



STATE OF CONNECTICUT  
*CONNECTICUT SITING COUNCIL*

Ten Franklin Square, New Britain, CT 06051  
Phone: (860) 827-2935 Fax: (860) 827-2950  
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**VIA ELECTRONIC MAIL**

May 31, 2024

Catherine Conklin  
Site Acquisition Specialist  
General Dynamics Information Technology  
4603 Kemper Street  
Rockville, MD 20853  
[Catherine.Conklin@gdit.com](mailto:Catherine.Conklin@gdit.com)

RE: **PETITION NO. 1625** – New Cingular Wireless PCS, LLC (AT&T) and Town of Wethersfield joint petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for proposed modifications to an existing telecommunications facility and associated equipment located at 23 Kelleher Court, Wethersfield, Connecticut.

**PETITION NO. 1628** – New Cingular Wireless PCS, LLC (AT&T) and 48 Newtown Road Corporation c/o BRT Realty joint petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for proposed modifications to an existing telecommunications facility and associated equipment located at 48 Newtown Road, Danbury, Connecticut.

Dear Catherine Conklin:

The Connecticut Siting Council (Council) is in receipt of your correspondence, dated May 30, 2024, regarding the submission of Eligible Facilities Requests related to the above-referenced petitions for declaratory rulings that were submitted to the Council on April 4, 2024 and April 15, 2024, respectively.

It is unclear from the May 30, 2024 correspondence whether AT&T seeks to withdraw the above-referenced pending petitions for declaratory rulings and resubmit them as EFRs. Neither petition was rendered incomplete when submitted to the Council and both petitions are currently under review.

Any charges associated with staff hours expended on the petitions over the associated filing fees will be invoiced. Staff hours expended on EFRs are directly invoiced.

Please respond in writing as to whether AT&T seeks to withdraw Petitions Nos. 1625 and 1628 by the close of business on **June 5, 2024**.

Sincerely,

A handwritten signature in dark ink, appearing to read "Melanie A. Bachman".

Melanie A. Bachman  
Executive Director

MAB/CMW/dll

c: Council Members

**For Petition 1625:**

The Honorable Ken Lesser, Mayor, Town of Wethersfield (ken.lesser@wethersfield.gov)

Fred Presley, Town Manager, Town of Wethersfield (fred.presley@wethersfieldct.gov)

Service List, dated April 4, 2024

**For Petition 1628:**

The Honorable Roberto Alves, Mayor, City of Danbury (mayor@danbury-ct.gov)

Service List, dated April 15, 2024



May 30, 2024

Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051  
Attn: Melanie Bachman, Executive Director

Re: New Cingular Wireless PCS, LLC (“AT&T”) and Town of Wethersfield  
**Site Name:** Overlay – Wethersfield North / FA#10092829 / Petition No. 1625  
for collocation at the existing wireless telecommunications facility located at  
23 Kelleher Court, Wethersfield, CT 06109

Dear Ms. Bachman,

AT&T is seeking to modify the existing wireless site at the above-referenced address. We are requesting an eligible facilities request under Section 6409, referenced below. Please find enclosed the following documents in support of our request to obtain Council approval.

1. Petition Package
2. Petition No. 1625 Decision

Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act (“Section 6409”) was adopted in 2012. Under Section 6409, your city retains discretionary zoning review over the construction of new towers, but simple collocations and/or equipment upgrades at existing telecommunications facilities must be approved. The new law provides that:

“**a State or local government** may not deny, and **shall approve**, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” (Emphasis added.)

The federal law defines an “eligible facilities request” as “(A) **collocation of new transmission equipment**; (B) **removal of transmission equipment**; or (C) **replacement of transmission equipment**.” (Emphasis added.)

Also, the Federal Communications Commission issued a Wireless Infrastructure Report and Order on October 17, 2014 (“FCC Order”) which established regulations that clarify and streamline the municipal approval process for eligible facilities requests under Section 6409. A copy of the FCC Order is enclosed herewith.



The FCC Order clarifies that municipal review of an eligible facilities request is limited to determining whether the request falls within Section 6409:

**“a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section [Section 6409]. A State or local government may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.”**47 C.F.R. 1.40001(c)(1) (Emphasis added).

### **AT&T’s Application is an Eligible Facilities Request under Section 6409**

AT&T’s application qualifies as an eligible facilities request under Section 6409 because the proposed installation involves “a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”

As shown on the plans prepared by Ramaker dated 02/15/2024, AT&T’s proposed installation consist principally of the following elements: Installing a back-up self-contained 30kW diesel generator and a new 4’x10’ concrete pad expanding the compound roughly 33’ – 9’ stretch of fencing x an irregular measurement (approximately 170 sf).

Accordingly, AT&T’s installation involves **“addition of transmission equipment” that will not increase the height of the tower nor the dimensions of the equipment compound**. As a result, the installation “does not substantially change the physical dimensions of such tower or base station.” Therefore, these proposed equipment upgrades constitute an “eligible facilities request” under Section 6409 and must be approved.

### **Timeline for Review and Approval.**

We would like to highlight an important timing requirement for processing this application. The FCC Order determined that **a municipality must act on an eligible facilities request within sixty (60) days of receiving the application**. 47 C.F.R. 1.40001(c)(2) (Emphasis added). (Note, the sixty (60)-day period is also known as the “Shot Clock”). Thus, the city must approve this application within sixty (60) days of its receipt. The FCC Order provides that upon a municipality’s failure to act prior to expiration of the Shot Clock, the **“request shall be deemed granted”** and AT&T will be legally entitled to proceed with construction. 47 C.F.R. 1.40001(c)(4) (Emphasis added).

Note that the FCC Order does allow the Shot Clock to be tolled if an application is incomplete. However, in order to do so, a municipality must provide written notice that the application is incomplete within thirty (30) days of the submittal. 47 C.F.R. 1.40001(c)(3)(i). The notice must “clearly and specifically” describe the missing documents or information, 47 C.F.R. 1.40001(c)(3)(i), and, as previously mentioned, such documentation must be necessary to the determination of whether the application qualifies as an eligible facilities request. If the municipality requests additional information after the first thirty (30) days have passed, we will still provide any “reasonably related” information allowed under the FCC Order, but the Shot Clock will not be tolled.



In light of the foregoing, AT&T respectfully requests that its proposed wireless site modification be approved pursuant to Section 6409.

If the Connecticut Siting Council believes that AT&T's application does not qualify as an eligible facilities request under Section 6409, please let me know immediately. Otherwise, if you have any questions, please feel free to call or email me. Thank you for your cooperation.

Sincerely,

*Catherine Conklin*

Catherine Conklin  
Site Acquisition Specialist

M 301-266-0258  
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4603 Kemper Street  
Rockville, MD 20853  
[www.gdit.com](http://www.gdit.com)

CC:

John C. Eichner, Town of Wethersfield Communications Consultant  
Fred Presley, Town of Wethersfield Town Manager  
Denise Bradley, Town of Wethersfield Town Planner  
David Landry, AT&T Mobility  
Rachelle M. Lewis, AT&T Mobility



May 30, 2024

Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051  
Attn: Melanie Bachman, Executive Director

Re: New Cingular Wireless PCS, LLC (“AT&T”) and 48 Newtown Road Corporation c/o BRT Realty  
**Site Name:** Danbury East / FA#10035077 / Petition No. 1628  
for collocation at the existing wireless telecommunications facility located at  
48 Newtown Road, Danbury, CT 06810

Dear Ms. Bachman,

AT&T is seeking to modify the exiting wireless site at the above-referenced address. We are requesting an eligible facilities request under Section 6409, referenced below. Please find enclosed the following documents in support of our request to obtain Council approval:

1. Exempt Modification Denial
2. Petition Package

Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act (“Section 6409”) was adopted in 2012. Under Section 6409, your city retains discretionary zoning review over the construction of new towers, but simple collocations and/or equipment upgrades at existing telecommunications facilities must be approved. The new law provides that:

“**a State or local government** may not deny, and **shall approve**, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” (Emphasis added.)

The federal law defines an “eligible facilities request” as “(A) **collocation of new transmission equipment**; (B) **removal of transmission equipment**; or (C) **replacement of transmission equipment**.” (Emphasis added.)

Also, the Federal Communications Commission issued a Wireless Infrastructure Report and Order on October 17, 2014 (“FCC Order”) which established regulations that clarify and streamline the municipal approval process for eligible facilities requests under Section 6409. A copy of the FCC Order is enclosed herewith.

The FCC Order clarifies that municipal review of an eligible facilities request is limited to determining whether the request falls within Section 6409:

“**a State or local government** may require the applicant to provide documentation or information **only to the extent reasonably related to determining whether the request meets the requirements of this section** [Section 6409]. A State or local government **may not require an applicant to submit any other documentation**, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.”<sup>47</sup> C.F.R. 1.40001(c)(1) (Emphasis added).



## **AT&T's Application is an Eligible Facilities Request under Section 6409**

AT&T's application qualifies as an eligible facilities request under Section 6409 because the proposed installation involves "a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

As shown on the plans prepared by Ramaker dated 9/7/2023, AT&T's proposed installation consist principally of the following elements: The existing tower on the adjacent site (50 Newtown Road) was removed in lieu of the construction of the tower and equipment storage facility to be located at 48 Newtown Road. The compound expansion of roughly an irregular 6' x 13' space (approximately 78 sf) for the installation of the proposed 50kW Generator and concrete pad.

Accordingly, AT&T's installation involves "**addition of transmission equipment**" that will not increase the height of the tower nor the dimensions of the equipment compound. As a result, the installation "does not substantially change the physical dimensions of such tower or base station." Therefore, these proposed equipment upgrades constitute an "eligible facilities request" under Section 6409 and must be approved.

### **Timeline for Review and Approval.**

We would like to highlight an important timing requirement for processing this application. The FCC Order determined that **a municipality must act on an eligible facilities request within sixty (60) days of receiving the application.** 47 C.F.R. 1.40001(c)(2) (Emphasis added). (Note, the sixty (60)-day period is also known as the "Shot Clock"). Thus, the city must approve this application within sixty (60) days of its receipt. The FCC Order provides that upon a municipality's failure to act prior to expiration of the Shot Clock, the "**request shall be deemed granted**" and AT&T will be legally entitled to proceed with construction. 47 C.F.R. 1.40001(c)(4) (Emphasis added).

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In light of the foregoing, AT&T respectfully requests that its proposed wireless site modification be approved pursuant to Section 6409.



If the Connecticut Siting Council believes that AT&T's application does not qualify as an eligible facilities request under Section 6409, please let me know immediately. Otherwise, if you have any questions, please feel free to call or email me. Thank you for your cooperation.

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Site Acquisition Specialist

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CC:

Roberto Alves, Mayor, City of Danbury  
Taylor O'Brien, City of Danbury Chief of Staff  
Jennifer Emminger, Deputy Planning Director, City of Danbury  
Thomas Bickelhaupt, Assistant Zoning Enforcement Officer  
48 Newtown Road Corporation c/o BRT General Corporation, Property & Tower Owner  
David Landry, AT&T Mobility  
Rachelle M. Lewis, AT&T Mobility