

FP-ATT-083-211214 - New Cingular Wireless PCS, LLC } Connecticut
(AT&T) Request to Initiate Feasibility Proceeding for shared use }
of an existing facility located at 499 Mile Lane, Middletown, } Siting
Connecticut. } Council

March 18, 2022

Draft Opinion

On December 14, 2021, New Cingular Wireless PCS, LLC (AT&T) requested the Connecticut Siting Council (Council) initiate a feasibility proceeding pursuant to Connecticut General Statutes (CGS) 16-50aa(c)(2) to determine whether AT&T's proposed shared use of an existing facility located at 499 Mile Lane in Middletown is technically, legally, environmentally and economically feasible and meets public safety concerns (Feasibility Request).

In a feasibility proceeding, pursuant to CGS §16-50aa(c)(2), if the Council determines that the proposed shared use of the facility is technically, legally, environmentally and economically feasible and meets public safety concerns, the Council's decision shall include an order requiring the owner of the facility to permit the proposed shared use upon such terms, conditions or limitations the Council deems appropriate.

The existing facility AT&T requests to share is owned by the City of Middletown (City). It is located on the grounds of an approximately 23.7-acre parcel used as a public safety training area that is also owned by the City. The 180-foot tall self-supporting lattice tower was built by the City and designed to accommodate police, fire, emergency management, public works and local government antennas for the City and the Town of Portland. The facility also provides links to statewide emergency response assets and is the master site for the City's entire public safety communications system that must maintain continuity of service.

Prior to submission of the Feasibility Request, on October 6, 2021, AT&T submitted an application for a Certificate of Environmental Compatibility and Public Need to the Council for the construction, maintenance and operation of a new 150-foot monopole tower adjacent to the existing 180-foot City-owned lattice tower at 499 Mile Lane in Middletown (Docket 506). In its Docket 506 correspondence, AT&T specifically noted that it was not proposing a feasibility proceeding. Rather, AT&T referred to its proposal as "tower site sharing" or "horizontal collocation," terms that do not exist under the Public Utility Environmental Standards Act.

AT&T's December 14, 2021 Feasibility Request presented two options for shared use of the City-owned facility at 499 Mile Lane:

1. Reinforcement of the existing facility; or
2. Construction of a replacement lattice tower.

Existing Site

The host parcel of the existing facility site is owned by the City and currently serves as the City's Emergency Operations Center, as well as a public safety training area. It contains developed areas, open fields, forest and wetlands. The parcel is zoned residential and consists of approximately 23.7 acres. Abutting land use includes residential and educational facilities. Middletown High School is located approximately 0.3-mile to the southeast of the existing

facility site and Lawrence School is located approximately 0.5-mile to the northeast of the existing facility site.

Two 115-kilovolt electric transmission lines are located south of the host parcel that run in an east-west direction in existing right-of-way (ROW) partially between Ridgewood Road and Newfield Street. There is access to the ROW via Poplar Road, Ridgewood Road, Azalea Drive, Cynthia Lane and Newfield Street.

New weathering steel H-frame electric transmission line structures are located in the ROW at ground elevations ranging from approximately 90 feet above mean sea level (amsl) to 190 feet amsl. The Council approved replacement structures along this ROW in July 2020. Eversource completed construction of the replacement structures in July 2021.

AT&T established a search ring in 2018. The center of the search ring is located directly within the electric transmission line ROW. AT&T believes collocation on any of the electric transmission line structures is not feasible due to structural engineering challenges, access limitations and general Eversource aversion. It had not had any discussions with Eversource about collocation on an electric transmission structure as of February 17, 2022.

Existing Facility

In 2015, the City evaluated solutions for optimizing coverage and issued a request for proposals to upgrade the City public safety communications system. The City specifically selected the existing facility site at 499 Mile Lane for this purpose.

As part of its emergency communications upgrade, the City issued a resolution to share available space on City-owned facilities with commercial communications networks to offset costs incurred by the City to build its public safety communications network.

In 2017, AT&T identified a need for coverage, as well as a need for FirstNet public safety communications, in the northern area of Middletown along Mile Lane, Newfield Street, Ridgewood Road and surrounding areas. Although AT&T expressed interest in collocation at the City's Mile Lane facility, AT&T had not established a site search at that time and did not engage in any further discussion with the City until 2019.

The City built the facility in 2018. It hosts City and Town of Portland police, fire, emergency management, public works and local government equipment. The City's public safety communications system is independent of FirstNet and the City does not subscribe to FirstNet services. The City public safety communications system went online in 2019 and has not experienced any downtime since.

Technical Feasibility

In 2019, AT&T expressed interest in collocation on the City's Mile Lane facility. In 2019 and 2021, AT&T performed structural analyses of the existing facility that both concluded it was not structurally capable of supporting AT&T's proposed equipment loading without significant reinforcements and modifications. AT&T proposed completing the required reinforcements and modifications at its own expense to facilitate collocation of its equipment. The City expressed concerns that AT&T's collocation plans might impact its existing public safety communications during construction.

AT&T rejected reinforcement of the existing facility as an option due to City public safety network concerns, costs to AT&T and lack of future collocation opportunities. If all of the reinforcements recommended in the structural analyses were implemented, AT&T believes it would not be sufficient. Welding associated with structural reinforcements could cause damage to the tower legs, members and appurtenances in the vicinity of the modifications. Locating AT&T antennas at a lower centerline height on the existing facility would reduce stress on the tower, but options are limited. The City occupies the 80-foot level to the 160-foot level and AT&T requires an antenna centerline height of 150 feet to meet its coverage objectives.

AT&T could install a temporary tower to meet its coverage objectives in the short term while a new lattice or monopole tower is constructed. The City expressed concerns about sway of antennas and microwave dishes when installed on a monopole tower and prefers a lattice tower for this reason. A temporary tower for the City's equipment while a new lattice or monopole tower is constructed could create a disruption to the public safety communications system and require two equipment cutovers.

Disruptions to the system and equipment cutovers are unacceptable to the City. Structural reinforcement of the existing facility would not require disruptions to the City system or City equipment cutovers. Replacement of the existing facility with a new lattice facility or a new monopole facility would require disruptions to the City system and City equipment cutovers.

Based on the extent of the required modifications to the existing facility and the City's aversion to any disruption to its public safety network, the Council finds that reinforcement of the existing facility to facilitate the proposed shared use is not technically feasible.

Legal Feasibility

In a feasibility proceeding, if the Council determines that the proposed shared use of the facility is technically, legally, environmentally and economically feasible and meets public safety concerns, the Council's decision shall include an order requiring the owner of the facility to permit the proposed shared use upon such terms, conditions or limitations the Council deems appropriate. Following a feasibility proceeding, if the requesting entity and the owner of a facility agree to shared use of the facility, but cannot agree on fair compensation for such shared use, the requesting entity and the owner of the facility may submit the issue of fair compensation to arbitration or petition the Superior Court to determine the issue.

As part of its 2019 emergency communications upgrade, the City issued a resolution to share available space on City-owned facilities with commercial communications networks to offset costs incurred by the City to build its public safety communications network. AT&T and the City also explored other City-owned facilities for collocation opportunities, but the Mile Lane site is the only existing site that could meet AT&T's coverage objectives.

To date, AT&T has not discussed an annual lease total for AT&T's collocation on the existing facility and the lease agreement between AT&T and the City for the facility proposed in Docket 506 is not executed. The City expressed proprietary concerns with modifying and sharing the existing facility. It is not in favor of sharing the existing facility. The City is also not in favor of sharing a new 180-foot self-supporting lattice tower at the existing site.

The Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility nor shall the Council be limited in any way by the applicant having already acquired land or an interest therein for the purpose of constructing a facility.¹

Due to the absence of any discussions and lack of accord between the City and AT&T relative to the proposed shared use of the existing facility, the Council finds that the proposed shared use is not legally feasible.

Environmental Feasibility

AT&T would utilize the City's existing access drive that extends from Mile Lane in a southerly direction to the facility compound. To supply natural gas to the site as an emergency backup generator fuel source would require approximately 700 linear feet of new trenching in addition to potential driveway excavation and re-paving.

The facility site is not located within the Federal Emergency Management Agency-designated 100-year or 500-year flood zones, not located within a state-designated aquifer protection area and not located within a DEEP Natural Diversity Database area. The nearest publicly-accessible recreational resource is the Middletown Bikeway, located 1.23 miles northwest of the facility site. The nearest Important Bird Area to the facility site is Meshomasic State Forest located 5.6 miles to the northeast. Two previously identified archaeological resources are located within 1 mile of the facility site.

AT&T has not performed a geotechnical study at the facility site. Prime farmland soils are located over 500 feet from the existing compound area. Soil profiles at the existing compound area are excessively drained to moderately well drained soils that have been altered by cutting and filling associated with previous disturbance by construction of the existing facility. A wetland is located to the south, west and east of the existing facility compound. The distance from the existing facility compound fence to the wetland is between 0 to 30 feet. The location of the wetland could limit further expansion of the existing site.

The City did not express any concerns about the visibility of the facility from any area schools. Residents of Talias Trail expressed concerns about the visibility of the existing facility and a preference for a shared monopole tower design to a shared lattice or monopine tower design at an alternative location southeast of the existing facility on the host parcel.

Based on the location of the on-site wetland and resident concerns relative to the visibility of the existing facility, the Council does not find the proposed shared use to be environmentally feasible.

Economic Feasibility

Costs for the options presented in the Feasibility Request are broken down in the Findings of Fact, Figure 3 – Tower Configuration Cost Data Table. The options are reinforcement of the existing facility, construction of a replacement lattice tower or construction of a replacement monopole tower.

¹ *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007); CGS §16-50p(g)(2021).

Total costs to reinforce the existing facility would be approximately \$410,000 to \$570,000, inclusive of AT&T's equipment cost. These costs would be borne by AT&T and would be recovered by customer use.

Total costs to construct a replacement lattice tower would be approximately \$1.6M to 1.8M, inclusive of AT&T's equipment cost, cutover cost for City equipment, replacement cost for City equipment and decommissioning cost of the existing facility.

Total costs to construct a replacement monopole tower would be approximately \$1.1M to 1.3M, inclusive of AT&T's equipment cost, cutover cost for City equipment, replacement cost for City equipment and decommissioning cost of the existing facility.

AT&T believes the economic costs of constructing a new lattice tower cannot be recovered by customer use or through an agreement with the City even if 100 percent future collocation rents are collected by AT&T. It would also not be economically feasible to spend a million dollars on a single site.

If the City were forced to cut its equipment over to a new shared tower, AT&T expects to incur litigation costs.

Due to the number of costs associated with the two options for collocation proposed by AT&T and the increased costs associated with process and litigation that may result from an order to allow shared use, the Council finds that the proposed shared use of the facility is not economically feasible.

Public Safety Concerns

AT&T's proposed installation on the existing facility would provide Enhanced 911, text-to-911 and FirstNet public safety services. However, the City is not a subscriber to FirstNet. Its public safety communications system is independent of FirstNet.

The City expressed concerns that modifications to the existing facility would impact its public safety communications. Disruptions to the system and equipment cutovers are unacceptable to the City. The Mile Lane facility is the master site for the City's network and must maintain continuity of service.

The extent of the structural reinforcements (ex. welding) required to collocate AT&T's proposed equipment could weaken rather than strengthen the integrity of the existing facility.

Based on the City's use of the facility as its master site for public safety communications, the City's lack of a subscription to FirstNet services and the City's intolerance for any disruptions to the existing system, the Council finds that the proposed shared use of the facility does not meet public safety concerns.

Conclusion

The principal reason for the design of the facility was to accommodate public safety communications equipment for the City at the City's expense. The facility serves as the Master Site for the City's entire public safety communications system. It has not experienced any downtime since it went on-line in 2019. The facility could have been designed to accommodate

equipment for AT&T at AT&T's expense when it expressed initial interest in collocation in 2017, but AT&T had not yet established a search ring.

AT&T's 2018 search ring is centered within the Eversource electric transmission line ROW to the south of the facility site. In July 2020, the Council approved the replacement of 80 wood structures along the ROW. There is existing access to the ROW from Ridgewood Road, Azalea Drive and Cynthia Lane. Elevations in this area range from approximately 90 feet above mean sea level (amsl) to 190 feet amsl. The City facility is at an elevation of approximately 109 feet amsl. Eversource completed construction of the new weathering steel H-frame structures in June 2021.

As of February 17, 2022, AT&T has not had any discussions with Eversource about potential collocation on an electric transmission line structure. AT&T also has not explored any other alternatives beside those proposed in this feasibility proceeding and Docket 506.

Based on the record in this proceeding, the Council finds that reinforcement of the existing facility or construction of a replacement facility for shared use by AT&T and the City is not technically, legally, environmentally or economically feasible, and does not meet public safety concerns. Therefore, the Council will not issue an order requiring the City to permit the proposed shared use of its facility.