

**DOCKET NO. 254** - Sprint Spectrum, L.P. d/b/a Sprint PCS application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 134R Creamery Road, Durham, Connecticut. } Connecticut  
} Siting  
} Council

December 9, 2003

## Decision and Order

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, operation, and maintenance of a telecommunications facility including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the proposed site, located at 134R Creamery Road, Durham, Connecticut.

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 as a flush-mounted tower, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of Sprint and other entities, both public and private, but such tower shall not exceed a height of 100 feet above ground level, capable of being increased in height by means of a petition to the Council.
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 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 building, 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. 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.

4. 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.

5. 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. The Certificate Holder shall provide reasonable space on the tower for no compensation for any municipal antennas, provided such antennas are compatible with the structural integrity of the tower.

6. If the facility does not initially provide wireless services within one year of completion of construction or 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.

7. Any antenna that becomes obsolete and ceases to function shall be removed within 60 days after such antennas become obsolete and cease to function.

8. Unless otherwise approved by the Council, this Decision and Order shall be void if the facility authorized herein is not operational within one year of the effective date of this Decision and Order or within one year after all appeals to this Decision and Order have been resolved.

Pursuant to General Statutes § 16-50p, we hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in The Hartford Courant, The Town Times and The Middletown Press.

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.

The parties and intervenors to this proceeding are:

**Applicant**

Sprint Spectrum, L..P.

d/b/a Sprint PCS

**Its Representative**

Thomas J. Regan, Esq.

**Intervenor**

Tower Ventures II, LLC

Brown Rudnick Berlack Israels LLP

CityPlace I, 38<sup>th</sup> Floor

185 Asylum Street

Hartford, CT 06103-3402

**Its Representative**

Scott T. Penner, Esq.

Hurwitz & Sagarin, LLC

147 N. Broad St.

P.O. Box 112

Milford, CT 06460