

DRAFT

DATE: February 27, 2026

TO: Council Members

FROM: Melanie A. Bachman, Esq. *MAB*
Executive Director/Staff Attorney

RE: **DOCKET NO. 535** - The Towers, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility and associated equipment located at 835 Norwich Worcester Turnpike (Route 169), Woodstock, Connecticut. **Paska Nayden February 20, 2026 Petition for Reconsideration - Staff Report.**

On February 20, 2026, pursuant to the provisions of Connecticut General Statutes (CGS) §4-181a(a), Intervenor Paska Nayden (Nayden), filed a Petition for Reconsideration of the Connecticut Siting Council's (Council) February 6, 2026 final decision to issue a Certificate of Environmental Compatibility and Public Need (Certificate) to The Towers, LLC (TT) for the above-referenced telecommunications facility located in Woodstock, Connecticut.

On February 23, 2026, the Council requested parties and intervenors to the original proceeding to submit written comments with respect to whether the Petition for Reconsideration should be granted or denied by February 26, 2026. No comments were received from TT.

I. Procedural History

On April 7, 2025, TT submitted an application for a Certificate to the Council for the construction, maintenance, and operation of a telecommunications facility located at 835 Norwich Worcester Turnpike (Route 169), Woodstock (Town).¹ On May 1, 2025, the Council deemed the application complete and approved the public hearing schedule.² Legal notice of the date and time of the public hearing was published in the Woodstock Villager on May 9, 2025.³

On June 25, 2025, in accordance with the proceeding schedule, the Council held a pre-hearing conference to discuss the public hearing procedures and requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists and filing of pre-hearing interrogatories.⁴ The pre-hearing conference memorandum was posted to the Docket No. 535 webpage one week in advance.

On July 14, 2025, TT installed a four-foot by six-foot sign along Norwich Worcester Turnpike (Route 169) in the vicinity of the access drive for the proposed site. The sign presented information regarding the proposed telecommunications facility and the Council's public hearing.⁵

¹ Docket 535, Record, available at [Docket No 535](#) (Finding of Fact ¶16 – “Upon receipt of the application on April 7, 2025, the Council sent a letter to the Town as notification that the application was received and is being processed, in accordance with CGS §16-50gg.”)

² Finding of Fact ¶18.

³ Finding of Fact ¶20.

⁴ Finding of Fact ¶25.

⁵ Finding of Fact ¶27.

On July 31, 2025, Nayden requested intervenor status in Docket No. 535.⁶

Also on July 31, 2025, the Council held a public hearing beginning with the evidentiary session at 2:00 p.m. and continuing with the public comment session at 6:30 p.m.⁷ During the evidentiary session, the Council granted Nayden intervenor status, and the Council and Nayden cross examined TT on its exhibits.⁸

At the conclusion of the July 31, 2025 public hearing, the Council announced that it would continue the evidentiary hearing session for Docket No. 535 to September 9, 2025.⁹ A revised proceeding schedule was also issued.¹⁰

In accordance with the revised proceeding schedule, Nayden submitted interrogatories to TT on August 26, 2025 and TT responded to Nayden's interrogatories on September 2, 2025.

On September 4, 2025, Nayden submitted a Motion to Continue/Reset the Hearing Date. TT objected to Nayden's Motion to Continue/Reset the Hearing Date. The Council informed the service list for Docket No. 535 that Nayden's motion would be taken up during the September 9, 2025 continued evidentiary hearing session.¹¹

During the September 9, 2025 continued evidentiary hearing session, the Council denied Nayden's Motion to Continue/Reset the Hearing Date on the basis that the request for Intervenor status was granted during the public hearing held on July 31, 2025, Nayden actively participated in the July 31, 2025 public hearing, including cross examination of TT on the exhibits in the record, and the July 31, 2025 evidentiary hearing session was specifically continued to September 9, 2025 with a revised schedule that provided an opportunity for all parties and intervenors to submit additional interrogatories, responses to interrogatories and pre-filed testimony.¹²

Also during the September 9, 2025 continued evidentiary hearing session, the Council and Nayden cross examined TT on its exhibits, and the Council and TT cross examined Nayden on her exhibits.¹³ At the conclusion of the hearing session held on September 9, 2025, the Council closed the evidentiary record for Docket No. 535 and established October 9, 2025 as the deadline for public comments and the submission of briefs and proposed findings of fact.¹⁴

On October 9, 2025, TT submitted a letter in lieu of a post-hearing brief and Nayden submitted proposed findings of fact.¹⁵

During a regular meeting held on January 22, 2026, the Council reviewed the Draft Findings of Fact for Docket No. 535 and took a non-binding straw poll vote in favor of issuing a Certificate to

⁶ Finding of Fact ¶5.

⁷ Finding of Fact ¶28.

⁸ Finding of Fact ¶41.

⁹ Finding of Fact ¶32.

¹⁰ Finding of Fact ¶33.

¹¹ Finding of Fact ¶36.

¹² Finding of Fact ¶38.

¹³ Findings of Fact ¶41 and ¶42.

¹⁴ Finding of Fact ¶44.

¹⁵ Finding of Fact ¶45.

TT for the proposed telecommunications facility.¹⁶ Also on January 22, 2026, the Council issued a memorandum to the service list requesting written comments on the Council's Draft Findings of Fact for Docket No. 535 to be submitted by January 29, 2026 and indicated that parties and intervenors may identify errors or inconsistencies between the Council's draft findings of fact and the record; however, no new information, evidence, argument, or reply briefs will be considered by the Council.

On February 1, 2026, Nayden submitted a Petition for Reconsideration on the basis that the Council failed to address Nayden's October 9, 2025 findings of fact. On February 2, 2026, the Council informed Nayden that the Council conducted a non-binding straw poll vote during the January 22, 2026 regular meeting, which is not a final decision. Hence, the Petition for Reconsideration was premature and was considered Nayden's written comments on the Council's Draft Findings of Fact.

During a regular meeting held on February 5, 2026, the Council voted unanimously to issue a Certificate to TT for the proposed telecommunications facility.¹⁷ The Council's final decision was sent certified mail to the service list for Docket No. 535 on February 6, 2026.

II. Nayden Petition for Reconsideration

On February 20, 2026, Nayden resubmitted the Petition for Reconsideration.

CGS §4-181a(a) states, "a party in a contested case may, within fifteen days after the personal delivery or mailing of the final decision, file with the agency a petition for reconsideration of the decision on the ground that: (A) An error of fact or law should be corrected; (B) new evidence has been discovered which materially affects the merits of the case and which for good reasons was not presented in the agency proceeding; or (C) other good cause for reconsideration has been shown. Within twenty-five days of the filing of the petition, the agency shall decide whether to reconsider the final decision. The failure of the agency to make that determination within twenty-five days of such filing shall constitute a denial of the petition."

Nayden's Petition for Reconsideration claims the Council failed to address her October 9, 2025 proposed findings of fact and therefore committed errors of fact and law and material omissions in the February 6, 2026 final decision that must be corrected.

Specifically, Nayden argues the Council made errors of fact and law by failing to address her October 9, 2025 proposed findings of fact as they relate to five points as follows:

1. Substantial gap determination is incomplete;
2. Misapplication of the "feasible and prudent alternative" standard;
3. Failure to evaluate cumulative impacts with Council Docket No. 534;
4. Unassessed scenic and watershed impacts along Route 169; and
5. Deferral of environmental determinations to the Development and Management (D&M) Plan.

¹⁶ Council January 22, 2026 Regular Meeting Minutes, available at [2026_0122minutes-final_a.pdf](#)

¹⁷ Council February 5, 2026 Regular Meeting Minutes, available at [2026_0205minutes-drafttocouncil_a.pdf](#)

None of the above constitute “errors of fact or law” or “material omissions” that warrant a reopening of the evidentiary record to modify the Council’s February 6, 2026 final decision in Docket No. 535 on the following bases:

1. The Council determined a coverage deficiency exists based on a record of substantial evidence.

Nayden notes the Council’s Findings of Fact identify the average signal level, rate of dropped/ineffective call attempts and corporate “market goals,” but fail to identify independent drive test validation, geographic mapping of verified coverage unavailability, emergency reliability failure evidence, and public complaint data tied to specific service failures.

Contrary to Nayden’s claim that the “substantial gap determination is incomplete,” Council Findings of Fact Nos. 69 to 81 identify Cellco’s Existing and Proposed Wireless Services, including, but not limited to, network design, coverage maps and service reliability.

Based on the evidentiary record of the proceeding, in its February 6, 2026 final decision, the Council found a lack of reliable wireless service in eastern Woodstock and adjacent areas and found a specific need for the facility. The Council also noted that Nayden supported the minimization of the tower height to the lowest proven workable height, and the evidentiary record demonstrates that lowering the height of Cellco’s antennas would reduce the coverage footprint and create coverage gaps in the area.

The Council’s determination that a coverage gap exists is complete. There is no error of fact or law or material omission to be corrected.

2. The Council properly applied the “feasible and prudent alternative” standard even though there were no Connecticut Environmental Protection Act (CEPA) Intervenor to the proceeding.

Nayden was not a CEPA Intervenor to Docket No. 535. However, Nayden claims the Council misapplied the CEPA “feasible and prudent alternative” analysis because the Council limited its application to the availability of a host parcel for the proposed site. Specifically, Nayden claims there should have been evaluation of height minimization modeling, sector re-aiming or load redistribution, capacity reconfiguration of existing sites, hybrid or partial co-location strategies and technical footprint reduction alternatives.

Contrary to Nayden’s claim that the CEPA “feasible and prudent alternative” analysis was misapplied, Council Findings of Fact Nos. 82 to 90 describe Cellco’s analysis of alternative sites and rationale for its site selection, including, but not limited to, exploration of alternatives related to collocation on existing non-tower structures, collocation on existing tower structures, and utilization of a series of small cells or a distributed antenna system.

Pursuant to the “feasible and prudent alternative” standard under CEPA and based on the evidentiary record of the proceeding, in its February 6, 2026 final decision, the Council found the facility would not cause unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state, considered all reasonable alternatives and determined that the proposal represents the best alternative consistent with the reasonable requirements of the public health, safety and welfare.

The Council properly applied the CEPA “feasible and prudent alternative” standard. There is no error of fact or law or material omission to be corrected.

3. The Council evaluated cumulative impacts with the approved Council Docket No. 534 facility.

Nayden claims the Council failed to evaluate cumulative impacts of the proposed facility with the facility approved by the Council on September 4, 2025 in Docket No. 534 located at 90 Woodstock Avenue West (Route 171) in Woodstock. Specifically, Nayden claims the Council failed to evaluate geographic proximity along Route 169, shared watershed resources, telecommunications interaction and scenic corridor effects.

Contrary to Nayden’s claim that the Council failed to evaluate cumulative impacts associated with the approved Docket No. 534 facility, Council Findings of Fact Nos. 78 to 81 evaluate the geographic proximity and telecommunications interaction; Council Findings of Fact Nos. 140 to 145 directly address watershed resources; and Council Findings of Fact Nos. 177 to 186 directly address the scenic quality of the tower location and surrounding neighborhood.

Based on the evidentiary record of the proceeding, in its February 6, 2026 final decision, the Council found 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 (Emphasis added).

The Council evaluated the cumulative effects with the approved Docket No. 534 facility. There is no material omission or error of fact or law to be corrected.

4. The Council balanced the scenic impacts of the facility, pursuant to CGS §16-50p(b).

Nayden claims the Council failed to evaluate scenic and watershed impacts along Route 169. Specifically, Nayden claims the Council failed to balance the scenic impacts of the facility, pursuant to CGS §16-50p(b).

Contrary to Nayden’s claim that the Council failed to evaluate scenic and watershed impacts along Route 169, Council Findings of Fact Nos. 140 to 145 directly address watershed resources and Council Findings of Fact Nos. 177 to 186 directly address the scenic quality of the tower location and surrounding neighborhood in accordance with CGS §16-50p(b).

Based on the evidentiary record of the proceeding, in its February 6, 2026 final decision, in accordance with CGS §16-50p(b), the Council found 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. The Council also found that a galvanized steel monopole design minimizes aesthetic impacts to the surrounding area.

The Council evaluated scenic and watershed impacts along Route 169. There is no error of fact or law or material omission to be corrected.

5. The Council did not defer core environmental determinations under CEPA to the D&M Plan.

Nayden was not a CEPA Intervenor to Docket No. 535. However, Nayden claims the Council deferred core environmental determinations required under CEPA to the D&M Plan that should have been resolved prior to issuing a Certificate for the facility. Nayden does not identify what core environmental determinations were deferred.

Contrary to Nayden's claim, in its February 6, 2026 final decision, pursuant to CEPA and based on the evidentiary record of the proceeding, the Council found the facility would not cause unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state, considered all reasonable alternatives and determined that the proposal represents the best alternative consistent with the reasonable requirements of the public health, safety and welfare.

Condition No. 2 of the Council's February 6, 2026 final decision ordered the preparation of a D&M Plan in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan is required to be provided to the service list and submitted to and approved by the Council prior to the commencement of facility construction.

The requirements for the D&M Plan ordered by the Council in Docket No. 535 include, but are not limited to:

- a. A certified letter from a wireless telecommunications carrier with a firm commitment to install associated wireless equipment at the facility upon completion of construction;
- b. 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, ground equipment, access road, utility installation and emergency backup power;
- c. Construction plans for site clearing, grading, water drainage and stormwater control, and erosion and sedimentation controls consistent with the applicable Connecticut Guidelines for Soil Erosion and Sediment Control; and
- d. Construction schedule including hours and days of the week for construction activities.

The Council did not defer core environmental determinations under CEPA to the D&M Plan. There is no error of fact or law or material omission to be corrected.

III. Conclusion

Constitutional principles permit an agency to organize its hearing schedule so as to balance its interest in reasonable, orderly and nonrepetitive proceedings against the risk of erroneous deprivation of a private interest.¹⁸ It is not unconstitutional for the Council, in good faith, to balance statutory time constraints against requests for more time to present objections.¹⁹

¹⁸ *Concerned Citizens of Sterling v. Conn. Siting Council*, 215 Conn. 474 (1990).

¹⁹ *Id.*

Nayden claims the Council failed to address her October 9, 2025 proposed findings of fact. As more fully described in the Council's Information Guide to Party and Intervenor Status that was provided to Nayden on July 31, 2025 when her July 31, 2025 request for intervenor status was granted during the July 31, 2025 evidentiary hearing session, after the close of the evidentiary record, parties and intervenors may submit "suggestions of facts" for inclusion in the Council's final decision. The Council considers these "suggestions of facts" when submitted for any jurisdictional matter and exercises its discretion to incorporate any "suggestions of fact" in its final decisions.

Certainly, as an intervenor, Nayden had a full and fair opportunity to participate in the proceedings held on the Docket No. 535 application when it was pending before the Council. Nayden availed herself of opportunities to submit written interrogatories to Cellco and to cross-examine Cellco during the two evidentiary hearing sessions that were held on the application. The Council's Findings of Fact include citations to Nayden's exhibits and Nayden had an opportunity to comment on the Council's Draft Findings of Fact rather than submit a Petition for Reconsideration.

As evidenced above, there is no error of fact or law to be corrected; no new evidence has been discovered which materially affects the merits of the case and which for good reasons was not presented in the agency proceeding; and no other good cause for reconsideration has been shown.

Therefore, staff recommends Nayden's Petition for Reconsideration be denied.

MAB/laf