

DOCKET NO. 531 – Arx Wireless Infrastructure, LLC and New Cingular Wireless PCS, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility and associated equipment located at 62 and 64 Pershing Drive, Ansonia, Connecticut.	} } }	Connecticut Siting Council July 18, 2025
--	-------------	---

DRAFT Opinion

On January 30, 2025, Arx Wireless Infrastructure, LLC (Arx) and New Cingular Wireless PCS, LLC (AT&T), collectively the Applicants, applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 120-foot wireless telecommunications facility and associated equipment at 62 and 64 Pershing Drive, Ansonia, Connecticut (Project). The purpose of the proposed facility is to provide reliable wireless communications services to the central section of Ansonia (City).

The party to this proceeding is the Applicants. The intervenor to this proceeding is Cellco Partnership d/b/a Verizon Wireless (Cellco). There are no Connecticut Environmental Protection Act (CEPA) Intervenor to this proceeding. In this Opinion, the Council incorporates its record disposition of all substantive and procedural motions that were raised by Applicants 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. The FCC preempts state or local regulation on matters that are exclusively within the jurisdiction and authority of the 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 the 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.

Under Connecticut General Statutes (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.

Arx owns and/or operates numerous tower facilities nationwide. Arx would construct, maintain and own the proposed facility and would be the Certificate Holder. Both AT&T and Cellco are licensed by the FCC to provide personal wireless communications service throughout the state and would lease space on the proposed tower for their telecommunications equipment.

The total estimated cost of the proposed facility is \$1,039,300, inclusive of costs associated with both AT&T’s and Cellco’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. Arx, AT&T, and Cellco are private entities.

AT&T's network does not have reliable service in the central section of Ansonia, specifically along the heavily developed Pershing Drive and Division Street areas. AT&T currently operates nine facilities within 4.4 miles of the proposed site. Due to distance and intervening ridge type topography none of these facilities can provide adequate coverage to the proposed service area. AT&T's radio frequency engineers used a coverage modeling program determine network performance and service needs.

AT&T proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz frequencies from a tower height of 120 feet above ground level (agl), with select frequencies capable of providing 5G services. The site would provide a 700 MHz coverage footprint of new service of 0.8 square miles at -83 dBm and 0.64 square miles at -93 dBm. Within the -93 dBm footprint, reliable service would be provided to 1.6 miles of main roads and 4.8 miles of secondary roads. It would also provide capacity relief to an existing AT&T site approximately 1.6 miles to the north.

In addition to its customer wireless services, AT&T's deployment would feature subscriber-based emergency communication FirstNet services to local emergency response entities that enable preferred wireless service on AT&T's 700 MHz system. FirstNet is independent of the City's public safety communications system. The City is not a subscriber to FirstNet.

Cellco also has a significant coverage deficiency in the central Ansonia area and proposes to improve service by operating 700 MHz, 850 MHz, 1900 MHz, 2100 MHz and 3700 MHz frequencies at a tower centerline height of 106 feet agl. The site would provide 4.4 square miles of service at the 700 MHz frequency with smaller coverage footprints for the other frequencies. It would also provide capacity relief to surrounding Cellco facilities.

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 limit the number of frequencies that can be deployed, limit structure sharing with other carriers, and lack space for emergency backup power. To provide wireless service to the proposed service area would require a significant number of small cell deployments either on existing utility poles or on new utility poles along roadways or on private parcels throughout the proposed service area and would not be economically viable as a replacement for a single tower site. Therefore, the Council finds small cells are not a feasible alternative to the proposed facility.

Based on a lack of reliable wireless service for both AT&T and Cellco in the central section of Ansonia, the Council finds a specific need for the facility. Although the proposed site provides necessary reliable coverage to portions of the greater area of need, it cannot meet all of the coverage needs of AT&T and Cellco due to hilly terrain and the expansiveness of the underserved area, especially at the higher frequencies within Cellco's network. Additional facilities may be required in the future to provide reliable wireless services to areas that remain underserved.

AT&T initiated a site search in the Ansonia area in 2013 but no sites were pursued. The search ring was reactivated in 2020. Arx began searching for a site on behalf of AT&T in 2024, investigating 18 potential sites and eventually signing a lease with the host parcel owner in May 2024. Cellco became aware of the proposed site in September 2024 and determined it would meet coverage objectives.

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, 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 Applicants submitted a technical report for the site to the City in October 2024. The City did not comment on the proposal.

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 is designed to accommodate four wireless carriers, including AT&T and Cellco, and municipal antennas.

The site would be located on a 0.39-acre commercial parcel at 64 Pershing Drive, developed with an automotive repair shop and car wash. The site is located to the rear of the parcel behind the car wash. An abutting 0.29-acre parcel to the north at 62 Pershing Drive would be used for temporary construction site access.

The proposed facility consists of a 120-foot monopole within an irregular shaped 1,800 square foot lease/compound area. No other wireless carriers nor the City expressed an interest in collocating on the tower at this time.

AT&T would install 12 panel antennas and 9 remote radio heads on an antenna platform at a centerline height of 116 feet agl. Cellco would install 9 panel antennas and 6 remote radio heads on an antenna platform at a centerline height of 106 feet agl.

Within the compound, AT&T would install an 8.5-foot long by 4.5-foot wide by 6.1-foot tall equipment shelter and a 20-kilowatt diesel-fueled emergency backup generator and Cellco would install one equipment cabinet, one battery cabinet and a 50-kilowatt diesel-fueled emergency backup generator.

Access to the site would be from across an existing driveway on the host parcel. Power and telecommunications utilities would extend underground within the access easement to an existing utility pole on Pershing Drive.

To deter unauthorized access to the compound, the compound would be enclosed by an eight-foot chain link fence, with a locked, nine-foot-wide access gate.

In the event an outage of commercial power, both AT&T and Cellco would rely on a diesel-fueled generator that could provide approximately 50 hours of run time before refueling is necessary. Cellco would also have an 8-hour battery backup power source for use in the event the generator does not start. An existing natural gas line is located on the host parcel, and it is possible to extend the line to the compound to provide a natural gas supply for wireless carrier emergency power generators. Given that the tower is located in a developed urban area with many wireless customers and a continuous fuel source is readily available, the Council will order the use of natural gas as a fuel source for any emergency power generators deployed by wireless carriers.

The nearest property line from the compound fence and tower is approximately 0.5 feet and 19 feet, respectively, to the east, a railroad right-of-way owned by the Department of Transportation (DOT) for the Metro-North Commuter Railroad. An active rail line within the railroad right-of-way is approximately 125 feet from the tower. Given the close proximity of the site to the railroad right-of-way, Arx would design the tower with a yield point at a height of 19 feet to ensure the tower setback radius remains within the boundaries of the host parcel.

The Council will order Arx to incorporate the yield point into the tower design and provide written confirmation from DOT that it has no objections to the proximity of the facility site to the railroad right-of-way.

There are approximately 46 residential structures within 1,000 feet of the proposed tower. The nearest residential structure is located approximately 259 feet to the west at 159 Oneils Court, Ansonia.

A geotechnical survey would be performed prior to construction to evaluate existing subsurface conditions as part of the Development and Management (D&M) Plan. Construction would require 200 cubic yards of excavation. The construction limit of disturbance for the proposed site is approximately 0.08 acre, therefore the project would not require a DEEP Stormwater Permit.

Development of the site would require the removal of two trees. It would not impact any wetlands or watercourses or prime farmland soils.

The site is not located within a Department of Energy and Environmental Protection (DEEP) Natural Diversity Database buffer area or in an area known to support federally-listed species. The proposed facility is not proximate to a National Audubon Society designated Important Bird Area. The facility would comply with the USFWS guidelines for minimizing the potential for telecommunications towers to impact bird species.

The site is not within a flood zone or an aquifer protection area. Noise from operation of the facility would comply with state standards.

By letter dated November 1, 2024, the State Historic Preservation Office (SHPO) determined that one property listed on the National Register of Historic Places, approximately a half-mile southeast of the site, and one property listed on the State Register of Historic places, approximately 0.35 miles southwest of the site, would not be adversely impacted by the proposed facility due to intervening topography, vegetation, distance, and the presence of existing infrastructure. Although SHPO determined there would be no adverse effect, SHPO recommended painting the facility to match adjacent materials and installing the facility to be as non-visible as possible.

Painting of the tower is estimated to cost \$12,500 with repainting at 10-15 year intervals at an additional estimated cost of \$10,000. The Council finds the facility is in a commercial area and a galvanized steel finish would match adjacent materials consistent with the November 1, 2024 SHPO recommendations. Furthermore, the Council finds antennas and remote radio heads cannot be painted due to interference issues.

Based on Arx's visual impact assessment within a one-mile radius of the site (Study Area-2,010 acres), the proposed tower would be visible year-round (above the trees) from approximately 100 acres of the Study Area, from commercial/industrial/mixed use area surrounding the site, and along the Naugatuck River east and southeast of the site. Year-round views would also occur from residential areas west of Pershing Drive. During leaf off conditions, tower visibility would include an additional 15.3 acres.

The tower would not be visible from Osbornedale State Park, approximately three quarters of a mile west of the site. There are no state or local designated scenic roads within one mile of the site. The proposed tower would be visible year-round from portions of the Ansonia River Walk/Greenway Trail, approximately 0.2 miles to the east at its closest point.

Pursuant to CGS §16-50p(b), the Council shall examine whether the proposed facility would be located in an area of the state which the Council, in consultation with DEEP and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance and the latest facility design options intended to minimize aesthetic and environmental impacts.

No comments were received from the City, Office of Policy and Management or DEEP regarding any impacts to scenic quality or resources.

The Council finds that the proposed facility would not substantially affect the scenic quality of its location or surrounding neighborhood.

Pursuant to CGS §16-50p(a)(3)(F), for a telecommunications facility proposed to be installed on land near a building containing a school, the facility will not be less than 250 feet from the building containing a school unless the location is acceptable to the chief elected official of the municipality or the Council finds that the facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood in which such school is located. No 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's and Celco's proposed antennas have been calculated to amount to be no greater than 9.4 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure (MPE) using a far-field methodology for the proposed facility that accounts for a 6-foot tall person at ground level and the actual antenna patterns. This is conservatively based on the antennas emitting maximum power. This percentage is below federal standards established for the frequencies used by wireless companies.

If federal power density standards change, the Council will require that the tower be brought into compliance with such standards. The Council will also 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 at the proposed location, 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 120-foot monopole telecommunications facility at 62 and 64 Pershing Drive, Ansonia, Connecticut.