁴

Given that Sprint needs a 120-foot monopole, the Town has availed itself of the opportunity to improve its communication capabilities and requested that Sprint reserve space at the top of the tower for the Town.²⁵ Sprint has agreed to this accommodation and is willing to accept a centerline a few feet lower than originally planned since it will not significantly effect Sprint's coverage nor will it cause any interference issues.²⁶ Fire District Commissioner Pardee testified that "the proposed new tower here will help with our fire department communications, help police communications, and probably help highway radio communications" as well as allowing "motorists, hikers, and homeowners to reach the fire department in an emergency."²⁷

¹⁹ Record.
²⁰ SP-1 at 5; Tr. 3:10 p.m. at 4-5.
²¹ SP-1 at 6, 13-14; SP-2; Tr. 3:10 p.m. at 35, 46-47.
²² SP-2 at 1.
²³ SP-2 at 2.
²⁴ SP-1 at 13-14; SP-2; Tr. 3:10 p.m. at 13.
²⁵ Tr. 3:10 p.m. at 8.
²⁶ Id.; Tr. 3:10 p.m. at 18, 22-23.
²⁷ Tr. 3:10 p.m. at 9-10.

to minimize soil exposure, control run-off, shield and/or bind the soil, and trap sediments. Sprint proposed at the Site. The plan of development includes erosion and sediment control measures associated with building or maintaining the Facility, and no water supply or sanitary facilities are wetlands or watercourses.³¹ There will be no daily water usage or wastewater discharge. The development activities proposed at the Site will not significantly impact any

A) Ecological Resources

public health and safety.

The Facility will not have a significant adverse effect on the environment, including

III. IMPACT

forth in Conn. Gen. Stat. § 16-50p(a).

need for wireless service, the evidence in the record establishes the requisite "public need" as set property to fulfill this deficiency. Coupled with the FCC's determination of a general public currently provided along Route 58 and the need to locate a Facility on the Fire Department presented by Sprint and Verizon demonstrate an acute deficiency in the wireless services public as indicated by Fire Commissioner Pardee. Clearly, the cumulative effect of the evidence allowing for the collocation of other carriers, it will contribute to the welfare and safety of the Not only will the siting of this Facility clearly improve competition in the marketplace by much interested in this site...but do not have the ring budgeted for 2007."³⁰

July 11, 2007, T-Mobile indicated in correspondence to Mr. S. Derek Phelps that they "are very the proposed Facility.²⁸ Verizon will be located in the position below Sprint.²⁹ In addition, on Verizon also provided evidence through testimony and exhibits of its need to collocate at

31 SP-1 at 17.
32 SP-1 at 16-17.
33 Record.
34 Tr. 3:10 p.m. at 27.
35 SP-1 at 17-18.
36 SP-1 at 19.

will also use common building materials that will not produce any environmentally damaging leachates and will not use transformers containing poly-chlorinated biphenyls.³² Furthermore, Sprint will comply with all the comments set forth by the Department of Public Health's Drinking Water Section ("DPH") in their June 21, 2007 correspondence to the Council.³³ Sprint understands that its Facility is within the Hemlocks Reservoir System Watershed Area of the Aspetuck and Saugatuck Reservoirs for the Aquarion Water Company of Connecticut. Sprint is committed to protecting those sources of drinking water and will adhere to the Best Management Practices outlined by the DPH in its June 21, 2007 correspondence to ensure that all appropriate measures are taken to protect those drinking water supplies.³⁴ No air pollutants will be generated during the development of the Site or during the normal operations of the Facility. In addition, the only noise associated with the Facility will be during its construction. The noise from such activity, however, is equal to the noise produced when constructing a single family home and will cease when the construction ends. The construction period is estimated at approximately six weeks. Post-construction, Sprint does not anticipate having an affect on the traffic pattern in the area as Sprint will make only one monthly maintenance and inspection visit to the Site.³⁵ In addition, the Facility is not anticipated to have a significant impact on wildlife habitat due to the existing firehouse and nearby human activity. Any wildlife displaced during construction have suitable habitat in close proximity to allow for natural relocation.³⁶

37 SP-1 at 21-22, Tab 12.
38 SP-1 at 21.
39 Id.
40 Tr. 3:10 p.m. at 26.
41 Tr. 3:10 p.m. at 24.
42 Id.

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B) Scenic Resources

Sprint's Facility will not have a significant visual impact on the surrounding community. To make that determination, Sprint undertook an extensive visual analysis of the Facility.³⁷ The visual analysis indicated that there will be only 6 acres of year round visibility and 51 acres of seasonal visibility.³⁸ In addition, the Facility will not be visible from any locally designated scenic roads.³⁹ Moreover, the majority of the residences that may have views of the proposed Facility already have views of the existing tower.⁴⁰

Given the very limited visibility of the proposed Facility, Sprint does not believe it is necessary to reduce the profile of its antennas with a T-arm or flush mounting. From a structural standpoint, with the Town's antennas possibly only 3 feet above Sprint's, Sprint would prefer to have its antennas platform mounted.⁴¹ Going forward, the platform mount will also allow Sprint greater flexibility in adding its iDEN network antennas at the same level should that be necessary.⁴²

C) Cultural & Historic Resources

There will be no adverse impacts on any cultural resources in the Redding area as a result of the Facility. Sprint, as part of its site investigation process, conducted a thorough review of the environmental resources outlined in the National Environmental Policy Act ("NEPA").⁴³ The review assists Sprint in determining if the Facility lies in an environmentally or culturally sensitive area. As part of the investigation, Sprint reviewed several criteria including: officially designated wilderness areas, wildlife preserves, threatened or endangered

43 SP-1 at 23-25, Tab 15.

44 1d.

45 SP-1 at 22, Tab 14; Tr. 7:00 p.m. at 13.

46 Tr. 3:10 p.m. at 53.

Fire Department's property.⁴⁶

Sprint has also agreed to design the tower with a yield point to keep the fall zone on the

limits in all locations around the Facility, even with extremely conservative assumptions.⁴⁵

and cumulatively with the Town and Verizon, will be significantly less than the FCC mandated employees who visit the Facility. Sprint's calculations demonstrate that its power density, alone,

The Facility will not pose any risk to human health, be it the community-at-large or

D) Safety

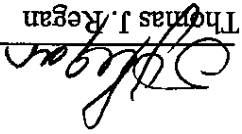
Facility.⁴⁴

sensitive area and there will be no adverse impact on any historical resource as a result of the The NEPA review concluded that the Facility will not lie within an environmentally or culturally species habitats, the National Register of Historic Places, Indian religious sites and flood plains.

IV. CONCLUSION

Sprint has provided ample evidence in this docket for the Council to conclude that a Facility is necessary on the Fire Department's property at 186 Black Rock Road in Redding to provide wireless coverage to Route 58 and the surrounding areas. Moreover, Sprint has also proven that a Facility in this location will have minimal environmental impact. Therefore, Sprint respectfully requests that the Council grant its Application for a Certificate at 186 Black Rock Turnpike in Redding, Connecticut.

Respectfully submitted,
Sprint Nextel Corporation

By: 

Thomas J. Regan

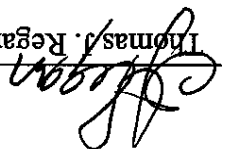
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Certificate of Service

On August 31, 2007, a copy of Sprint Nextel Corporation's Post-Hearing Brief was sent

via first class mail to:

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By: 
Thomas J. Regan

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PETITION NO. 561 - Robert J. Rigney, et. al., petition for a declaratory ruling ordering a hearing to determine the effects associated with the construction, operation, and maintenance of a telecommunications facility located at 319-321 New Britain Avenue, Farmington, Connecticut. Decision.

Connecticut Siting Council September 5, 2002

Decision

On May 3, 2002, Robert J. Rigney, et. al., submitted a citizen petition to the Connecticut Siting Council to request that the Council issue an Order for Declaratory Ruling and Hearing for the proposed siting of a telecommunications tower to be located at 319-321 New Britain Avenue, Farmington, Connecticut. The applicant, the Town of Farmington, and Sprint Spectrum are parties and intervenors in this proceeding.

At the time of submittal of this petition, Sprint Spectrum was building the 190' tall telecommunications tower and associated ground facilities and equipment for the Town of Farmington. The development of the tower facility began with the issuance of a Request for Proposal by the Town of Farmington seeking proposals "to construct a communication tower and support building, to be deeded to the Town for no cost, . . . [to] accommodate the Town's communication equipment as well as three wireless telecommunication service providers."

The tower was to be part of a new police building to be built at the above address and was intended to allow the Town's police department and other public safety entities servicing the Town to upgrade their wireless communications systems.

At the conclusion of the RFP process, Sprint Spectrum was selected to build the tower. Together Sprint and the Town applied to the Farmington Planning and Zoning Commission for a Special Permit to construct the tower. After conducting a public hearing on their application, the Commission approved the Special Permit on July 23, 2001.

On January 18, 2002, Sprint applied to the Connecticut Siting Council for an order to approve tower sharing that would enable the company to place its antennas on the tower it would be building for Farmington. The Council approved this tower sharing request on February 14, 2002.

In his petition, Mr. Rigney asks the Council to issue a declaratory ruling on two questions.

1. Since Sprint Spectrum is a licensed intrastate telecommunications provider, should its towers and associated equipment be considered "facilities" under CGS § 16-50i(a)(6) and, therefore, subject to the Council's jurisdiction?

2. Based on the lease agreement between Sprint and the Town of Farmington, which Mr. Rigney contends makes the Town's use of the tower subservient to Sprint's, is this tower a "municipal tower" exempt from the Council's jurisdiction or is it a commercial facility that should have more properly gone through the Council's Certification process?

Should the Council conclude that the tower in question is, indeed, a commercial tower, Mr. Rigney asks the Council to issue an Order or Rule: 1) declaring this tower to be a "facility" under CGS § 16-50i(a)(6) and therefore subject to its jurisdiction; 2) finding the effects of this tower are in conflict with policies of the State and denying any application for a Certificate of Environmental Compatibility and Public submitted for this site; and 3) finding that the Tower would be more properly placed at 1 Montevith Drive, a location that would have greater harmony with the surrounding environment and less negative impact and risk to the general public.

Mr. Rigney's first question has already been answered in the affirmative by the Second Circuit Court of Appeals' decision in *Sprint Spectrum v. Connecticut Siting Council*, 274 F.3d 674 (2d Cir. 2001). Furthermore, Sprint acknowledged the Council's jurisdiction when it submitted its tower sharing request in January, 2002.

The answer to Mr. Rigney's second question of whether or not this tower is a "municipal facility" exempt from Council jurisdiction rests on two key tests about the ownership and purpose of the tower.

Ownership. The Town will own the tower. This was indicated in the Town's RFP, which stated the tower was "to be deeded to the Town for no cost" The Town's ownership is also confirmed in the lease agreement between the Town and Sprint, which identifies the Town as landlord and Sprint as tenant. The lease also states that Sprint as the tenant will transfer ownership of the facility to the Town as landlord and execute a bill of sale upon completion of construction. The lease further identifies the Town as being responsible for operating and maintaining the tower after its acceptance. It is the Town, not Sprint, that has the right to lease space to other carriers, which might be interested in locating equipment on the tower.

Primary Purpose. The reason for this tower's existence is to support public safety communications. It was the Town that conceived of the tower and determined its location and height. The highest and most advantageous locations on the tower, as well as other locations, are dedicated for municipal uses. Only 30 feet of tower space, between elevations 140' and 170' AGL, are set aside for private telecommunications providers.

All other space on the tower is reserved for public users. In planning for the tower, the Town determined that other entities were more capable of constructing it and that these same entities might be interested in sharing space on it. The Town viewed participation by other, commercial entities as an effective way to get the tower built and to receive income for its future operation and maintenance. The presence of commercial telecommunications providers on the tower does not change the fundamental "municipal" nature of the tower.

Given the facts related above, the Council finds that the telecommunications tower at 319-321 New Britain Avenue, Farmington, Connecticut is a "municipal" facility. For this reason, the Council shall not issue an Order or Rule declaring this tower to be a "facility," pursuant to CGS §16-50i(a), subject to its jurisdiction. However, this does not mean that commercial telecommunications providers are exempt from the Council's jurisdiction should they wish to locate antennas on this facility.

Findings of Fact

Introduction

1. Pursuant to Connecticut General Statutes § 16-50g et seq., and the Regulations of Connecticut State Agencies § 16-50j-1 et seq., Sprint Spectrum (Sprint), L.P., applied to the Connecticut Siting Council (Council) on December 24, 2003 for a certificate of environmental compatibility and public need (Certificate) authorizing the construction, operation, and maintenance of a telecommunications facility at One Westerberg Drive in Farmington, Connecticut. (Sprint I, p. 1)
2. Sprint's proposed facility would include a 156-foot tall monopole designed as a flagpole. (Sprint I, p. 1)
3. Sprint is a Delaware limited partnership, which is a wholly-owned subsidiary of Sprint Corporation, a Kansas corporation. Sprint Corporation is a wholly-owned subsidiary of WirelessCo, L.P., a Delaware limited partnership. Sprint is authorized to construct, operate, and manage a wireless personal communications system using the radio authorization license held by WirelessCo, L.P. (Sprint I, p. 2)
4. The party in this proceeding is the applicant. T-Mobile and Nextel are intervenors. (Tr. I, pp. 5-6)
5. AT&T Wireless had been an intervenor in this proceeding but withdrew prior to the public hearing. (Record)
6. Pursuant to Conn. Gen. Stat. § 16-50(b), Sprint had public notice of this application published in the Hartford Courant on November 20 and 25, 2003 and in the Valley News on November 20 and 27, 2003. (Sprint I, p. 3)
7. Sprint sent notification of its filing of an application with the Council to all owners of property abutting the proposed site on November 19, 2003. This notification was sent by certified mail, and Sprint received return receipts from 33 of the 37 property owners to whom notice was sent. Sprint sent another copy of the notification, to those property owners from whom return receipts were not received, via first class mail, no return receipt requested, on December 19, 2003. (Sprint I, p. 3)
8. Pursuant to CGS § 16-50f, the Council solicited comments on Sprint's application from the following state departments and agencies: Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, and the Department of Transportation. The Council's letter requesting comments was sent on February 5, 2004. (CSC Hearing Package dated February 5, 2004)

9. As part of its application procedure, Sprint sent a copy of its application to the Town of Farmington's Chief Elected Official, Town Planner, Chairman of the Planning and Zoning and Inland Wetlands Commission, and Chairman of the Conservation Commission; to the State Senator and State Representative for the Town of Farmington; to the Capitol Region Council of Governments and Central Connecticut Regional Planning Agency; to the Connecticut Attorney General; to the Connecticut Department of Environmental Protection (DEP); to the Connecticut Department of Health; to the Connecticut Department of Public Utility Control; to the Connecticut Department of Economic and Community Development; to the Council on Environmental Quality; to the Office of Policy and Management; to the Connecticut Department of Transportation (ConnDOT); to the Connecticut Historical Commission; to the Connecticut Trust for Historic Preservation; to the Federal Communications Commission; and to the Federal Aviation Administration. (Sprint 1, Tab 4)
 10. The Connecticut Department of Transportation responded to the Council's solicitation and had no comments on the application. (ConnDOT letter dated April 7, 2004)
 11. No other state agency responded with comments about Sprint's applications. (Record)
 12. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on April 13, 2004, beginning at 3:00 p.m. and continuing at 7:00 p.m. in Farmington, Connecticut. (Tr. 1, pp. 2-6)
 13. The Council and its staff made an inspection of the proposed site on April 13, 2004. On the day of the field review, Sprint attempted to fly a balloon at the site. Wind and rain prevented any sustained flight of a balloon at the proposed height. (Tr. 1, p. 18)
- Public Need for Cellular Service**
14. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services, including cellular and PCS telephone service. Through the Federal Telecommunications Act of 1996, Congress seeks to promote competition, encourage technical innovations, and foster lower prices for telecommunications services. (Council Administrative Notice, Telecommunications Act of 1996)
 15. 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. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice, Telecommunications Act of 1996)
 16. The Telecommunications Act of 1996 prohibits local and state bodies from discriminating among providers of functionally equivalent services. (Council Administrative Notice, Telecommunications Act of 1996)
 17. Sprint is licensed by the Federal Communications Commission (FCC) to provide wireless telecommunication service in thirty-two major United States trading areas, including Connecticut. (Sprint 1, p. 2)

18. Sprint's antenna deployment at this site would comply with E911 requirements. (Sprint 2, Response 10)

Service Design

Sprint

19. Sprint would install three directional antennas in a three-sector configuration inside the proposed flagpole tower with a centerline height of 150 feet above grade. (Sprint 2, Response 16)

20. Sprint's objectives for this proposed facility are to cover existing service gaps on and around Route 10 and Route 4 where Sprint had a significant gap in service at the time of application. (Sprint 1, p. 4; Sprint 2, Response 9)

21. Sprint used drive test data from surrounding existing facilities, call statistics, and propagation models to determine the location and extent of its existing coverage gap. (Sprint 2, Response 2)

22. Sprint performed a drive test to validate the propagation model used to predict the coverage likely to be obtained from the proposed tower. The test validated Sprint's propagation model. (Sprint 2, Response 4)

23. Sprint's existing signal strength in the vicinity of the proposed site varies between -90 dBm to below the noise threshold, although some of the higher elevations in the surrounding area may exceed -90 dBm. (Sprint 2, Response 23)

24. Sprint considers acceptable signal strength to be -94 dBm in rural areas and -79 to -84 dBm in urban areas. (Sprint 1, p. 12)

25. With its antennas on this tower, Sprint's signal strength in the vicinity would be greater than -85 dBm. (Tr. 1, p. 27)

26. The minimum height at which Sprint could achieve its coverage objectives from this tower would be 150 feet. (Sprint 1, p. 12)

27. From this site, Sprint would hand off traffic to the following existing facilities:

Site	Address	City	Latitude	Longitude	Height (feet)
CT33XC533	10 Redwood Lane	Avon	41-46-20.28	-72-52-48.36	88
CT03XC100	3A Birdseye Rd	Farmington	41-42-54	-72-48-37.08	140
CT03XC085	Lot 40, Camp Rd	Farmington	41-41-56.04	-72-53-26.16	77
CT03XC053	81 Montevideo Rd	Avon	41-48-10.08	-72-48-39.6	142
CT33XC534	319-321 New Britain Ave	Farmington	41-45-0	-72-52-22.08	170

(Sprint 2, Response 11)

28. Sprint has implemented a digital code division multiple access network to provide a P.02 grade of service. A P.02 grade of service means that a subscriber of the system will be able to place calls ninety-eight percent of the time during the busiest (peak) hours of the day. (Sprint 1, p. 13)
29. Sprint statistics on the incidence of dropped calls in the vicinity of this site indicate that the number of dropped calls in the area exceeds 2 percent. (Sprint 2, Response 5)
30. The size of the coverage gap Sprint is seeking to cover with the proposed facility is significant enough that technologies such as repeaters and microcells, which are typically used for filling small gaps in coverage or for providing service in buildings, are not viable options for providing the requisite service level. (Sprint 1, p. 8)
31. Sprint's antennas would cover 2.2 miles along Route 4 and 2.5 miles along Route 10. (Sprint 2, Response 7)
32. Sprint's antennas at the proposed facility would cover a total of 6.4 square miles. (Sprint 2, Response 8)
33. Sprint anticipates not being required to split this cell for at least five years. (Sprint 1, p. 14)
- T-Mobile
34. T-Mobile's existing signal strength in the vicinity of the proposed site is between -90 dBm and -110 dBm. (T-Mobile 1, Response 1)
35. At the time of application, T-Mobile was experiencing an average of 300 dropped calls per day in the vicinity of the proposed facility. (T-Mobile 1, Response 3)
36. T-Mobile's objective at this site is to provide reliable in-car coverage greater than or equal to -84 dBm along Routes 4 and 10. (T-Mobile 1, Response 2)
37. With antennas at this location, T-Mobile would be able to provide reliable in-car coverage at -84 dBm. (Tr. 1, p. 54)
38. At this location, T-Mobile would install three panel antennas with a centerline height of 130 feet. (T-Mobile 1, Response 4)
39. The minimum height at which T-Mobile could meet its coverage objectives at this location is 130 feet. (T-Mobile 1, Response 5)
40. From this location, T-Mobile's antennas could provide reliable in-car coverage for 2 miles along Route 4 and 2 miles along Route 10. (T-Mobile 1, Response 8)
41. The total area T-Mobile's antennas could provide reliable in-car coverage from this location would be approximately 3.5 square miles. (T-Mobile 1, Response 9)

42. From this location, T-Mobile's antennas would hand off traffic to the following existing sites:

Site	Address	City	Direction
CT11-376	376 Deercriff Road	Avon	northeast
CT11-168	263 Farmington Ave	Farmington	east
CT11-134	200 Colt Highway	Farmington	south
CT11-380	10 Redwood Lane	Avon	northwest

(T-Mobile 1, Response 6)

43. T-Mobile requires at least six feet between the tips of antennas to avoid interference problems. Based on this requirement, antennas that are separated by less than ten feet at their radiation centers could create interference problems. (Tr. 2, pp. 10-11)

Nextel

44. At the time of application, Nextel was experiencing coverage gaps along Routes 4 and 10. Nextel identified these gaps through the receipt of numerous customer complaints of dropped calls and lack of service along these roadways and the surrounding areas. Placing its antennas on the proposed tower would enable Nextel to remedy these coverage gaps. (Nextel 1, R.3)

45. Nextel is experiencing an average daily drop call rate of just over 5% in the area that would be served by the proposed facility. Nextel's dropped call objective is less than 2%. (Nextel 1, R.4)

46. Nextel's minimum signal strength required to provide adequate coverage is -81 dBm. (Nextel 1, R.2)

47. Nextel's existing signal strength in the vicinity of the proposed site ranges from -81 dBm to no service. Nextel customers do not have adequate signal strength northwest of the intersection of Routes 4 and 10 to place or receive reliable calls in-building, in-car, or on-street. (Nextel 1, R.1)

48. With antennas at this location, Nextel's signal strength would be -81 dBm. (Tr. 1, p. 67)

49. Around the 120-foot height, Nextel would install six antennas inside the proposed flagpole. (Nextel 1, R.5)

50. Nextel's six antennas would be stacked three antennas on top of three antennas. (Tr. 1, p. 61)

51. Nextel requires a minimum height of 120 feet for its antennas to achieve its coverage objectives at this location. (Nextel 1, R.6)

52. Nextel would shift its antennas downward two feet on the tower in order to gain a six-foot tip-to-tip separation from the T-Mobile antennas above them. (Tr. 2, p. 14)

53. Nextel's antennas would hand off traffic to the following locations: to the north along Route 10, a water tank on Tower Drive in Avon; to the west on Route 4, an existing tower on Sylvan Avenue in Farmington; to the south along Route 10, an existing tower on Sparks Street in Plainville; also to the south, an existing tower off Route 6 in Bristol; and to the east, an existing tower near Birdseye Road in Farmington. (Nextel 1, R.7)
54. Nextel's antennas would cover approximately 4 miles along Route 10 and 2.9 miles along Route 4. (Nextel 1, R.9)
55. Nextel's antennas would cover a total area of approximately 9.5 square miles. (Nextel 1, R.10)
- Verizon
56. Cellico Partnership d/b/a Verizon Wireless would be interested in locating antennas at the 140-foot level of the proposed flagpole formerly reserved by AT&T Wireless. Verizon Wireless notified the Council of its interest in a letter read into the record by Attorney Regan, Sprint's representative. (Tr. 1, pp. 30 ff.)
- Municipal Consultation
57. The Town of Farmington published a Request for Proposals (RFP) for the lease of municipal property at 1 Westberg Drive for the construction of a communication tower and support facility on September 8, 2002. (Sprint 2, Response 22, Attachment)
58. The Town of Farmington published its RFP after Sprint had established its search ring in this area. (Sprint 2, Response 23)
59. The Town required that a telecommunications tower at its offered site be designed as a flagpole. (Tr. 1, p. 34)
60. Sprint responded to Farmington's RFP with a proposal to construct a stealth flagpole. (Sprint 1, p. 6)
61. At a meeting held on January 21, 2003, Farmington Town Manager Kathleen Eagen recommended Sprint's proposal to the Town's Planning and Zoning Commission. The Commission gave its consent to proceed with the project and a lease for the site. (Sprint 1, p. 6)
62. The Farmington Town Council approved a lease with Sprint on June 24, 2003. (Sprint 1, p. 6)
63. Sprint filed its 60-day notice of its intent to apply for a Council certificate for a telecommunication facility in Farmington on June 30, 2003. Its notice included a letter to the Chairman of the Town Council, a National Environmental Policy Act (NEPA) review, radio-frequency coverage information, a site plan, and a visual resource evaluation report. (Sprint 1, p. 6)
64. In a letter dated September 4, 2003, the Farmington Town Manager informed the Council that the Town's lease agreement with Sprint had been approved. The lease provides for the construction of a 156-foot tower capable of supporting four carriers. (Sprint 1, p. 6)

65. In its lease agreement with Sprint, the Town of Farmington retains the right to place antennas on the proposed tower free of charge. (Sprint 2, Response 22)

Site Search

66. After its coverage gap in the vicinity of Route 10 was analyzed, Sprint created a Search Ring to identify an area where a telecommunications facility could provide the requisite coverage. Sprint determined the boundaries of the Search Ring by placing multiple sites (50-100) in locations that might meet its coverage objective then running propagation models on the sites. Sprint formed its Search Ring around the sites that best met its coverage objective. (Sprint 1, p. 8)

67. After the Search Ring was established, Sprint's Real Estate Department looked for existing buildings, structures, and towers that could be used as sites from which to meet its coverage objectives. No suitable existing structures or towers were found that could meet Sprint's objectives. (Sprint 1, p. 8)

68. Sprint researched a number of properties as potential locations for their proposed facility. These properties and the determination of their suitability are listed in the table below.

Location	Reason for Rejection
1 Westenberg Drive	Proposed candidate.
44 Main Street	Issues with historic district.
31 Town Farm Road	Property owner not interested in leasing to Sprint.
Waterville Road and Route 10 - SNBT	Not suitable due to building restrictions.
691 Waterville Road	Not suitable due to parcel size.
575 Waterville Road	Issues with flood plain.
Waterville Road and Route 10	Issues with SHPO, flood plain, and wetlands.
165 Deercliff Road	Property owner not interested in leasing to Sprint.
1371 Farmington Avenue	Does not provide sufficient coverage to Route 10.
Deercliff Road, Avon	Located too far north to sufficiently cover Route 10.

(Sprint 1, pp. 10-13)

Project Description

69. Sprint's proposed facility would be located on a 28.2 acre parcel owned by the Town of Farmington and used by the Town for its Sewage Treatment Facility. Sprint would lease a 100-foot by 100-foot area within which it would develop a 50-foot by 50-foot compound. Sprint would erect a 156-foot tall monopole that would be camouflaged as a flagpole. The flagpole/monopole would be capable of supporting a total of four carriers. Sprint's antennas would be installed at the 150-foot level. (Sprint 1, p. 9 ff.)
70. The bottom portion of the proposed flagpole tower would be built of steel. The top portion of the tower would be built from a RF transparent material designed to match the steel bottom in appearance and color. All antennas and coaxial cables would be concealed within the flagpole. (Sprint 2, Response 25)
71. The Town of Farmington, at its discretion, would be responsible for flying a 10-foot by 15-foot flag from the flagpole. (Tr. 1, p. 24 ff.)
72. As part of its lease arrangement, Sprint would pay the Town a lump sum fee for the Town's assumption of responsibility for flying and maintaining a flag at the site. (Tr. 1, pp. 32, 88 ff.)
73. The Town's property is located a Flood Protection zoning district. (Sprint 1, Tab 5, Drawing T-1)
74. Sprint's monopole would be located at 41° 43' 49.77" N latitude and 72° 50' 7.75" W longitude. The ground elevation at the base of the tower would be 163 feet AMSL. (Sprint 1, Tab 5, Drawing S-1)
75. The monopole would be constructed in accordance with the American National Standards Institutes/Electronic Industries Association's Manual #222 — Revision F, "Structural Standards for Steel Antenna Towers and Antenna Support Structures." (Sprint 1, p. 11)
76. The compound would be enclosed by a 12-foot chain link fence. Within the compound, Sprint would install a 4-inch deep gravel/crushed stone treatment over a geotextile fabric. Sprint's ground equipment would be located on a 9-foot 6-inch by 26-foot raised steel platform set on a concrete pier foundation. The platform would raise Sprint's equipment to a height of 172.5 feet AMSL (approximately 8 feet above ground level). (Sprint 1, p. 11)
77. Other carriers who would use this facility would also have to raise their ground equipment to a level above the base flood elevation. Verizon, which normally uses a shelter to house its equipment, would have to elevate its shelter above the base flood elevation. (Tr. 1, pp. 27 ff.)
78. The proposed tower's setback radius would encompass a portion of an adjacent property to the west by approximately 23 feet. The Town of Farmington owns the adjacent property. (Sprint 1, Tab 5, Drawing SC-1)
79. Access to the compound would be via a paved drive off of Round Hill Road near its intersection with Lenola Drive. Sprint would develop a 40-foot long, 12-foot wide gravel access drive off of this existing paved drive. (Sprint 1, p. 10)
80. Underground utility service to the compound would be provided from an existing utility pole (CL&P #2883) that is adjacent to the compound's proposed site. (Sprint 1, p. 10; Tab 5, Drawing SC-2)

81. The closest residence to the proposed facility is located 890 feet away and is owned by Karen Carroll. (Sprint 1, Tab 5, Drawing S-2)

82. There are four residences within 1,000 feet of the property line, and two residences located within 1,000 feet of the proposed tower. (Sprint 2, Response 15)

83. Sprint's facility would be equipped with a battery back-up system that could be realistically expected to last approximately six to eight hours at a 50% load. For power outages lasting longer than 24 hours, Sprint might bring in a diesel powered emergency generator on a temporary basis. (Sprint 1, pp. 11-12)

84. The estimated costs of developing this facility are as follows:

Site Work	\$20,000.00
Flagpole	28,000.00
Electrical & Telephone	15,000.00
Foundation	25,000.00
Landscaping	5,000.00
Access Road	10,000.00
Total	\$103,000.00

(Sprint 1, Tab 13)

Environmental Considerations

85. The proposed facility site lies within the 100 year flood plain of the Farmington River where the base flood elevation is 171.5 feet AMSL. To accommodate the flooding potential, Sprint would elevate its ground equipment on a platform the base of which would be at elevation 172.5 feet AMSL. In addition, modified riprap would be placed adjacent to the equipment pier foundations and the monopole foundation. The drilled pier foundation would also be designed to adequately support the 156-foot monopole within the floodplain. (Sprint 1, p. 21)

86. Sprint's facility would be compliant with the minimum National Flood Insurance Program standards. (Sprint 1, Tab 18)

87. Wetland soils were identified within the proposed ground lease area of the facility. They are located approximately 10 feet east of the proposed fenced compound and are part of the floodplain wetlands system. (Sprint 1, p. 19)

88. Based on a methodology set forth in the OFT Bulletin No. 65, of the Federal Communications Commission, the combined total worst case power density for Sprint, T-Mobile, and Nextel antennas measured at the base of the proposed tower would represent 14.73% of the Maximum Permissible Exposure. (Sprint 1, Tab 16)

89. Sprint does not anticipate any blasting at this site. (Sprint 2, Response 14)

90. Sprint would plant 22 evergreen trees in a staggered row around the facility's fence to help diminish the visual impact of the facility compound. (Sprint 1, p. 17)

91. No known extant populations of Federal or State Endangered, Threatened or Special Concern Species occur at Sprint's proposed site. (Sprint 1, Tab 17)
92. The development of the proposed facility would have no effect on Connecticut's archaeological heritage or upon properties of traditional cultural importance to Connecticut's Native American Communities. (Sprint 1, Tab 17)

Visibility

93. Sprint's proposed tower would be visible year round from approximately 530 acres in the surrounding vicinity. (Sprint 1, p. 19)
94. Sprint's proposed tower would be seasonally visible from approximately 33 acres in the surrounding vicinity. (Sprint 2, Response 18)
95. Sprint's proposed tower would have some year-round visibility from the Farmington Historic District, which is located approximately half a mile to the southeast of the site. Topography and tree cover should keep visibility to a minimal level. (Sprint 2, Response 19)
96. Much of the area of visibility lies within the Town of Farmington's sewage treatment plant property on which the facility would be located, the nearby Tunxis Plantation Golf Course, and portions of the Farmington River's floodplains. (Sprint 1, p. 19; Tab 15)
97. Some portions of the Metacombet Trail, which runs along a ridge line to the east of the proposed facility, might have views of the flagpole tower from a distance of more than two miles. (Sprint 1, pp. 19-20)
98. Some select residential areas would have spot views of the proposed tower. These areas are located east of the Farmington River, in the north and south ends of the historic district. (Tr. 1, p. 19)