DOCKET NO. 511 – Barrett Outdoor Communications application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 200 East Main Street Rear, Stratford, Connecticut.	}	Connecticut
	}	Siting
	}	Council
		January 13, 2023

DRAFT Opinion

On October 15, 2021, Barrett Outdoor Communications (BOC) submitted a petition to the Connecticut Siting Council (Council) for a declaratory ruling, pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k, for the proposed replacement of an existing non-tower antenna array (NTAA) structure located at 28 Sidney Street in Stratford with a 125-foot monopole at 200 East Main Street Rear in Stratford (Petition 1467). The NTAA structure is a billboard approved by the Town of Stratford (Town) in 1979, that supports Cellco Partnership d/b/a Verizon Wireless (Cellco) and T-Mobile. It will be removed to support commercial redevelopment (Dock Shopping Center).

Although Petition 1467 referenced use of the replacement facility by Cellco, T-Mobile and New Cingular Wireless PCS, LLC d/b/a AT&T (AT&T), none of these telecommunication carriers became a party or intervenor to the proceeding. On February 25, 2022, the Council denied Petition 1467, determining the existing NTAA structure cannot be replaced by the proposed new facility through a declaratory ruling pursuant to CGS §4-176 and §16-50k. The proposed new facility is required to obtain a Certificate of Environmental Compatibility and Public Need (Certificate) in accordance with provisions of the Public Utility Environmental Standards Act (PUESA).

On May 6, 2022, BOC, in accordance with provisions of PUESA, applied to the Council for a Certificate for the construction, maintenance, and operation of a 135-foot monopole telecommunications facility to be located at 200 East Main Street Rear in Stratford, the same site previously proposed in Petition 1467. The purpose of the proposed facility is to replace the existing NTAA structure with a new structure capable of supporting multiple tower tenants and to provide network improvements for telecommunications carriers.

The party to this proceeding is BOC. Cellco, AT&T and Dish Wireless, LLC (DISH) are intervenors to this proceeding. There are no Connecticut Environmental Protection Act (CEPA) Intervenors to this proceeding. In this Opinion, the Council incorporates its record disposition of all substantive and procedural motions and/or objections that were raised by the parties and intervenors during the course of the proceeding.

The United States Congress recognized a nationwide need for high quality wireless services through the adoption of the Federal Telecommunications Act of 1996 and directed the Federal Communications Commission (FCC) to establish a market structure for system development and develop technical standards for network operations. FCC preempts state or local regulation on matters that are exclusively within the jurisdiction and authority of FCC, including, but not limited to, network operations and radio frequency emissions. Preservation of state or local authority extends only to placement, construction and modifications of telecommunications facilities based on matters not directly regulated by FCC, such as environmental impacts. The Council's statutory charge is to balance the need for development of proposed wireless telecommunications facilities with the need to protect the environment.

LM

Under CGS §16-50p(b), there is a presumption of public need for personal wireless services and the Council is limited to consideration of a specific need for any proposed facility to be used to provide such services to the public.

BOC owns outdoor advertising billboards along transportation corridors throughout the state. It hosts wireless carriers on nine billboard sites in New Haven, Stratford and West Haven. BOC would construct, maintain and operate the proposed facility and would be the Certificate Holder. AT&T, Cellco, and DISH are licensed by FCC to provide personal wireless communications service throughout the state.

The proposed facility would improve upon Cellco's existing wireless services and provide reliable wireless communications services for AT&T and DISH in the surrounding area. Although T-Mobile did not become a party or intervenor to the proceeding, or respond to the Council's correspondence related to interest in collocation, T-Mobile indicated to BOC that it would locate at the 111-foot level of the proposed facility. T-Mobile's collocation on the facility would require submission of a future tower share request with the Council.

The total estimated cost of the proposed facility is $1,154,500, inclusive of costs associated with AT&T's Cellco's and DISH's equipment installations. Neither the project, nor any portion thereof, is proposed to be undertaken by state departments, institutions or agencies or to be funded in whole or in part by the state through any grant or contract. BOC, AT&T, Cellco and DISH are private entities.

AT&T and DISH have significant coverage deficiencies in their wireless communications networks in portions of eastern Stratford and western Bridgeport, with adjacent existing or proposed facilities not able to provide coverage to these areas. Cellco, by locating on the taller proposed facility, would be able to increase coverage and capacity to the surrounding area, particularly to the north where substandard service currently exists. The area to be served by the carriers is heavily developed with commercial, industrial and residential use and contains major transportation corridors, the Metro North Railroad (MNRR), Interstate 95 and State Routes 1, 110, and 113. Non-reliable service for all three carriers was confirmed by coverage modeling. All three carriers' installations are capable of providing 5G services.

AT&T would locate at the 132-foot level of the tower and would operate at the 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz and 3700 MHz frequencies, providing 2.7 square miles of 700 MHz service at -93 dBm.

Cellco would locate at the 121-foot level of the tower and would operate at the 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 3550 MHz, and 3700 MHz frequencies, providing 9.0 square miles of 700 MHz service at -95 dB Reference Signal Received Power. Cellco is currently located on the NTAA structure at a height of 68 feet above ground level (agl).

DISH would locate at the 91-foot level of the tower and would operate at the 600 MHz, 2000 MHz, and 2100 MHz frequencies, providing 12.2 square miles of 600 MHz service at -101 dBm.

In addition to wireless call capability, AT&T's deployment would feature emergency communication FirstNet services. These services are provided through a federal program to establish emergency communications to areas with deficient wireless service. FirstNet gives emergency responders on AT&T's 700 MHz network first priority to ensure emergency communications are not interrupted. The Town of Stratford is a FirstNet subscriber (Police and EMS services) with approximately 160 users. The City of Bridgeport, abutting the Town to the west, is also a FirstNet subscriber (Police, Fire, DPW and Government) with approximately 1,180 users.

The Council finds a need for the proposed facility in order to provide continuity of service for Cellco once the NTAA is decommissioned. In addition, the facility will allow for colocation by AT&T and DISH to provide reliable wireless service to the area, as well as FirstNet services, and allow for future colocation by other public and private entities.

Prior to submitting the application to the Council, BOC and Cellco examined nine other locations as potential alternatives to the proposed site which included ground lease sites, rooftops and billboards. Beginning in 2013, AT&T began a search for a suitable site, investigating a light pole, and ground lease sites as well as the existing NTAA structure that would be removed for commercial redevelopment.

Small cells or distributed antenna systems would not be a practicable or feasible means of addressing the existing coverage deficiency within the proposed service area. Small cells are typically installed to provide added network capacity and fill-in coverage within a limited specific area with a higher population density. The proposed tower (macrosite) would enable AT&T, Cellco and DISH to provide wireless service to a large area.

For any site to be considered a feasible and prudent alternative to a proposed facility site, it must be available to host the proposed facility. Although many sites were examined and many landowners were not interested in a lease agreement for a wireless facility, 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 siting a facility.

Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over telecommunications facilities throughout the state. It shall consider any location preferences provided by the host municipality under CGS §16-50gg as the Council shall deem appropriate. The Town and City submitted letters in support of the proposed facility.

Pursuant to CGS §16-50p(b), the Council shall examine whether the proposed facility may be shared with any public or private entity that provides service to the public, provided such shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, and may impose reasonable conditions as it deems necessary to promote the immediate and shared use of telecommunications facilities and avoid the unnecessary proliferation of such facilities in the state. The proposed facility would be designed to accommodate four wireless carriers and local emergency service providers and municipal antennas. The Town and emergency response entities have not expressed an interest in co-locating emergency services antennas on the proposed facility. The tower and foundation would be designed to support a 20-foot height extension to promote tower sharing.

The proposed site consists of a 135-foot monopole located on a 4.3-acre parcel zoned Retail Commercial District that is used as a boat storage yard. The host parcel is bounded by the MNRR to the north, the Housatonic River to the east, commercial development to the west and I-95 to the south. The proposed site is approximately 1,250 feet northeast of the NTAA Structure.

The proposed tower would be located in the northeastern corner of the parcel within a 4,210 square foot compound/lease area, generally oriented in an east-west direction, along the MNRR right-of-way. The compound would include a 90-foot long by 23-foot wide elevated steel equipment platform, covered with an open canopy, installed along the south slope of an embankment that extends along the property line. The metal canopy roof would reach 21.8 feet agl in front of the platform. The elevated platform would have four 10-foot by 16-foot equipment areas, one for each carrier, accessible by two stairways at either end of the platform. BOC is proposing the platform to allow for boat storage underneath the platform.

As proposed, in the event an outage of commercial power occurs at the site, Cellco and DISH would install battery cabinets on the platform that would provide up to four hours of run time before recharging is necessary. Both carriers would utilize mobile generators if power outages were expected to persist. AT&T is proposing to install a 15-kW diesel-fueled generator with a built-in 54-gallon tank with a run time of 53 hours. AT&T would also have a four-hour backup power battery.

BOC designed the compound area to allow for the platform to be expanded to accommodate an additional carrier, if necessary. Compound ground space is available to accommodate four diesel-fueled backup power generators. Cellco is discussing the possibility of installing a propane-fueled backup power generator with BOC, as the propane fuel tank would require more ground space to accommodate a safety zone around the tank, possibly reducing the total number of diesel-powered generators that could fit within the compound. The Council will require information regarding Cellco's potential use of a propane-fueled generator to be included within the Development and Management (D&M) Plan.

Access to the compound would be from existing driveways that service commercial development along East Main Street. Telco service to the site would extend underground from a utility pole on East Main Street over a distance of approximately 1,500 feet. Electric service would be installed underground to the compound from an existing pad-mounted transformer approximately 430 feet southeast of the site.

The proposed compound fence line would be approximately 6 to 11 feet south of the MNRR property line. The proposed monopole would be approximately 27.6 feet south of the MNRR property line. There are no residences within 1,000 feet of the site. The nearest residence is located approximately 1,155 feet northwest of the proposed facility.

Due to the close proximity of the tower to the MNRR and a United Illuminating Company electric transmission line on the south side of the MNRR, BOC would design the tower with a tower yield point at an approximate height of 120 feet agl so that the tower would fold down on itself rather than fall over. The compound and elevated platform would meet OSHA electric line distance requirements and MNRR requirements for a safe work environment for telecommunications/maintenance workers. Although construction of the facility is not expected to interfere with MNRR operations, BOC would consult with the MNRR to ensure safety protocols are followed.

There are no wetlands or coastal resources within the project development area. The nearest wetland/coastal resource area to the proposed facility are tidal wetlands along the west bank of the Housatonic River, located approximately 316 feet to the east. The site is not within a flood zone.

The host parcel is located within the coastal resource boundary, as defined by the Connecticut Coastal Management Act (CCMA). None of the coastal resources identified by the CCMA would be adversely affected by construction or operation of the tower. The resources include, but are not limited to, tidal rivers, streams and creeks, wetlands and marshes, intertidal mudflats, beaches and dunes, bluffs and headlands, islands, rocky shorefronts, and adjacent shorelands.

Development of the site would not affect stormwater flows. Erosion and sedimentation (E&S) controls would be established consistent with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*.

The site is approximately 0.63 mile north of the Milford Point/Wheeler Marsh, an Important Bird Area (IBA) designated by the National Audubon Society. The proposed facility would not affect the IBA and would comply with the U.S. Fish and Wildlife Service guidelines for minimizing the potential for telecommunications towers to impact bird species.

No historic resources, state-listed species, forests, agricultural land or scenic areas would be affected by the Project. Operation of the facility would comply with DEEP Noise Control Standards.

BOC prepared a visual impact assessment of the site utilizing computer modeling supplemented with in-field studies within a two-mile radius of the site. These analyses were used to generate photo-simulations of the proposed tower. Based on BOC's visual impact assessment within a two-mile radius of the site (Study Area-8,042 acres), the proposed tower be visible year-round from approximately 76 acres of land and 1,168 acres of open water and tidal wetlands associated with the mouth of the Housatonic River (collectively 15.2% of the Study Area). The tower would be seasonally visible (leaf-off conditions) from approximately 197 acres (2.4%) of the Study Area.

The land areas with year-round visibility within a half-mile of the site consist primarily of commercial, industrial and transportation use. Residential areas with year-round views of the upper portions of the tower occur in the Avery Street area, 0.25 miles northwest of the site and the Patterson Avenue area, 0.35 miles west of the site, in Stratford and from the Crescent Drive and Edgemont Road areas in Milford, approximately a half-mile southeast of the site. Although the tower is visible from these residential areas, and the nearby Charles Wheeler Wildlife management area near the mouth of the Housatonic River, other tall structures, including but not limited to, MNRR catenaries, UI transmission structures, and lighting associated with transportation corridor bridges over the Housatonic River are also visible, thus the proposed monopole blends in the developed nature of the area.

The Council finds that the proposed facility would not be located in an area of the state that possesses scenic quality of local, regional or state-wide significance and would not substantially affect the scenic quality of its location or surrounding neighborhood.

No public schools or commercial child day care facilities are located within 250 feet of the proposed site.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T and Cellco's proposed antennas to be installed on the tower have been calculated to amount to 47.2 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure (MPE), as measured at the base of the tower. This is conservatively based on all antennas of a given sector pointing down to the ground and emitting maximum power. This percentage is below federal standards established for the frequencies used by wireless companies. As part of the D&M Plan, the Council will require a rigorous cumulative far-field radio frequency analysis for the facility that accounts for all entities on the tower, a 6-foot tall person at ground level and the actual antenna pattern for the proposed facility with a cumulative percent MPE at or below 100 percent, consistent with FCC methodology.

If federal power density standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other entities add antennas to the tower. 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. Potential harm to wildlife from radio frequency emissions, like the potential harm to human health from radio frequency emissions, is a matter of exclusive federal jurisdiction. The Council's role is to ensure that the tower meets federal permissible exposure limits.

The Council finds that the proposal would not cause unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state. The Council has considered all reasonable alternatives and finds that the proposal represents the best alternative consistent with the reasonable requirements of the public health, safety and welfare.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, and maintenance of the telecommunications facility, including effects on the natural environment, ecological balance, public health and safety, scenic, historic, and recreational values, agriculture, forests and parks, air and water purity, and fish, aquaculture and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the state concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, maintenance, and operation of a 135-foot monopole telecommunications facility located at 200 East Main Street Rear, Stratford, Connecticut.