

DOCKET NO. 518 – New Cingular Wireless PCS, LLC d/b/a } Connecticut
AT&T and Tarpon Towers III, LLC application for a Certificate of }
Environmental Compatibility and Public Need for the construction, } Siting
maintenance, and operation of a telecommunications facility }
located at 99 Dart Hill Road, South Windsor, Connecticut. } Council

April 5, 2024

DRAFT

Decision and Order

Pursuant to Connecticut General Statutes (CGS) §16-50p, and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, maintenance, and operation of a 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 the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need (Certificate), as provided by CGS §16-50k, be issued to New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC, hereinafter referred to as the Certificate Holders for the construction, maintenance and operation of a telecommunications facility located at 99 Dart Hill Road, South Windsor, Connecticut.

Unless otherwise approved by the Council, 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 monopole at a height of 165 feet above ground level to provide the proposed wireless services, sufficient to accommodate the antennas of New Cingular Wireless PCS, LLC d/b/a AT&T and other entities, both public and private. The height of the tower may be extended after the date of this Decision and Order (D&O) pursuant to regulations of the Federal Communications Commission (FCC).
2. The Certificate Holders 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 (RCSA). The D&M Plan shall be provided to the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) Final site plan(s) for development of the facility that employ the governing standard in the State of Connecticut for tower design in accordance with the currently adopted International Building Code and include specifications for the tower, tower foundation, antennas and equipment compound including, but not limited to, fence design with privacy slats, ground equipment, access road, final utility installation and emergency backup power;
 - b) Construction plans for site clearing, grading, water drainage and stormwater control, site stabilization measures during construction; and erosion and sedimentation (E&S) controls consistent with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*, as amended;
 - c) An approved application for permitted use of the Eversource right of way (ROW), or an alternative plan for access to the site;

- d) A yield point on the tower to ensure the tower setback radius does not encroach upon the Eversource ROW and remains within the boundaries of the host parcel; and
 - e) Construction schedule including hours and days of the week for construction activities.
3. Deployment of any 5G services must comply with FCC and Federal Aviation Administration guidance relative to air navigation, as applicable.
4. Prior to the commencement of operation, the Certificate Holders shall provide the Council with 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 antennas on the facility with a cumulative percent maximum permissible exposure at or below 100 percent, consistent with FCC, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holders shall ensure a recalculated report of the electromagnetic radio frequency power density be 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 D&O.
5. Upon the establishment of any new federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
6. Radio frequency access restriction and caution signage shall be installed at the site in compliance with FCC guidance.
7. The Certificate Holders shall provide the Council with a copy of necessary permits from any other state or federal agency with concurrent jurisdiction prior to the commencement of construction.
8. The Certificate Holders 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.
9. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed with at least one fully operational wireless telecommunications carrier providing wireless service within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, D&O (collectively called "Final Decision"), this D&O shall be void, and the Certificate Holders 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. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holders shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
10. Any request for extension of the time period referred to in Condition 9 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of South Windsor.
11. If the facility ceases to be used for signal transmission or reception in the electromagnetic spectrum pursuant to a Federal Communications Commission license for a period of one year, this D&O shall be void, and the Certificate Holders shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council within 90 days from the one year period of cessation of signal transmission or reception. The Certificate Holders may submit a written request to the Council for an extension of the 90 day period not later than 60 days prior to the expiration of the 90 day period.

12. Any nonfunctioning antenna, and associated antenna mounting equipment, on this facility shall be removed within 60 days of the date the antenna ceased to function.
13. In accordance with RCSA §16-50j-77, the Certificate Holders shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holders shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.
14. The Certificate Holders shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under CGS §16-50v.
15. This Certificate may be transferred in accordance with CGS §16-50k(b), provided both the Certificate Holders/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under CGS §16-50v. In addition, both the Certificate Holders/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under CGS §16-50v(b)(2) that may be associated with this facility, including contact information for the individual acting on behalf of the transferee. If construction has not been completed in accordance with Condition 9 of this D&O at the time the Certificate is requested to be transferred, a certified letter from a wireless telecommunications carrier with a firm commitment to install associated wireless equipment at the facility upon completion of construction shall also be provided.
16. The Certificate Holders shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this D&O and a D&M Plan to be approved by the Council.
17. If the Certificate Holders are a wholly-owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, or if the Certificate Holders transfer management and operations of the facility to another corporation or other entity, the Council shall be notified in writing of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.
18. This Certificate may be surrendered by the Certificate Holders upon written notification and acknowledgment by the Council.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each party and intervenor or its authorized representative, as listed in the Service List, dated December 1, 2023, and notice of issuance published in the Journal Inquirer in accordance with CGS §4-180(c) and CGS §16-50p(f).

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party and intervenor named or admitted to the proceeding in accordance with RCSA §16-50j-17.