



Transcript of the Hearing of

Date: **December 3, 2013**

Volume: **I**

Case: **CONNECTICUT SITING COUNCIL - No. 441**

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STATE OF CONNECTICUT
SITING COUNCIL

Docket Number 441

Homeland Towers, 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 Located at 10
Blackville Road, Washington, Connecticut.

Public Hearing held at the Bryan
Memorial Town Hall, Main Hall, 2 Bryan Plaza,
Washington Depot, Connecticut, Tuesday,
December 3, 2013, beginning at 3:04 p.m.

H e l d B e f o r e :

ROBIN STEIN, Chairperson

Page 2

1 **A p p e a r a n c e s:**
2 Council Members Present
3 JAMES J. MURPHY, JR.
4 Vice Chairperson
5 ROBERT HANNON, DEEP Designee
6 LARRY LEVESQUE, ESQ.
7 PHILIP T. ASHTON
8 DR. MICHAEL W. KLEMENS
9 DR. BARBARA C. BELL
10 DANIEL P. LYNCH, JR.
11
12 **Council Staff:**
13 MELANIE A. BACHMAN, ESQ.,
14 Acting Director & Staff Attorney
15 DAVID MARTIN
16 Siting Analyst
17 AARON DEMAREST
18 Audio Technician
19
20
21
22
23
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Page 3

1 **A p p e a r a n c e s (Cont'd.):**
2 For the Applicant:
3 CUDDY & FEDER, LLP
4 733 Summer Street
5 Stamford, Connecticut 06901
6 (203)969-9060
7 By: CHRISTOPHER B. FISHER, ESQ.
8
9 For the Town of Washington, Connecticut:
10 MARK LYON,
11 First Selectman
12 DANIEL SOULE,
13 Litchfield County Dispatch
14
15 For the Public Utilities Regulatory
16 Authority:
17 COMMISSIONER MICHAEL A. CARON
18
19
20
21
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Page 4

1 **THE CHAIRPERSON:** Good
2 afternoon, ladies and gentlemen. I'd like to
3 call to order the meeting of the Connecticut
4 Siting Council today, Tuesday, December 3,
5 2013.
6 My name is Robin Stein. I'm
7 Chairman of the Siting Council. Other
8 members of the Council present are Senator
9 Murphy, Vice Chairman; Mr. Hannon, who's a
10 designee from Department of Energy and
11 Environmental Protection; Mr. Levesque,
12 designee from the Public Utilities Regulatory
13 Authority; Mr. Ashton, Dr. Klemens, Dr. Bell
14 and Mr. Lynch.
15 Members of the staff are
16 Melanie Bachman, Acting Executive Director
17 and Staff Attorney; David Martin, siting
18 analyst; and Aaron DeMarest, our audio
19 expert.
20 This hearing is held pursuant
21 to the provisions of Title 16 of the
22 Connecticut General Statutes of the Uniform
23 Administrative Procedure Act upon application
24 Homeland Towers, LLC, and New Cingular
25 Wireless PCS, LLC, for certificate of

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Page 5

1 environmental compatibility and public need
2 for the construction, maintenance, and
3 operation of a telecommunications facility
4 located at 10 Blackville Road, Washington,
5 Connecticut. The application was received by
6 the Council on September 17, 2013.
7 As a reminder to all,
8 off-the-record communication with a member of
9 the council or a member of the staff, upon
10 the merits of this application is prohibited
11 by law. The parties and intervenors to the
12 proceedings are as follows: Homeland Tower
13 and New Cingular Wireless, with Attorney
14 Fisher of Cuddy & Fisher -- of Cuddy & Feder,
15 the Applicant -- maybe I've promoted you. I
16 am not quite sure whether Mr. Feder would
17 approve or not; a party, the Town of
18 Washington First Selectman, Mr. Lyon; and to
19 be an intervenor -- we have to go through
20 that process -- Mr. Soule. Did I pronounce
21 that right? Yeah. Okay.
22 We will proceed in accordance
23 with the prepared agenda, copies of which are
24 available, I think on the table there. At
25 the end of this afternoon session, we will

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Page 6

1 recess and resume again at 7 p.m. The 7 p.m.
2 hearing will be reserved for the public to
3 make brief oral statements into the record.
4 I wish to note that parties
5 and intervenors, including their
6 representatives and witnesses will not be
7 allowed to participate in the public comment
8 session. I also wish to note, for those who
9 are here and for the benefit of your friends
10 and neighbors who are unable to join us for
11 the public comment session, that you or they
12 may send written statements to the Council
13 within 30 days of the day of today's date,
14 and such written statements will be given the
15 same weight as if spoken at the hearing.
16 If necessary party intervenor
17 presentations may continue after the public
18 comment session or at a to-be-announced
19 scheduled future date. A verbatim transcript
20 will be made of this hearing and deposited
21 with the town clerk's office in Washington
22 for the convenience of the public.
23 Before beginning if the first
24 selectman, Mr. Lyon, would like to make a
25 comment?

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Page 7

1 MR. LYON: Good afternoon
2 Mr. Stein and members of the Connecticut
3 Siting Council.
4 THE CHAIRPERSON: Mr. First
5 Selectman, welcome to Washington.
6 MR. LYON: The site you have
7 visited is part of a 17-plus acre site that
8 serves as the Washington Highway Department
9 Garage. The Town of Washington has spent
10 five years vetting several different
11 telecommunication proposals. Our review of
12 the Homeland Towers proposal and land lease
13 negotiation span two of those years, and I
14 feel it is a partnership that will serve the
15 town and its citizens.
16 The Washington Board of
17 Selectmen discussed the lease, which resulted
18 in this application and many public board
19 meetings, and Homeland Towers held a public
20 information meeting prior to a town meeting
21 to approve the lease.
22 The lease has received a
23 favorable 8-24 review from our planning
24 commission and was overwhelmingly approved a
25 town meeting held March 9, 2013.

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Page 8

1 THE CHAIRPERSON: Thank you
2 very much.
3 We have a request to make
4 Mr. Soule an intervenor in the proceeding.
5 Is there a motion to that effect?
6 DR. BELL: So moved.
7 THE VICE CHAIRMAN: Second.
8 THE CHAIRPERSON: Okay. I
9 have the motion, the second. All those in
10 favor signify by saying, Aye.
11 THE COUNCIL: Aye.
12 THE CHAIRPERSON: Opposed?
13 Abstention?
14 The motion carries.
15 I wish to call your attention
16 to those items shown on the hearing program
17 marked as Roman numeral one "D," items one
18 through 53. Does the Applicant or any party
19 or intervenor have any objection to the items
20 that the council has administratively
21 noticed?
22 (No response.)
23 THE CHAIRPERSON: Hearing and
24 seeing none, I hereby make it part of the
25 record.

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Page 9

1 We have an additional item for
2 which the Council wishes to take
3 administrative notice. The title is "Where's
4 Waldo: Finding Federal Wetlands after Rapanos
5 Decision."
6 Again, does the applicant or
7 any party or intervenor have any objection?
8 (No response.)
9 THE CHAIRPERSON: Hearing and
10 seeing none, this will also be
11 administratively noticed.
12 And now Mr. Fisher, will you
13 present your witness panel?
14 MR. FISHER: Thank you,
15 Chairman, members of the Council.
16 Chris Fisher with the firm of
17 Cuddy & Feder on behalf of the Applicants,
18 Homeland Towers and AT&T.
19 We have several witnesses,
20 Mr. Raymond Vergati, Mr. Manuel Vicente,
21 Michael Lawton, Scott Chasse, Mike Libertine
22 and Dean Gustafson. And if they could be
23 sworn at this time?
24
25

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Page 10

1 RAYMOND VERGATI,
2 MANUEL VICENTE,
3 MICHAEL LAWTON,
4 SCOTT CHASSE,
5 MICHAEL LIBERTINE,
6 DEAN GUSTAFSON,
7 called as a witnesses, being first duly
8 sworn by Ms. Bachman, were
9 examined and testified on their oaths as
10 follows:
11 THE CHAIRPERSON: And would
12 you continue with your exhibits, please?
13 MR. FISHER: Yes. Thank you,
14 Chairman. We have several exhibits that are
15 listed in the hearing program under Roman
16 numeral II, capital B. They are listed as
17 one through four. They include the
18 application itself, which as the Chairman
19 noted, was received by the Council on
20 September 17th, additionally, the bulk filed
21 exhibits that were filed with the Council on
22 that date as well; item number two, our
23 responses to the Siting Council's
24 interrogatories, which were dated
25 November 12th of 2013; item number three is
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Page 11

1 an affidavit of publication dated
2 November 17; and item number four includes
3 various material we filed with the Council,
4 dated November 26th, a prefiled statement of
5 facts, a correspondence from DEEP, our
6 witness resumes, affidavit of sign posting,
7 and a public hearing presentation for later
8 this evening.
9 I'd ask each of the
10 witnesses -- first, Chairman, I'd ask that
11 you accept them for identification at this
12 time.
13 THE CHAIRPERSON: Is there any
14 objection?
15 (No response.)
16 THE CHAIRPERSON: Hearing and
17 seeing none, will you just continue with the
18 verification?
19 MR. FISHER: Thanks, Chairman.
20 For purposes of verifying the
21 exhibits, I'd ask each of the witnesses, did
22 you prepare and assist in the preparation of
23 documents and help compile them as listed in
24 the hearing program?
25 THE WITNESS (Vergati): I did.
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Page 12

1 THE WITNESS (Vicente): I did.
2 THE WITNESS (Lawton): I did.
3 THE WITNESS (Chasse): Scott
4 Chasse. I did.
5 THE WITNESS (Libertine): Mike
6 Libertine. I did.
7 THE WITNESS (Gustafson): Dean
8 Gustafson. I did.
9 MR. FISHER: And in preparing
10 for today's hearing did you review the
11 documents, and do you have any corrections or
12 modifications that are needed?
13 THE WITNESS (Vergati): Ray
14 Vergati. No corrections needed.
15 THE WITNESS (Vicente): Manuel
16 Vicente. No corrections needed.
17 THE WITNESS (Lawton): Mike
18 Lawton. No corrections.
19 THE WITNESS (Chasse): Scott
20 Chasse. I have two corrections to make. On
21 sheet SP2 of the project plans, under the
22 engineering analysis and certification clause
23 the -- inadvertently indicates Hartford
24 County as the design wind speed for the
25 applicable code standard, and it should be
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Page 13

1 Litchfield County. The number is the same.
2 It's just mislabeled as
3 Hartford instead of Litchfield. It's under
4 Tab 3 -- I'm sorry -- of your application
5 materials.
6 And on the same sheet we show
7 that 20 trees are listed, and they're
8 graphically shown as X's. There's only 19
9 X's. The tree Number 1308 is not X-ed out on
10 the plan, and it should be. It is listed
11 again under the tree registry for removed
12 trees. It just is missing an X on it. Those
13 are the only changes at this time.
14 THE WITNESS (Libertine): Mike
15 Libertine. I've reviewed. I have no changes
16 at this time.
17 THE WITNESS (Gustafson): Dean
18 Gustafson. No corrections.
19 MR. FISHER: Okay. And with
20 those corrections or modifications, are the
21 documents true and accurate to the best of
22 your belief?
23 THE WITNESS (Vergati): Ray
24 Vergati. Yes, they are.
25 THE WITNESS (Vicente): Manuel
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Page 14

1 Vicente. Yes, they are.
2 THE WITNESS (Lawton): Mike
3 Lawton. Yes, they are.
4 THE WITNESS (Chasse): Scott
5 Chasse. Yes, they are.
6 THE WITNESS (Libertine): Mike
7 Libertine. Yes.
8 THE WITNESS (Gustafson): Dean
9 Gustafson. Yes.
10 MR. FISHER: And do you adopt
11 them as your testimony here today?
12 THE WITNESS (Vergati): Ray
13 Vergati. Yes, I do.
14 THE WITNESS (Vicente): Manuel
15 Vicente. Yes, I do.
16 THE WITNESS (Lawton): Mike
17 Lawton. Yes, I do.
18 THE WITNESS (Chasse): Scott
19 Chasse. Yes, I do.
20 THE WITNESS (Libertine): Mike
21 Libertine. Yes.
22 THE WITNESS (Gustafson): Dean
23 Gustafson. Yes.
24 MR. FISHER: I thank you,
25 Chairman. I'd ask that you accept the
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Page 15

1 documents in evidence at this time.
2 THE CHAIRPERSON: Does either
3 the party or intervenor have any objection to
4 any of these documents being accepted.
5 MR. LYON: No.
6 MR. SOULE: No.
7 THE CHAIRPERSON: Thank you.
8 The exhibits are admitted. We'll now begin
9 with a cross-examination by Mr. Martin.
10 MR. MARTIN: Thank you,
11 Mr. Chairman.
12 How many antennas will AT&T
13 install in this tower initially?
14 THE WITNESS (Lawton): As
15 shown on the plans, there will be 12 antennas
16 on the --
17 MR. MARTIN: Twelve antennas.
18 Thank you. And what frequencies and/or
19 technologies will AT&T utilize at this site?
20 THE WITNESS (Lawton): The
21 initial installation would likely be, include
22 700 megahertz, 850 megahertz and
23 1900 megahertz, and it would provide service
24 and LTE and UMTS technologies.
25 MR. MARTIN: Okay. So this
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Page 16

1 site would not employ GSM?
2 THE WITNESS (Lawton): That's
3 correct.
4 MR. MARTIN: And is that
5 because AT&T is kind of moving away from
6 that?
7 THE WITNESS (Lawton): That's
8 correct, yes. New sites that AT&T is
9 building are not including GSM at this time.
10 MR. MARTIN: Okay. And the
11 frequencies that AT&T currently uses for GSM,
12 will those kind of newer technologies migrate
13 to that frequency?
14 THE WITNESS (Lawton): That's
15 correct, yes.
16 MR. MARTIN: Okay. And that
17 would be what? UMTS or LTE?
18 THE WITNESS (Lawton): LTE.
19 There's also a migration away from UMTS's --
20 UMTS, as well, to LTE. LTE would be the
21 long-term evolution. It's the future
22 standard for AT&T's network.
23 MR. MARTIN: Okay. And how
24 about AWS? Does AT&T own any bandwidth in
25 the AWS frequency?
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Page 17

1 THE WITNESS (Lawton): They
2 do. I'm not certain off the top if this is
3 one of the areas where they do own AWS, but
4 if they do own AWS, it would be deployed as
5 LTE in the future.
6 MR. MARTIN: Okay. All right.
7 Thank you. And can this tower be extended
8 under the terms of the lease with the Town of
9 Washington?
10 THE WITNESS (Vergati): We
11 would need written approval, consent from the
12 Town to increase the height of the tower.
13 MR. MARTIN: Okay. And do you
14 have any, I don't know, inclination or idea
15 that that might be needed in the future?
16 THE WITNESS (Vicente): At
17 this time, we don't have an indication that
18 that would be needed in the future.
19 MR. MARTIN: Okay.
20 THE WITNESS (Vicente): But,
21 unfortunately, we were not absolutely sure
22 about that.
23 MR. MARTIN: And will the
24 tower be designed so it could be extended?
25 THE WITNESS (Chasse): The
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1 tower can be designed to be extended if need
2 be, yes.
3 MR. MARTIN: Okay. All right.
4 But it's not being planned at this moment?
5 THE WITNESS (Chasse): That's
6 correct.
7 MR. MARTIN: Okay. Thank you.
8 And the minutes from the town meeting held to
9 approve the lease with Homeland Towers
10 indicate that there's another carrier ready
11 to sign a lease to install its antennas on
12 the tower.
13 Is it possible to identify
14 this carrier at this time?
15 THE WITNESS (Vergati): We've
16 received indication from another carrier that
17 they are interested in the site. They are
18 currently not funded to build the site. I
19 can speak to them and say this: It is
20 Verizon.
21 MR. MARTIN: Okay. All right.
22 thank you. And let's see.
23 MR. HANNON: Would the members
24 of the panel please speak up a little, the
25 voice? The acoustics aren't that good.
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1 MR. MARTIN: And at the site
2 walk, the site visit this afternoon you
3 described how many antennas Litchfield County
4 dispatch was planning on putting on the
5 tower? Could you go over those numbers again
6 for the record?
7 THE WITNESS (Chasse):
8 Certainly. The proposal
9 before you shows two phone 5-foot whip
10 antennas located at -- mounted at the 135 AGL
11 point of the monopine extending up to the top
12 of the structure at 140. In addition there
13 is a third whip antenna shown at a mounting
14 elevation of 76 feet and that also is a
15 5-foot whip antenna.
16 MR. MARTIN: All right. Thank
17 you. And in the application there seems to
18 be some confusion about the height of the
19 tower. In some places it's referred to as
20 130 feet, some places 135. So which is it?
21 THE WITNESS (Chasse): The
22 proposed tower is a monopine of 135-foot AGL
23 with the branching and the appurtenances, LCD
24 antennas. The top of structure will be at
25 140.
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1 MR. MARTIN: Okay. Thank you.
2 And let's see. On the response to
3 Interrogatory Number 6, it was stated that
4 AT&T signal strength in the area varies from
5 the noise floor to levels below AT&T standard
6 for service. Are there decibel levels that
7 you can attach to these sort of more looser
8 descriptions?
9 THE WITNESS (Lawton): It's --
10 AT&T standard, as you follow in below, the
11 neg 74 dBm is AT&T's acceptable standard for
12 in-building service and neg 82 dBm is their
13 acceptable standard for in car.
14 So when I was saying below
15 standard for AT&T service, what I was
16 referring to is below those two figures. The
17 noise floor would be basically at the
18 limitation of what could be measured. It
19 depends on what device you're using to
20 measure it, but it's typically 100 and neg
21 130 dBm.
22 MR. MARTIN: Okay. All right.
23 Thank you. And let's see here. Okay. In
24 the response to Interrogatory Number 7, you
25 refer to network performance standards are
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1 not being met. What are -- what is AT&T's
2 goal for dropped calls and unsuccessful call
3 attempts? Do you have a percentage or
4 something that's accept -- kind of indicates
5 acceptable service.
6 THE WITNESS (Lawton): Well,
7 it certainly varies by the technology that
8 you're looking at. The -- depending on
9 whether it's data or voice, there's different
10 criteria that's looked for.
11 Typically, you know, the
12 industry standard is 2 percent lost calls. I
13 think AT&T would strive to something better
14 than that, but certainly in this area the
15 standard is nowhere near being met. I guess
16 in Washington Depot the standard for lost
17 calls would not necessarily be applicable
18 because you couldn't even make one.
19 MR. MARTIN: Okay. And you
20 say there's different standards for voice
21 versus data. What are the respective
22 standards?
23 THE WITNESS (Lawton): Well,
24 when you start to look at data you look --
25 it's not. I mean, there's lost sessions, but
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1 there's also latency and a lot of other
2 things that you look at when you try to
3 benchmark data performance as opposed to
4 voice.

5 Voice is simple, or more
6 simple in that you -- the call is there or
7 it's not. Data will have some delay if your
8 signal strength is not sufficient. So it
9 depends again, also on the technology that
10 you're talking about. LTE is intended to
11 support a faster data rate. It also depends
12 on the coding scheme. So without getting to
13 much into detail, you're basically creating a
14 pathway for the data to move up to the limit
15 of the encoding technology that you have.

16 THE CHAIRPERSON: I think we
17 have a question. Mr. Lynch.

18 MR. LYNCH: As far as tracking
19 the signal for lost calls or dropped calls or
20 being able to initiate, how does that -- and
21 I think you may have just hit on it -- apply
22 to data that's being delivered as far as
23 texting and streaming, and so on and so
24 forth. Is that also calculated in that loss?
25

And you mentioned that LTE 700
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1 not as black and white. And in fact,
2 there's -- I was just telling Attorney
3 Fisher, there's an FCC tool that you can --
4 anybody who has a smartphone can download and
5 it -- whenever you're using your smartphone,
6 it's sampling the data rate. And basically
7 what -- for data as your transmission path
8 degrades, your data service got slower and
9 slower and slower. And eventually it becomes
10 unusably slow in a situation where there's no
11 service.

12 So this FCC tool will test the
13 thing, and it will test the network that
14 you're on. It will tell you, at any given
15 location, what your data throughput is, and
16 that will -- that's something that the FCC
17 has determined that people are interested in
18 seeing because that's kind of where the
19 networks are evolving.

20 It's not specific to AT&T.
21 You can use it on any wireless carrier in any
22 location speed.

23 MR. LYNCH: Thank you,
24 Mr. Chairman.

25 MR. MARTIN: Okay. So similar
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1 would help that. Is that going to be
2 something that's going to be -- are you going
3 to initiate that here, or is that somewhere
4 down the road?

5 THE WITNESS (Lawton): LTE is
6 actually being deployed throughout
7 Connecticut, at this point, on the
8 700 megahertz band. And, in fact, is -- many
9 of the AT&T towers already transmit and
10 receive LTE service.

11 MR. LYNCH: Will that be the
12 case on this tower?

13 THE WITNESS (Lawton): Yes.

14 MR. LYNCH: Or will you put
15 the equipment there to plan it out later on.

16 THE WITNESS (Lawton): No.
17 They -- it would -- the initial deployment
18 would include LTE at 700 megahertz.

19 MR. LYNCH: And then the first
20 part of my question, in trying to track the
21 data, you have the call, is that also part of
22 how you -- how do you track that as far as
23 lost calls and being unable to deliver data?
24 Not the calls but the data.
25

THE WITNESS (Lawton): It's
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1 to the, like, 2 percent of dropped calls is
2 the, kind of like the acceptable standard.
3 Do you have an acceptable standard for the
4 download speed for the -- or speed of data
5 transfer?

6 THE WITNESS (Lawton): Again,
7 I can't really answer that specifically
8 because it depends on, you know, it -- your
9 download speed is signal strength dependent,
10 and you'd like to say that there's a
11 threshold at which it will work, but that
12 threshold kind of changes based on the
13 different frequencies you're looking at as
14 well.

15 MR. MARTIN: So, basically, it
16 seems like you're saying the frequency or the
17 signal strength is the most important thing
18 you're trying to achieve here?

19 THE WITNESS (Lawton): It is.
20 It is. Signal strength and something called,
21 well, for UMTS it's called EC over I, signal
22 to noise, basically. And your noise can be
23 generated by the environment or by other RF
24 sources or by your own network, actually if,
25 in a very densely populated urban area, you
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1 create your own voice.
2 So you're trying to create --
3 I guess the best way to describe it is pure
4 signal rather than a dirty signal. And a
5 purer signal will allow you to get a faster
6 data speed. Voice is more tolerant to a
7 dirtier signal, and it's less -- what's the
8 best word? It's less demanding of the
9 network, basically. And that's why the
10 network is sort of evolving to more and more
11 sites. They're closer and closer together
12 because, as people start to use more and more
13 data and demand faster and faster data, the
14 networks become -- sort of evolve to a
15 smaller footprint for each site.
16 MR. MARTIN: Okay. So you're
17 saying as data usage increases, the distances
18 between the sites have to get closer and
19 closer to be able to maintain the signal
20 strength that the increased demand for data
21 requires.
22 THE WITNESS (Lawton): That's
23 the idea. And AT&T is going back in a lot of
24 cases. I think, you know, a good example was
25 the New London site that we just were working
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1 on. They're going back to locations
2 intervening between two sites that are
3 already there that have been on-air for some
4 time and placing another site in between in
5 order to -- and it improves the voice
6 coverage in buildings, that sort of thing.
7 On the street there's -- at -- in that
8 location in particular there's no -- no
9 limitation in voice service.
10 If you're standing outside,
11 you have no problem making a voice call, but
12 your data, your data service in that part of
13 New London is poor and adding that site will
14 improve it. Here it's an entirely different
15 situation where the voice and data service in
16 Washington Depot for AT&T is nonexistent.
17 So --
18 MR. MARTIN: And in your -- in
19 answering my question you used the term
20 "latency." Could you explain what that means
21 in the RF context?
22 THE WITNESS (Lawton): It's
23 basically delay. So if something is being
24 sent, latency is a measure of how long it
25 takes for a certain amount, what the delay
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1 time is for a certain message to be sent.
2 MR. MARTIN: Okay. Thank you.
3 And I often ask this question. I get --
4 usually get the same answer. So I'll see
5 what you say for this one.
6 What's the feasibility of
7 other carriers being able to locate on the
8 proposed tower at heights lower than the
9 AT&T?
10 THE WITNESS (Lawton):
11 Physical feasibility or
12 desirability?
13 MR. MARTIN: Feasibility in
14 terms of being able to provide adequate
15 coverage.
16 THE WITNESS (Lawton): I would
17 think, based on the RF environment and in
18 this part of Connecticut, I would expect
19 almost every carrier would want to be on that
20 tower. Certainly Verizon does, it sounds
21 like.
22 But I think, you know, this
23 is -- funding is obviously a different story,
24 whether they choose to be on the tower, but
25 certainly it would -- it would seem to be a
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1 benefit to every carrier's network.
2 MR. MARTIN: Okay. And could
3 you explain how DAS and other alternative
4 wireless technologies would not be feasible
5 to provide the service possible from the
6 proposed tower?
7 THE WITNESS (Lawton): I
8 think, in general, when you look at a DAS
9 network, you're looking at something to serve
10 a specific point of presence or a point of
11 service need.
12 And in areas such as this,
13 there's a number of different roads. There's
14 homes. There's buildings, such as this one,
15 where the DAS network that would be needed to
16 provide service throughout the area would be
17 very extensive and basically unmanageably
18 large for such a sparse or rural area.
19 It's just not a good solution.
20 It's a better solution in an area where you
21 have a high demand in a focused area, such as
22 a seashore or a particular tunnel or
23 something like that, where there's a lot of
24 usage in a concentrated area that's fairly
25 stagnant in terms of not terribly mobile,
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1 which is pretty much exactly the opposite of
2 what you'd have in Washington Depot and
3 throughout Washington.

4 MR. MARTIN: Thank you. And
5 in its letter of no adverse impact, the SHPL
6 includes some conditions that are attached to
7 determination. Will Homeland Towers abide by
8 SHPL's conditions?

9 MR. FISHER: We're going to
10 figure out which way he's going to answer
11 your question.

12 MR. MARTIN: Thank you.

13 THE WITNESS (Vicente): After
14 reviewing the conditions, we would have no
15 problems with those conditions stated.

16 MR. MARTIN: Okay. Thank you.

17 And see, the Town has also
18 submitted a request that Homeland Towers
19 provide a single generator capable of
20 providing backup power for all of its
21 potential tenants, and the generator would be
22 capable of running for 72 hours before
23 requiring refueling. Would Homeland be able
24 to provide such a generator at its site? And
25 would the generator comply with the Town's

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1 most important component to site hardening,
2 my own personal experience of the carrier end
3 at Nextel tells me -- and we struggled with
4 this issue -- that there's so many factors
5 involved. And, after many years of
6 experience, I can tell you that I think it's
7 best that the carriers individually handle
8 their own backup power. This would allow
9 them to make decisions strategically where to
10 place those resources and assets and how to
11 get them to those facilities as quick as
12 possible. They're very good at it.

13 And it also has other problems
14 when you use one large backup generator for
15 the whole facility. If the generator fails,
16 now we have a real problem. Those type of
17 generators are not easy to replace, and it
18 can't be done in a timely manner. So we have
19 a multifaceted problem with site hardening.
20 A simple generator isn't the only thing that
21 you need.

22 And I think right now the way
23 the industry is handling it carrier by
24 carrier, I think they're very, very much
25 focused and aware of the importance of

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1 noise standards as established in its zoning
2 regulations?

3 THE WITNESS (Vicente): This
4 is a touchy question for the industry and for
5 tower developers like myself.

6 The way the industry currently
7 handles hardening their sights, and I use
8 that word "harden" because it isn't just
9 about power. Is about telco as well. When
10 we experience major outages or disasters, the
11 biggest problem with restoration of a cell
12 site is telco, not power. Carriers are very
13 much focused on controlling their facilities
14 and how they back up their facilities, just
15 like they don't like to share antennas or
16 other equipment that's proprietary and that
17 they want full control of or need full
18 control of. Similarly, with backup power,
19 they feel the same way. They want to protect
20 their own investment sites, their own sites
21 in the manner they deem best.

22 The idea that a large
23 generator facility is going to help solve an
24 outage problem is sort of simplistic, and
25 it's a multifaceted problem. Telco being the

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1 hardening their sites. They have their own
2 plans, their own strategies. I could tell
3 you they work well on the power end. Where
4 they struggle and where -- my own experience
5 in speaking with folks who are involved
6 operationally with the carriers, where they
7 struggle is telco backup, and that's really
8 where the second problem is in outages.
9 Because if you think about it, they all have
10 some mechanism for temporary backup power
11 that should last them enough hours that they
12 can deploy generators or do what they have to
13 if they don't have fixed assets there.

14 But restoring telco is a main
15 problem, and I think as someone who's been
16 around in the industry long enough to know
17 and experienced some events like 9/11, we
18 learned a huge lesson with 9/11. We were
19 able to restore most of our sites at Nextel,
20 for example, within a few hours related to
21 power. We could not restore telco for days.
22 We had to microwave telco into the city from
23 the New Jersey shore -- or from the Jersey
24 Ridge.

25 So I think the idea of a large

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Page 34

1 generator is -- may seem like a good idea,
2 but I think for us it's very complicated and
3 in a way, we'd be overstepping our authority
4 and bounds as a tower developer to be making
5 that kind of commitment or setting those type
6 of expectations.
7 THE CHAIRPERSON: Thank you.
8 I'm glad to hear you're at least still
9 struggling with it. Somehow you do manage to
10 share a tower, but I'll let Mr. Ashton
11 comment.
12 MR. ASHTON: Coming from a
13 background in the power industry, I recognize
14 there are a lot of complexities in life, as
15 the Chairman just indicated, that you share a
16 common pole. Do you not?
17 THE WITNESS (Vicente): Yes.
18 MR. ASHTON: And you share a
19 common connection to the telephone system.
20 Do you not?
21 THE WITNESS (Vicente): Yes.
22 MR. ASHTON: And I have
23 trouble accepting your argument that a single
24 generator presents unique challenges. You
25 can afford to put -- I know that, in a number
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Page 35

1 of cases, a carrier will have a generator
2 plus battery backup, so there's no loss of
3 service in a transfer.
4 I don't understand why that
5 would present a problem with a single
6 generator, nor do I understand why a single
7 generator has a problem in the engineering
8 aspect of it. You know, and my background
9 say you can put one generator or 50 in with
10 reasonable controls and reasonable site
11 allowances, so that that doesn't, to me,
12 represent a particular technical challenge.
13 And the Town has requested it.
14 We felt that there may be -- that there are
15 advantages to a single generator in that you
16 don't have five carriers scrambling to get a
17 generator replaced in one location and
18 getting into each other's hair.
19 My experience with some of the
20 bad ones where they were an awful lot of
21 generators in demand, and I question is it --
22 the supply will match the demand. And so I
23 would urge that the tower owner consider
24 changing the position that they don't want to
25 get into backup generation. I don't see that
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Page 36

1 as a material threat, and I see it as a
2 material advantage.
3 We are interdependent
4 inevitably. You depend on us for rendering a
5 good decision. We depend upon you to provide
6 good service. What is wrong with putting a
7 single generator? We have joint line
8 agreements between electric utilities and
9 telephone utilities all across the state and,
10 I believe, all across the country. Why
11 doesn't this fall into that category.
12 THE WITNESS (Vicente): Well,
13 I think it's a good question, and I mentioned
14 that we're struggling.
15 MR. ASHTON: How about a good
16 answer?
17 THE WITNESS (Vicente): I'm
18 trying. I mentioned that we're still
19 struggling with this, too, because in an
20 ideal world I would want to use one large
21 generator in the compound. That would make
22 sense for us as a tower developer for
23 planning purposes, for space purposes, et
24 cetera, because it is a lot of work for us to
25 work individually with carriers to meet their
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Page 37

1 specific demands.
2 And in, this particular case,
3 AT&T, I think, is planning for a generator
4 for their site. And I know Verizon generally
5 plans for it as well. The problem -- it
6 becomes one of their control and
7 specification and the contractual piece of it
8 as well. I think from my perspective --
9 MR. ASHTON: What's new?
10 THE WITNESS (Vicente):
11 Exactly. From my perspective,
12 as a tower developer, there's certain
13 advantages financially and otherwise for
14 taking the very approach you're stating.
15 It's just extremely difficult for us to do.
16 We haven't been able to do it
17 historically. Our company hasn't been able
18 to do it and coordinate effectively with
19 carriers. We -- operationally they're very
20 protective. They have these plans. These
21 plans change. They have their strategies,
22 where they focus these type of resources.
23 It's --
24 MR. ASHTON: That's not a --
25 THE WITNESS (Vicente): It's
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Page 38

1 not good answer --
2 MR. ASHTON: That's not a good
3 reason, in my opinion. That's more of an
4 excuse. We have the ANSI, don't we, American
5 National Standards Institute?
6 THE WITNESS (Vicente): We do.
7 MR. ASHTON: That does lay
8 down ground rules for how we shall do X, Y or
9 Z. And that doesn't involve any conflict
10 with antitrust laws. They produce good
11 quality material, and we are all intensely
12 dependent upon that kind of cooperation. Why
13 is this one area unique?
14 THE WITNESS (Vicente): It's a
15 good question. I think we, in the future,
16 would love to be able to do that. We don't
17 see an environment today where, as a
18 developer, we can make that happen.
19 The other problem is, as well,
20 the history of siting on any particular
21 facility, there may be an interval of six
22 years between the first carrier and the last
23 carrier in.
24 MR. ASHTON: I got a solution
25 for you. I got a second solution for you on
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Page 39

1 that.
2 THE WITNESS (Vicente):
3 There's other factors, too, to
4 consider. We may be spending money on a
5 generator for six carriers at a site that
6 never sees six carriers.
7 MR. ASHTON: Yeah. Well,
8 let's think out of the box a little bit here.
9 That's a natural answer, but I think there's
10 a better answer insofar as you have good
11 engineers -- and I do believe you have some
12 good engineers.
13 Can't you lay out a slab which
14 would house one generator for six carriers
15 and then -- and get you to lay out the
16 electrical bus work and protective relaying
17 that would be work for one generator and six
18 carriers, but only put in a machine large
19 enough for the first carrier if it's going to
20 be six years before another character shows
21 up. You don't have to make a major capital
22 investment in that case.
23 THE WITNESS (Vicente): The
24 problem with that is, is that first carrier
25 is already going to have their own generator.
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Page 40

1 MR. ASHTON: That still
2 doesn't answer the question. That really
3 doesn't. As a tower owner you could provide
4 the one generator, and when other carriers
5 come on board, unplug that and plug in
6 another. We've done that in the industry,
7 power industry, gas industry. What's unique
8 about the telephone industry here.
9 THE WITNESS (Vicente): That
10 is feasible. And I -- just to go back to one
11 of your statements as far as availability of
12 generators. The way the carriers contract
13 for these events and storms, they --
14 generally they have a list of priority sites,
15 criterion one, this is high-priority one, two
16 and three. For those top-tiered sites, they
17 already have contracted and dedicated
18 generators to deploy. And that's why we're
19 saying that they focus their resources where
20 they think it most --
21 MR. ASHTON: I'm trying to
22 focus our resource, our plural resources into
23 a different way. I know what the contractors
24 will do, or can do, so they claim. We did
25 have some instances where service was out for
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Page 41

1 a while, not all due to generator problems.
2 It was due to access problem. It was due to
3 telco problems outside of the site.
4 Let me poke at one other
5 aspect of this. Why can't there -- can you
6 use a fuel cell here?
7 THE WITNESS (Vicente): People
8 have experimented with fuel cells. We
9 haven't seen good results from fuel cells in
10 the industry. In this area, in particular,
11 they haven't been used. I don't think we
12 have enough experience, quite frankly, on
13 fuel cells.
14 MR. ASHTON: The first fuel
15 cell I put in, it was in 1982.
16 THE WITNESS (Vicente): I
17 know.
18 MR. ASHTON: It was a
19 40-kilowatt cell up at Rockville.
20 THE WITNESS (Vicente): I know
21 there's a lot of reasons. I mean, if you
22 think about it today, when I was growing up,
23 I thought the solution to fossil fuels was a
24 car that runs on water, and we have cars that
25 run on water, but we still use fossil foils.
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1 I think it's frustrating when
2 you have an issue like this because it would
3 make sense to have one generator. Even if
4 it's not perfect, it's something.

5 MR. ASHTON: It's experience,
6 too.

7 THE WITNESS (Vicente): But
8 right now the environment and the operational
9 controls that the carriers like to have, it's
10 something we can't do on our own for sure.
11 And I tell you that the FCC has struggled, as
12 many of you probably know, with this very
13 issue and the mandates that impose on
14 carriers regarding this issue.

15 MR. ASHTON: Mandated what?

16 THE WITNESS (Vicente): The
17 mandates that they try to impose on carriers
18 regarding this issue. I mean, this is
19 something that the FCC has been trying to
20 deal with for some time with the industry and
21 the carriers.

22 MR. ASHTON: You think we
23 could cooperatively give them a little help
24 on this subject by trying something new?
25

THE WITNESS (Vicente): I wish
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1 MR. ASHTON: How about --
2 okay. Let me shift to Mr. AT&T. And what do
3 you think, guys? Is this something that's in
4 the realm of the reasonable to try? I'm
5 hearing a pregnant silence.

6 MR. FISHER: You know you
7 don't want the lawyer to answer that.

8 MR. ASHTON: No, I don't.

9 Mike Libertine, I'm sure,
10 would answer, but he's not qualified. And I
11 will take him off --

12 THE CHAIRPERSON: I think
13 Dr. Bell will answer it for him.

14 Dr. Bell has a comment.

15 DR. BELL: Just two. Since
16 the conversation turned to Attorney Fisher
17 for a moment there, are you -- we held
18 hearings some time ago, as you probably are
19 aware, following up on the two-storm panel
20 recommendations in Connecticut.

21 My question to you is, are you
22 aware that during that hearing where tower
23 owners and operators were not present, the
24 carriers were asked why can't you all get
25 together and use a single generator in the

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1 I had the authority and power to do that. I,
2 as a small tower developer, I do not.

3 MR. ASHTON: I think what the
4 Town of Washington is asking is not
5 especially onerous if you -- when it comes
6 down to it. And I'm being argumentative
7 here, but I really believe that's possible.
8 Like another small example is power pooling,
9 which I have had some experience in. You
10 know, the idea of me working with and sharing
11 power, there are no written agreements. We
12 had to work our way through these things, but
13 it worked. We do it nationally now. We do
14 it nationally. We have common standards.

15 Is this so unusual? So super
16 extraordinary it can't be done?

17 THE WITNESS (Vicente): I
18 don't think so. I think it can be done. But
19 I'm relating to you --

20 MR. ASHTON: How about doing
21 it?

22 THE WITNESS (Vicente): I
23 don't think I'm -- I can do it on my own, and
24 I don't think I can make the carriers do
25 this.

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1 same kind of discussion as we're having right
2 now?

3 Were you aware that the
4 carrier's answer in that case, besides saying
5 it's complicated -- basically is what you're
6 saying -- they said, well, you don't
7 understand. It's not always up to us. What
8 you need to do is talk to the tower owners
9 and operators. Were you aware that this is
10 what the carriers say to us?

11 MR. FISHER: Well, I
12 represented one of the carriers in that
13 proceeding. So I'm not sure, and you know,
14 this is the great part when you're
15 cross-examining a lawyer -- I'm saying I'm
16 not sure I recall exactly that statement, but
17 I remember that proceeding well, obviously
18 having represented the carrier.

19 Wow. I'm kind of trying to
20 facilitate, mediate here, all at one time,
21 between industries I represent. I guess to
22 try to answer your question, as an attorney
23 on this, it is complex. I think one of the
24 points that the carriers were making,
25 relative to existing infrastructure, was that
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1 there was a challenge to try to go back and
2 find a mechanism to go do shared generation
3 with backup power facilities and plant
4 infrastructure at existing sites.

5 One of the things I know we've
6 talked about, which I think addresses a
7 comment you had just made, Mr. Ashton, is
8 that in planning these new facilities there's
9 the capability to try to plan out a compound,
10 whether it's from the beginning or with the
11 Council's help through a D and M process,
12 that can accommodate that kind of future
13 thought where maybe you would have a 200 kW
14 generator out of sight, to the extent, you
15 know, put these pieces together.

16 The cross section that we're
17 having -- it is a tower -- in this case it is
18 a tower facility question, but it's also a
19 carrier operations question. And I think --
20 and I respect the Town asking, but there are
21 a number of parties at the table, if you
22 will. We've got probably four of them here
23 today.

24 You know, the Town would
25 probably -- and LCD-like access to generation
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1 So the third carrier comes in
2 and says I think it's great that you have a
3 200 kW generator, but I don't want to use it,
4 and I don't want to pay for it, and I don't
5 really care to. I'm fine with having battery
6 backup as my reliability. Maybe that's not
7 long-term in their view, but they may take
8 that position for four or five years.

9 So, in trying to bring to the
10 table -- and I'm not doing a great job,
11 because Mr. Ashton is looking at me saying,
12 these are easy problems to solve, but these
13 are the conversations that are going on. And
14 I don't think -- maybe you're looking for
15 that first person to say, yes, let's do it,
16 and you find a test case. I'm looking for
17 one of those, but I think the industry is
18 concerned, overall, that we can't look at
19 Connecticut and say, every tower site should
20 be developed with a 200 kW specification
21 shared generator. And that's really where I
22 think the industry is coming from.

23 DR. BELL: Thank you. I
24 just -- we were talking to Homeland, and we
25 don't always get the chance to talk. We
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1 capability may be at no cost. That's
2 probably not viable from an economic
3 standpoint or a legal standpoint. Carriers,
4 if you had shared generation in a
5 200-kilowatt shared generator that existed at
6 a site, would they probably use shared
7 generation? I can't speak on their behalf.
8 I think that's in all likelihood. If you had
9 it there, let's figure it out. Right? A
10 little bit easier to figure it out because
11 it's there, because at the root of this is,
12 how much is it going to cost to put your own
13 generator if there's one there.

14 And I'm trying to give you all
15 the things that Mr. Vicente and everyone has
16 been talking about that have been tough to
17 get to the table. The other issue that I
18 think we face -- and I know I've had this
19 question as an attorney in these
20 proceedings -- the Council, in asking these
21 good questions and trying to come up with
22 solutions, they couldn't compel not only the
23 result, but also what about the future
24 carriers that we haven't yet seen even use
25 generation capacity.

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1 don't -- not every application that comes
2 into us gives us a Homeland or an SBA or
3 Crown Castle. We often just see that the
4 AT&Ts or the Verizon coming in with the
5 application.

6 So here today we had a tower
7 owner/operator that we were -- that was
8 before us, and I just wanted to know if he
9 was familiar with the fact that carriers
10 tended to point the finger at, you know,
11 we're crossing the pointing fingers. Right?
12 I just -- I want to get out of that gridlock.

13 THE WITNESS (Vicente): I
14 agree, and I think that's what tends to
15 happen when you do have difficult issues.
16 It's hard for anyone to have a single answer.
17 It's hard for folks to speak for other
18 parties.

19 I'll give you another
20 perspective just to understand the layers of
21 complexity, and I'm sure I'm not even
22 thinking of all of them. Say, as a tower
23 developer, we did have a common generator for
24 everyone's use. And let's say the contractor
25 we hired wasn't very good, and it's not
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1 operable. Our tenants may hold us
2 responsible for not being able to provide a
3 signal.

4 So we put ourselves in the
5 position where we're trying to do something
6 good, and it may be -- do some lifting that
7 we shouldn't do and potentially be left
8 liable, be held liable for service
9 interruption. So there's so many -- I'm not
10 really concerned about that particular issue
11 as much as I am coordination to get
12 everyone's buy-in, and it's very difficult.

13 I would offer one suggestion
14 to the Siting Council. In situations like
15 this with multiple parties and being a small
16 player ourselves in the mix and a fairly new
17 entrant to Connecticut, as well, as I'm sure
18 you're aware as a company, when -- in the
19 industry when we're met with challenges like
20 this, we set a road map or a guideline or a
21 recommendation of what the Siting Council may
22 want to see from applicants. I think that
23 may be a great first step to try and bring
24 this together.

25 I know that I just want
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1 fly, but they don't.

2 Why are you so fearful of this
3 thing? I really don't understand it. We
4 built a country on learning how to cooperate
5 and collaborate in a constructive way. I'm
6 not talking antitrust violations, clearly
7 not. I just find this utterly baffling to
8 me. I find it utterly baffling.

9 THE WITNESS (Vicente): I
10 think there's pieces of it that I do as well,
11 but I also remind you that this is a highly
12 competitive industry.

13 MR. ASHTON: Sure it is, but
14 it's got nothing to do with competition.
15 AT&T is not going to walk away from a tower
16 site where you design a power supply, backup
17 supply that can handle five carriers, but
18 you've only got a generator sized for one
19 carrier.

20 I'll make a bet on it. You
21 spent more for dinner tonight than on the
22 incremental cost of that bus board.

23 THE WITNESS (Vicente): You
24 might be right on that.

25 MR. ASHTON: I know I am. But
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1 everyone to respect that we're not in control
2 of it. We can only do so much and that it is
3 a very complicated issue, and if it wasn't a
4 complicated issue I'm sure we wouldn't be
5 having this long a discussion on it.

6 MR. ASHTON: I want to go back
7 to the point you made. You're saying your
8 word about the reliability if a generator
9 fails.

10 THE WITNESS (Vicente): I
11 think that's one aspect of many.

12 MR. ASHTON: Okay. How many
13 towers have you had that failed?

14 THE WITNESS (Vicente): How
15 many towers? The steel structure itself?
16 We've never had a steel structure failure.

17 MR. ASHTON: You've been sued
18 for it?

19 THE WITNESS (Vicente): No.

20 MR. ASHTON: Okay. Aren't we
21 really grasping at straws with that kind of
22 an argument. You know, there's a possibility
23 of failure in many, many ways. The road
24 going to the tower could wash out because we
25 had a hell of a big rainstorm. Pigs might

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1 the point is you never progress unless you
2 bite the bullet. I detect a very strong
3 unwillingness to bite any bullet.

4 THE CHAIRPERSON: Let me make
5 a suggestion, because we could easily have
6 these -- and I think this is a very valuable
7 discussion, whether it lasted about a half
8 hour, for every meeting it may be -- and I
9 just throw this out really for the people who
10 are around this table, it might be at some
11 point for the Siting Council to bite the
12 bullet and put this as a condition, and we'll
13 see what happens.

14 I'm not saying it will
15 necessarily be now, but I don't think --
16 otherwise, we may be waiting a very long
17 time. So I would suggest we move on, but
18 that would be something, particularly in this
19 case, since we have the concurrence from the
20 Town on this, on this issue, that might be
21 something that the Council members may want
22 to consider either now or sometime in the
23 future.

24 Because I suspect, otherwise,
25 we're going to have unless -- and there was
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1 one carrier that totally agreed. Fortunately
2 or unfortunately, they don't seem to come
3 before us very often. That is Sprint. They
4 thought it was a great idea. So you can
5 reserve a little niche for them when you do
6 this, but I really think we ought to move on.

7 And Mr. Martin, you have some
8 more questions.

9 MR. MARTIN: One more
10 question, Mr. Chairman. You can't stop the
11 staff question period without asking this
12 question.

13 Did Homeland fly a balloon at
14 the site today? What were the hours of the
15 flight? What were the weather conditions?
16 And were they conducive to good visibility in
17 the surrounding area?

18 THE WITNESS (Libertine): Yes,
19 the Applicant has been floating a balloon.
20 The required hours were eight to four today.
21 We had a balloon up about 7:30 this morning,
22 or slightly thereafter. We've been able to
23 maintain a single 4-and-a-half-foot diameter
24 red weather balloon at a tethered height of
25 140 feet.

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1 would. I don't know about the other members
2 of the Council.

3 THE WITNESS (Libertine): It's
4 got to be different. Are we talking about
5 10-foot intervals in terms of where the
6 carriers may elect to go and then also in
7 this case?

8 MR. LYNCH: No. Just the
9 carrier that's proposing the app -- and the
10 applicant. So today it would have been just
11 AT&T.

12 THE WITNESS (Libertine):
13 Right. So it would have been
14 126 feet. I see.

15 MR. LYNCH: I realize that the
16 Town was going on the top, but I would just
17 like to have seen where their equipment would
18 have been.

19 THE WITNESS (Libertine):
20 Sure. Yeah. Not a problem.

21 THE CHAIRPERSON: Okay. I
22 wouldn't -- that would be okay. I think if
23 you put it at every 10-foot interval, the
24 thing would -- I think it would be overdoing
25 the impact. So, Mr. Martin, are you --

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1 Weather conditions have
2 actually been very favorable today. We had
3 fairly clear skies with good visibility, very
4 low winds. There was some turbulence midday
5 or so, but winds have been in the average of
6 3 to 4 miles an hour, and that will stay up
7 until four o'clock. So overall it's been a
8 great day for a balloon float.

9 MR. MARTIN: Thank you. Those
10 are my questions Mr. Chairman.

11 MR. LYNCH: Mr. Libertine,
12 just a comment for the future.

13 When we're doing the height of
14 the tower then you're going to have -- where
15 the equipment is going at a lower height,
16 could you just fly a banner or something at
17 the 126 height so we know where the equipment
18 may be going?

19 THE WITNESS (Libertine):
20 Certainly that can be
21 arranged. Sure. Yeah. We can flag that at
22 any -- multiple levels. So, in the future,
23 is that something you'd like to see in terms
24 of --

25 MR. LYNCH: It's something I
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1 you're finished?

2 MR. MARTIN: I'm done.

3 THE CHAIRPERSON: Okay. We'll
4 now go to questions from the Council.
5 Senator Murphy.

6 MR. MURPHY: Thank you,
7 Mr. Chairman. Just a few items.

8 Did I understand it correctly,
9 Mr. Chasse, that the intention is not to
10 design the base to be strong enough to
11 automatically go up 10, 20 feet like normal
12 in -- and in a sense -- and I understand what
13 the lease says. You can't do it without
14 permission, but --

15 THE WITNESS (Chasse):
16 Correct. The proposal, as it
17 stands now, is for the top of structure at
18 140 for 135-foot tower monopine and that's
19 what's this tower and the foundation would be
20 designed for, unless the Council determines
21 otherwise.

22 MR. MURPHY: So, if it ever
23 came to pass that there would be an increase
24 in height, you would need to readjust the
25 base?

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1 THE WITNESS (Chasse): Yes.
2 MR. MURPHY: Mr. Lawton, on
3 the propagations that you did coverage
4 here -- I know there is none, so whatever you
5 show is benefit as it comes. So -- but the
6 difference between the 126 and the 116
7 doesn't seem to me to be much of a loss, if
8 you will, in coverage from looking at the
9 two.

10 THE WITNESS (Lawton): It
11 isn't a huge plot difference, but I think
12 what we deal with here is -- the thing that
13 you have to look at is to the east and to the
14 north, for the most part, there are open
15 sites. AT&T is looking for sites in those
16 areas.

17 And, in fact, in Washington
18 and beyond Washington, if the height of this
19 one is reduced, the spacing and the height of
20 the future need in those areas are filled
21 with white -- would obviously reduce --

22 MR. MURPHY: So what you're
23 telling me, that the 126 in comparison to the
24 116 is really intended to benefit AT&T and
25 it's for the development of its system.

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1 I can't answer the economic question.

2 MR. MURPHY: Do you go down to
3 90 feet or thereabouts?

4 THE WITNESS (Lawton): I think
5 you'd find that the handover, as you start to
6 go up the hill and over towards the sides to
7 the northeast -- I keep saying northeast --
8 the northwest, I'm sorry -- northwest and
9 west, the handover and again, the data
10 service in those areas would be poorer.

11 MR. MURPHY: This application
12 indicates it's designed for five carriers.
13 Is it realistic to expect that five carriers
14 would have decent coverage on this tower
15 assuming it never goes up above the proposed
16 height?

17 THE WITNESS (Lawton): It's
18 hard for me to answer that question, because
19 I don't know. I mean, as I said earlier, I
20 think --

21 MR. MURPHY: But you can give
22 me a pretty good --

23 THE WITNESS (Lawton): I'm
24 sorry?

25 MR. MURPHY: You can give me a
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1 THE WITNESS (Lawton): In
2 terms -- well, benefit the people in terms of
3 the fact that they would --

4 MR. MURPHY: Because you have
5 been servicing them. Okay. I assume that,
6 in doing propagations, you went under 116, as
7 well, to do them?

8 THE WITNESS (Lawton): Yeah.
9 We would run it -- excuse me -- a number of
10 different heights.

11 MR. MURPHY: What height did
12 you go down to that it wasn't worth being
13 there anymore?

14 THE WITNESS (Lawton): You ask
15 a hard question, because I think in terms of
16 what would hand over to the adjacent sites to
17 the east and the northeast -- I'm sorry, to
18 the west and the northwest, it's pretty much
19 at the minimum.

20 There's an economic question
21 as well. I mean, at some point the site
22 covers so little that AT&T would not want to
23 build it anywhere. It wouldn't provide any
24 value to the network. So it's both a
25 handover question and an economic question.

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1 pretty good guess.

2 THE WITNESS (Lawton): I mean,
3 I think the other carriers also have the same
4 coverage issue in this area. And again, it
5 would be to them to make a decision as to
6 whether the available spot was useful to
7 them, and I don't really know the process
8 that they would go through to make that
9 determination.

10 Certainly, if they wanted to
11 provide coverage in Washington Depot, I think
12 they would take something better than
13 nothing, but I don't know what that --

14 MR. MURPHY: Right, but to be
15 part of a good integral system, it may be
16 somewhat difficult for them.

17 THE WITNESS (Lawton): I would
18 expect that certainly where Verizon has a
19 similar coverage situation in this area to
20 what AT&T has, Verizon would be looking for
21 something similar to what AT&T would be
22 looking for and, you know, they --

23 MR. MURPHY: Well, it would
24 appear -- it would appear, although you can't
25 speak for them, that if they were 10 feet

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1 under you they wouldn't be in too bad shape.
2 THE WITNESS (Lawton): I would
3 think that that would be better than nothing,
4 for sure.
5 MR. MURPHY: Yeah.
6 Mr. Libertine, on the monopine
7 aspects, I gather from reading the
8 material -- and that balloon on March 9th was
9 flown at a lower height, and that monopine
10 thing maybe came late in the discussions.
11 THE WITNESS (Libertine): No.
12 Let me clarify that. What happened was the
13 original height of the pole was 5 feet lower,
14 and it was always intended to be stealthed as
15 a monopine. That was an early discussion
16 between the Applicant and the Town.
17 What happened was as to design
18 became -- or moved further along it was
19 apparent that to accommodate Lichfield County
20 Dispatch, that they were going to have to use
21 that top portion. And so the idea was to
22 then extend the branching to essentially
23 camouflage that antenna as well. So the tree
24 was all -- or the pole was always intended to
25 be used as a tree. And again, that was
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1 MR. MURPHY: Yeah. And you
2 look up --
3 THE WITNESS (Libertine): --
4 pub, yes, there's a short section
5 significantly -- they were significantly
6 above the trees. Correct.
7 MR. MURPHY: Right. Does the
8 monopine disguise the pole from that area?
9 THE WITNESS (Libertine): Well
10 it certainly disguised --
11 MR. MURPHY: I'll tell you
12 what my concern was. I thought in terms of
13 another Winchester.
14 THE WITNESS (Libertine):
15 Yeah. No, and you know, it's
16 a good point. And obviously when -- because
17 of the experience we've all had.
18 MR. MURPHY: And that's a very
19 central location where more people are going
20 to see it from there than anyplace else.
21 THE WITNESS (Libertine): I
22 certainly agree that it's a location that,
23 you know, certainly gets well traveled. And
24 it does, as you can see from the balloon
25 today, if you were traveling in that
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1 something that was a desire of the Town and
2 the Applicant.
3 MR. MURPHY: Well, let me ask
4 you this. In your simulation, how come you
5 didn't show a monopine?
6 THE WITNESS (Libertine): I'm
7 sorry?
8 MR. MURPHY: In some of the
9 photos and stuff.
10 THE WITNESS (Libertine): We
11 didn't show a monopine.
12 MR. MURPHY: Well, let me
13 really ask you the thing I really want to
14 ask, is the view from down here at the
15 intersection --
16 THE WITNESS (Libertine): Yes.
17 MR. MURPHY: I mean, it's
18 there --
19 THE WITNESS (Libertine):
20 Moving east or north --
21 MR. MURPHY: At the
22 intersection, 107 and 47 down here at the
23 corner --
24 THE WITNESS (Libertine): Yes,
25 as you go past the George Washington --
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1 direction, there's a very short stretch where
2 it is significantly above the tree line.
3 Conversely, if you're coming
4 from the opposite direction, that blends in
5 extremely well, and there are other
6 locations. This is not a highly visible
7 location overall, but in a few locations it's
8 certainly significantly above the tree line.
9 There are other locations to the west looking
10 back where it blends into the hillside, so it
11 works very well.
12 With any of these sites, we
13 always end up with one or two or more
14 locations where I'm not sure you can do
15 anything to really negate that height
16 differential above the tree line. So we try
17 to balance that.
18 But I think, to answer your
19 question, or at least to make an attempt to
20 answer your question, I think the design here
21 was, or the intent was, let's try to make
22 this blend into the environment as best we
23 can, recognizing there's probably going to be
24 one or two locations where I'm not sure
25 you're going to do that.
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1 I don't think this has
2 necessarily the stretch, if you will, that we
3 found in Winchester coming up Route 44,
4 that's that unfortunate.
5 MR. MURPHY: The additional
6 stretch was --
7 THE WITNESS (Libertine):
8 Correct. That's a real --
9 there's not much you can do. That's almost
10 70 or 80 feet above the tree line from that
11 perspective. We're not talking about that
12 here, but --
13 MR. MURPHY: What are we
14 talking about here?
15 THE WITNESS (Libertine):
16 You're probably talking in
17 this case, it's probably pushing 35 to 40
18 feet above the tree line from that
19 perspective. It's not so much that it's
20 pushing above the tree line. It's just that
21 perspective tends to really magnify the
22 issue.
23 So it's an unfortunate spot.
24 The only thing that, I'll say is that my
25 opinion was that as we looked at it back and
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1 forth -- and I think Photo 5 is probably the
2 photo that best represents that -- it is a
3 very short stretch. So, from that
4 perspective, there were no real residential
5 receptors, so it is more of a travel way
6 issue.
7 We felt all along, and this is
8 something we always try to balance whenever
9 we're talking to both the Applicant, and in
10 this case, the landlord being the Town, we
11 recognize it's a trade-off. I don't think
12 that is quite as -- I think that probably
13 pushes about the maximum height that you want
14 to go before it really starts to start
15 looking like the Franken-tree that I think
16 everybody is kind of familiar with.
17 So this one was -- it's
18 unfortunate, but that is really the only spot
19 where you get that type of a significant
20 view. And again, we're talking about a few
21 hundred feet of roadway only traveling in one
22 direction. So, overall, we felt it was a
23 very good trade-off.
24 MR. MURPHY: I came in from
25 107 and couldn't see the balloon. But I came
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1 down and went up the hill, turned around and
2 came back, and there was this thing. You
3 couldn't miss it.
4 THE WITNESS (Libertine):
5 Yeah. Again, depending on the
6 direction you're going, it's -- you're right.
7 But I just want to make sure everyone is
8 clear on that, that the tree was always the
9 design. And you may -- there may be a
10 confusion. There's -- the visibility
11 analysis that was done for this does depict a
12 monopine. I know there's some other photo
13 simulations from a previous application -- or
14 it wasn't even a full application. It was
15 some lease negotiations with the Town that
16 Verizon had. And I think those probably
17 depict --
18 MR. MURPHY: Well, I think the
19 confusion comes, I think, in the application,
20 or your report. There was the height of the
21 balloon on March the 9th was the then
22 agreed-upon height.
23 THE WITNESS (Libertine):
24 That's correct. That's
25 correct. At that time it had not been bumped
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1 up that additional 5 feet.
2 MR. MURPHY: So I got the
3 impression that it didn't include the pine
4 over the top.
5 THE WITNESS (Libertine): Oh,
6 I'm sorry if there was confusion, but that
7 was --
8 MR. MURPHY: But did we get
9 the wrong impression?
10 THE WITNESS (Libertine): And
11 sometimes I know that, you know, for instance
12 we often get into discussions with the State
13 Historic Preservation Office. Now they have
14 a conditional letter in here that talks about
15 the monopine design. It just so happens that
16 they did not dictate that. That was
17 presented to them as the monopine.
18 So it's kind of a strange one
19 here where sometimes a ship will -- well,
20 we'll say, we'd like to see it disguised.
21 They didn't in this case, but once it was
22 presented to them as such --
23 MR. MURPHY: They liked it?
24 THE WITNESS (Libertine): Then
25 they did like it, and they asked that it be
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Page 70

1 part of their conditional.
2 MR. MURPHY: I have no other
3 questions, Mr. Chairman.
4 THE CHAIRPERSON: Okay. Thank
5 you.
6 Dr. Bell?
7 DR. BELL: Thank you,
8 Mr. Chairman.
9 In the application there
10 are -- there's a large section on the
11 municipal discussions about this, and I just
12 have a simple question. I didn't see any
13 minutes of the board of selectmen meeting
14 that are included.
15 There are many minutes of many
16 different boards for the years starting in
17 '09 and going through '13, but I don't
18 believe we have the minutes from when the
19 actual board of selectmen actually approved.
20 There are the minutes from the town meeting
21 when that was approved and there's a
22 transcript of that, too. I just wondered if
23 there was any particular reason. Was that
24 board of selectmen meeting not transcribed or
25 minutes were not taken or something for that?

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Page 71

1 MR. FISHER: Dr. Bell, I
2 actually was just flipping through to Section
3 7, and these are documents that the Town had
4 provided to Homeland. There are some meeting
5 minutes in there from the board of selectmen
6 special meetings.
7 DR. BELL: Yes, but not the
8 one that -- where the board of selectmen
9 actually approved the lease with Homeland.
10 And I understand that these are not your
11 documents there. I just -- but they are in
12 the application, so I thought you might have
13 selected documents to put in as opposed to
14 ones that you were just furnished by the
15 Town.
16 MR. FISHER: No. We simply
17 passed along everything that was provided.
18 I'm sure those could be provided as a
19 late-filed exhibit, but we gave you
20 everything we had from the Town.
21 DR. BELL: Okay. Thank you.
22 I think you really answered my question
23 because you had no particular reason one way
24 or the other.
25 I have one comment on the

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Page 72

1 discussion that -- the question that Senator
2 Murphy answered, which was a question I had
3 too. That had to do with the difference
4 between the 116 and 126. I understand the
5 answer. I accept the answer. I think that
6 that might be -- if you're in that situation
7 where you probably frequently are, oftentimes
8 we ask this question, and what we get is,
9 well, there's a very slight difference over
10 on this. On Smith Road for a quarter of a
11 mile, there's actually -- you can see there's
12 a tiny little gap. And then over here on
13 Brown Road there's another tiny -- you didn't
14 give that answer. I'm happy you did not.
15 If that type of -- if your
16 type of answer applies, I would suggest that
17 you actually put that in the application.
18 It's a legitimate answer, and it's responsive
19 to the question, because in this case I could
20 literally -- I couldn't even see those teeny
21 little spots on Smith Road and Brown Road.
22 There was no difference between the two
23 coverages that I could possibly discern. And
24 I usually can discern the Smith Road and
25 Brown Road, one eighth of a mile. That's

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Page 73

1 just a comment.
2 And my final, my only question
3 in this case it's -- you did answer that
4 one -- is it's acknowledged that there are
5 gaps in coverage now in three different
6 quadrants. Do you have any intention of
7 filling those soon? Or do you know, can you
8 tell us anything about your plans?
9 THE WITNESS (Lawton): You're
10 asking about in these areas to the south?
11 DR. BELL: I think you said
12 that the south --
13 THE WITNESS (Lawton): The
14 south, east, and north.
15 DR. BELL: West and -- yeah.
16 THE WITNESS (Lawton): To my
17 understanding, I went through and I looked at
18 the -- there are defined open search areas in
19 those, those locations, but at this point
20 they're not funded. So given the fact that,
21 you know, from funding a search area for
22 development and search to coming before the
23 Siting Council or building a tower is over a
24 year process, 18 months, 24 months, sometimes
25 longer, there's nothing that I know of at

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1 this point that's in development. So I think
2 that's the best answer I can give you to the
3 question. There's nothing. AT&T would
4 obviously love to cover all of this area, but
5 they don't have any solution in the works at
6 this moment to do that.
7 DR. BELL: Do you have -- you
8 do have a site before us -- I forget the
9 docket number right this instant -- in
10 Southbury. Could that possibly reach up into
11 this area?
12 THE WITNESS (Lawton): No. I
13 think we actually looked at that, as well,
14 when we did the plots. Typically we do these
15 plots, we take a bigger section of the
16 network and take a look at what's going to
17 affect what we want to show on the plots.
18 And then if it's far enough
19 away that it's not going to impact -- and you
20 can see on the plot there's some coverage to
21 the northeast from a site that's actually not
22 shown on the plot, but it's farther away. I
23 believe the Southbury site, the proposal was
24 looked at when we did this, this plot, and it
25 doesn't really -- unfortunately doesn't
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1 be in the record because it is somewhat odd
2 to see all of this material from another
3 application, another site bundled together,
4 and I felt that was necessary to make that
5 statement for the record.
6 My questions, I'll try to keep
7 them brief. They're going to focus on the
8 ecological issues primarily, though I am
9 going to say one very quick comment about the
10 interrogatory question and Answer Number 11.
11 I am concerned that the 48-hour term for a
12 backup generator is insufficient here in
13 Northwest Connecticut. Our outages,
14 unfortunately, frequently are longer than
15 that.
16 And I also am intrigued by the
17 Chair's suggestion that maybe if the
18 Applicants are unwilling to look at a shared
19 generator, that maybe we should consider the
20 Council conditioning that, because I believe
21 that there are many reasons beyond
22 efficiency.
23 Many of the sites where these
24 towers are put in are ecologically sensitive.
25 We are often sold and told, well, there's
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1 provide any coverage.
2 Similarly, there's a proposal
3 in New Milford that's to the -- on Route 7 to
4 the southwest side of New Milford, which
5 again is somewhat nearby, but is not going to
6 provide any value in this area.
7 DR. BELL: Thank you. Those
8 are my questions, Mr. Chair.
9 THE CHAIRPERSON: Thank you.
10 Dr. Klemens.
11 DR. KLEMENS: Thank you,
12 Chairman.
13 I'd like just to first talk
14 about this filing, I guess it's under tab
15 number seven, which is all the information
16 provided by the Town. Specifically the
17 minutes of the Conservation Commission of
18 2/9/2011, second page, there was a discussion
19 by Ms. Devlin, a group from 17 Warren Road,
20 that they had discussed that application with
21 me.
22 And that is correct, they had,
23 but I've had no discussions about this
24 application with any citizen or anyone else
25 outside the Council. And I just want that to
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1 going to be one truck trip or one visit a
2 month. When you start to have multiple
3 generators and multiple fuelings, that starts
4 to raise exponentially. We had that
5 discussion recently, on Docket 440, that
6 although it's still not a large number of
7 car -- of trips, it does add to the
8 ecological burden of the site, particularly
9 if the tower is in a sensitive area.
10 Now I'd like to address --
11 these particularly are questions addressed to
12 Mr. Libertine and/or Mr. Gustafson. On page
13 21, you go through the Town of Washington's
14 zoning and discuss your compliance with that.
15 And I think we all agree there's a vernal
16 pool present on the site. I think you have
17 agreed that Wetland 2 is a vernal pool.
18 And my first question to you
19 here is that, although it says not to place
20 in a federally regulated vernal -- wetland or
21 vernal pool, as you know, federal regulation
22 of vernal pools take into account, under Army
23 Corps of Engineers' guidance document, take
24 into account 750 feet around the vernal pool.
25 You have said that that is -- you're 390 feet
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1 away.
2 So I find it a little bit
3 difficult, that statement to reconcile the
4 statement of compliance with the Town of
5 Washington's zoning with the presence of that
6 vernal pool 390 feet from the tower. That's
7 my first question.

8 THE WITNESS (Gustafson): The
9 vernal pool is located approximately 400 feet
10 from the facility, the proposed facility.
11 And that's Wetland 2.

12 With respect to compliance
13 with the zoning regulations, I'm not familiar
14 if the zoning regulations specify the upland
15 review area or the critical trestle habitat
16 or the vernal pool. And I agree with you,
17 that there should additional clarification in
18 the compliance statement, but as it reads,
19 it's accurate. It just may not be complete.

20 DR. KLEMENS: Thank you.

21 Now, you also identified
22 spotted turtle on the site. And I think I
23 asked, in the field, if you have any
24 photographs or more documentation I'd
25 appreciate that being put in the record.

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1 THE WITNESS (Gustafson): At
2 first, there was the report of the spotted
3 turtle in our delineation report. The
4 fieldwork was conducted on May 22nd of this
5 year. We do not have any photographs of any
6 of the turtles. They were from the
7 preliminary information I was able to confirm
8 speaking with Matthew Gustafson who did
9 perform the delineation on the 22nd. He did
10 observe several turtles, confirmed that there
11 were painted turtles basking on a log and
12 then, on approach to the pond, they ducked
13 under the water.

14 I'm still trying to confirm
15 the sighting of the spotted turtle. It
16 obviously did make its way into our report.
17 Unfortunately, because of the poor cellular
18 coverage at the site and the surrounding
19 area, I haven't been able to confirm his
20 review of his field notes. So we can provide
21 that information as a late-file to confirm
22 whether that sighting is accurate or if it
23 was just a suspicion at the time.

24 With respect to the Wetland
25 2's jurisdiction by the Army Corps of
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1 Spotted turtles are pretty
2 unusual here. I would say they're probably
3 locally rare. They're not common, and
4 they're also a candidate right now for
5 listing as a special concern species with the
6 State.

7 One of the things that we --
8 are the spotted turtles' rotationally used
9 wetland. And I would like you to -- if there
10 are spotted turtles on site, do you have any
11 sense of other wetlands they might be
12 utilizing, moving through the site and
13 whether or not there's a regulatory nexus
14 between Army Corps regulated wetlands and the
15 Shepaug River and its floodplains and Mallory
16 Brook, that that -- actually that turtle may,
17 in fact, bring this vernal pool under the
18 Supreme Court, the Rapanos decision, the
19 concept of nexus that possibly this vernal
20 pool, although isolated, may in fact be
21 jurisdictionally regulated by the Army Corps.

22 My question to you, have you
23 had a conversation with the Army Corps about
24 any potential regulatory nexus of that vernal
25 pool?

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1 Engineers, I would defer to that agency to
2 make a formal determination, but based on my
3 experience working with the Army Corps on
4 similar wetland systems that are approximate
5 to traditional navigable water, that there it
6 is close enough that there would be at least
7 the potential for significant nexus. And it
8 wouldn't surprise me that they would take
9 jurisdiction of wetland two.

10 DR. KLEMENS: Have you made
11 that inquiry to the Army Corps?

12 THE WITNESS (Gustafson): No,
13 we haven't. We have no direct impacts with
14 Wetland 2 so we're not triggering their
15 jurisdiction. We do have a temporary direct
16 impact to Wetland 1, which is a drainage
17 channel feature that was intentionally
18 constructed in upland areas, but it's -- at
19 the very least it satisfies the jurisdiction
20 as a Connecticut wetland. I question whether
21 that satisfies the jurisdiction for federal
22 jurisdiction, and if it didn't, then the Army
23 Corps would have no jurisdiction over the
24 project.

25 DR. KLEMENS: So how do you
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1 intend to resolve that? Because, as you
2 know, the Army Corps takes jurisdiction over
3 upland habitat of a vernal pool.
4 THE WITNESS (Gustafson):
5 That's correct.
6 DR. KLEMENS: If you have as
7 much as one square-foot of wetland.
8 THE WITNESS (Gustafson):
9 That's correct. And what I
10 would recommend to my client is that we make
11 a formal determination of jurisdiction to the
12 Army Corps of Engineers for this project.
13 DR. KLEMENS: That would be
14 very much appreciated.
15 Moving to page 24 and as well
16 as the wetland delineation report, I just
17 want to clarify something for the record. I
18 think I know the answer, but I'll ask you the
19 question. Does the fact that the vernal pool
20 that has been anthropogenically altered or
21 there's been some alterations to the pool,
22 make it, in your professional estimation, any
23 less valuable?
24 THE WITNESS (Gustafson):
25 Based on the limited
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1 salamander larva would be limited. And it's
2 my opinion that this is conjectural, and the
3 presence of the range of aquatic
4 biodiversity, such as you describe to me,
5 indicates a nicely balanced wetland with both
6 predators and prey, but I also don't see how
7 that kind of conjectural statement is helpful
8 to the Council and respectfully suggest that
9 instead, focus on answering question of how
10 your proposed activities will be conducted in
11 a manner so as not to impact this highly
12 productive vernal pool that lies adjacent and
13 on the subject property.
14 My sense is I often hear this
15 argument, well, it's maybe high predation or
16 it's been altered, almost as a way to
17 discount the value.
18 And my sense it's a valuable
19 wetland, and I'd like to have more discussion
20 and maybe follow up on that on how that
21 you're proposing will not impact that
22 wetland, and that would be putting, you know,
23 the various, you know, the disks around it,
24 the hundred-foot, the 750-foot disk. And I'm
25 looking at what your activities are going to
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1 information that we've collected on that
2 feature, I would say, no.
3 DR. KLEMENS: Okay. Because I
4 think we looked at the field, and basically
5 that vernal pool, that pond has been dug out
6 of an existing wetland that I think has been
7 a wetland for some time. Wouldn't you agree?
8 THE WITNESS (Gustafson): I
9 would agree with that. Based on our
10 investigation of the soils, during our
11 delineation of that feature, there's
12 certainly morphological evidence in the soil
13 profile that tends to reveal that there was
14 an unaltered wetland feature in that pocket
15 at some point in time, and the hydrology was
16 certainly much different than it is today,
17 but that wetland existed well before its
18 alteration as either a pond for the
19 residents, or you know, possibly historic
20 agricultural use of the property.
21 DR. KLEMENS: Thank you.
22 THE WITNESS (Gustafson):
23 You're welcome.
24 DR. KLEMENS: Now, you
25 discussed the survivorship of the spotted
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1 be in staging those activities at an
2 appropriate time of year. This is very
3 similar to the conversation that we had on
4 Docket 440 in Colebrook, just to sort of lay
5 that out in that way.
6 THE WITNESS (Gustafson): And,
7 Dr. Klemens, I appreciate those comments. It
8 certainly isn't our intent to provide that
9 information to, I guess, persuade the
10 Council, in any way, that the wetland is more
11 valuable or less valuable.
12 It's just a simple observation
13 because the pond has very little cover, and
14 there was a number of predators observed in
15 there. So I guess putting into context with
16 a natural kind of classic type of vernal pool
17 where there is a significant amount of cover,
18 there is a better hydro period where the
19 system dries out and eliminates some of these
20 typical predator species. But I understand
21 where you're coming from. We'll provide
22 additional information in future dockets so
23 the Council has more information to assess
24 the project's impacts.
25 DR. KLEMENS: That's what I'm
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1 hoping, that this eventually is going to have
2 a difference of information and more
3 complete. But would you be willing -- would
4 you be able to submit that kind of
5 information as part of this proceeding as you
6 did in Colebrook? You gave some follow-up
7 submission showing the percent of cover and
8 all that?

9 THE WITNESS (Gustafson): We
10 could certainly provide that as a late-file.

11 DR. KLEMENS: Thank you.

12 THE WITNESS (Gustafson): And
13 just for -- we did take a quick look at the
14 existing development of the critical trestle
15 habitat for Wetland 2 and then compared it
16 predevelopment and postdevelopment as far as
17 percent, disturbance, existing disturbance.
18 And currently, it's at approximately
19 18.5 percent developed within 750 feet of
20 Wetland 2, and postdevelopment, it will be 18
21 .7.

22 DR. KLEMENS: So it's a de
23 minimis increase.

24 THE WITNESS (Gustafson):
25 That's correct.

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1 THE WITNESS (Gustafson): We
2 can submit one with our late file.

3 DR. KLEMENS: I think that
4 would be appropriate.

5 And last, and this is going
6 back to Docket 440 again, a bit, getting into
7 Question 8 of the migratory birds. And you
8 heard this in Colebrook and you'll hear it
9 from -- again here, that I can't agree with
10 the statement on Number 8, that there are no
11 impacts, numbers of breeding, feeding or
12 roosting migratory birds because you didn't
13 do any site-specific fieldwork.

14 And maybe that -- maybe as
15 time goes by, and the clients, your clients
16 hear me ask this at every hearing, maybe
17 they'll allow you to do some site-specific
18 fieldwork looking at some of the stuff on the
19 site so we won't have to have that question
20 every time. But, as it stands now, I can't
21 accept that Question 8 and answer because you
22 did not -- I can accept many of the other
23 answers that have to deal with the other
24 areas and that, but the migratory birds,
25 there's so many of them, there's so many

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1 DR. KLEMENS: It would be nice
2 to have that in the file.

3 THE WITNESS (Gustafson): And
4 we'll provide that analysis in the late-file.

5 DR. KLEMENS: I also notice
6 that just another -- just to note that the
7 wetland's report is unsigned, at least my
8 copy.

9 THE WITNESS (Gustafson): Yes.
10 I think that's a result of we submit our
11 documents with electronic filing --

12 DR. KLEMENS: Right.

13 THE WITNESS (Gustafson): --
14 with electronic signatures. And I think once
15 they're compiled through -- typically through
16 Adobe Acrobat, it tends to erase those
17 original electronic signatures when you
18 compile the document. So that's more of a
19 technical issue.

20 The report is the same one
21 that was signed and released by our office on
22 that date, so that is the correct document.

23 DR. KLEMENS: Is there a
24 signed copy? Does the Council have a signed
25 copy?

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1 different species, and the only way to
2 ascertain that is to go on site during the
3 breeding bird period and see what you have
4 there for breeding and roosting. And there's
5 no substitute to fieldwork.

6 And then I'll say one more
7 thing and I will shut up, is that I see so
8 much effort placed on the technical end of
9 these applications on coverage, on
10 simulations. I will just ask that maybe a
11 little more care be placed on the
12 environmental end of things. A bit more
13 detail would be helpful for someone like
14 myself who looks very closely at this, that
15 part of the report.

16 Thank you.

17 THE WITNESS (Gustafson): And,
18 Dr. Klemens, we have taken note of your
19 comments from Docket 440, as well as at this
20 hearing. So we will be taking those back to
21 our client and trying to provide an
22 appropriate level of detail on future
23 submissions.

24 DR. KLEMENS: That would be
25 greatly appreciated. I know you can do it

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1 because I've been involved with you before I
2 joined the Council on projects where you were
3 able to do that. And I know you can do it if
4 your client lets you do it. And I think this
5 is a message as much to your client as to
6 you.
7 THE WITNESS (Libertine): Dr.
8 Klemens, just along those lines, so everyone
9 understands, we do have some pending
10 applications or applications that are in
11 front of you, pending dockets that likely
12 have similar language. So we -- it's not our
13 intention to frustrate you. We're certainly
14 trying to work through this issue and we've
15 heard you loud and clear.
16 DR. KLEMENS: I've already
17 looked at the Southbury one, yes.
18 THE WITNESS (Libertine):
19 Okay. And there's probably a
20 couple others that are in production.
21 DR. KLEMENS: Yes. Right, but
22 it will -- next spring is not that far away.
23 And it's a new year, and hopefully we'll get
24 more detail in the future one.
25 Thank you. Thank you, Mike.
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1 Potentially, yes.
2 MR. HANNON: Thank you.
3 I have no other questions.
4 THE CHAIRPERSON: Mr. Levesque?
5 MR. LEVESQUE: Mr. Chasse and
6 Mr. Libertine, why don't you take a look at
7 Photo Simulation Number 7, the one where you
8 inserted the tree, the fake tree.
9 Oh, was it done last winter or
10 this winter?
11 THE WITNESS (Libertine): It
12 was done this past March.
13 MR. LEVESQUE: Okay. Because
14 there's snow and there was only, there's
15 like one -- and did you show it to the Town
16 as you were discussing.
17 THE WITNESS (Libertine): They
18 were -- yes. They were aware -- we actually
19 did a publicly noticed balloon float. We've
20 done several floats up here over the years.
21 This was publicly noticed. They were aware
22 of it, and then they -- yes, they were
23 provided photo simulations.
24 MR. LEVESQUE: Okay. And then
25 the tree that's shown, the simulated tree,
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1 THE CHAIRPERSON: I'd just
2 like to strike the word "hopefully" and say
3 we will get more detail, because I think the
4 Council definitely welcomes the input of
5 Dr. Klemens. And we, you know, intend to
6 make sure that all the information that we
7 need to make a reasoned decision, that we
8 obtain. So with that, Mr. Hannon.
9 MR. HANNON: Thank you, Mr.
10 Chair.
11 Some of the questions I had
12 have been asked and answered. I do want to
13 go back to the complicated issue of the
14 generator and ask possibly two questions
15 which have a yes or a no answer.
16 The first is, can these
17 telecommunication systems be designed with a
18 single generator.
19 THE WITNESS (Vicente): The
20 answer is yes.
21 MR. HANNON: Thank you. And
22 then, if these systems were to go in with a
23 single generator, would that have an impact
24 on the size of the compound.
25 THE WITNESS (Vicente):
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1 did you put the brown in there for the
2 antennas? Or that's the antenna brackets?
3 THE WITNESS (Libertine): In
4 this case we showed both the pole and the
5 mounting and antennas as brown. This did not
6 reproduce extremely well for this shot, and
7 that's something that can certainly be
8 discussed as to whether the antennas can stay
9 white, whether they should be painted a
10 certain color.
11 A lot of times it kind of
12 varies depending upon the coverage of the
13 branching and that type of thing so what we
14 did here was to try to just show, in this
15 case, the brown.
16 MR. LEVESQUE: You mean, even
17 if it's all evergreen tree, it doesn't look
18 too bad because of the brown trees in the
19 area.
20 THE WITNESS (Libertine):
21 Right. Exactly. Yeah. Yes.
22 MR. LEVESQUE: Is that from --
23 it's not from natural rusted metal. Right?
24 It's paint. It's something that would be
25 painted brown.
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Page 94

1 THE WITNESS (Libertine):
2 Yeah, it would be painted.
3 Absolutely. Yeah, it would not be. No you
4 don't get rusting on most of these poles.
5 They're stainless steel or, at least, a steel
6 that doesn't rust.
7 MR. LEVESQUE: I mean, I'm
8 sure it doesn't work with the antennas. Only
9 the brackets.
10 THE WITNESS (Libertine):
11 Stainless steel is very
12 expensive.
13 MR. LEVESQUE: Now, the first
14 of the two conditions requested by the State
15 Historic Preservation Office --
16 THE WITNESS (Libertine):
17 Right.
18 MR. LEVESQUE: -- was that the
19 equipment be painted the same color as the
20 surroundings. I guess you might want to ask
21 them specifically whether, in the town,
22 whether you wanted them green or brown, the
23 antennas.
24 THE WITNESS (Libertine): Sure.
25 MR. LEVESQUE: Since you can,
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Page 95

1 if it's no great cost on it either way.
2 THE WITNESS (Libertine):
3 Yeah, I don't think it's a
4 matter of --
5 MR. LEVESQUE: Because I
6 didn't think it looked bad just like that.
7 THE WITNESS (Libertine): I
8 think I would defer first to the town and ask
9 them what their preference might be if they
10 have one.
11 Yeah. The comment about
12 painting to match adjacent materials, I'm not
13 quite sure, quite honestly, what that is
14 getting it. Are we talking about the
15 surrounding trees, or are we talking about
16 the physical materials? So that, that's a
17 little bit to me -- it's the first time and
18 only time I've ever seen that language.
19 Normally we see something that
20 says along the lines that everything will be
21 designed to be as minimally intrusive as
22 possible. And they typically don't go into
23 that level of detail. So it's a good point.
24 I'm not sure exactly what they're getting at.
25 MR. LEVESQUE: Yeah. I don't
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Page 96

1 remember seeing it either, and that's what
2 caught my attention.
3 I'm all set, Mr. Chairman.
4 Thank you.
5 THE CHAIRPERSON: Doctor
6 Klemens had another question.
7 DR. KLEMENS: Yes. I'm sorry
8 to come back to this. I had one more
9 question.
10 On your abutters, map A1, the
11 abutters map, it shows the wetland, Wetland
12 2, again, quite clearly extending onto the
13 subject property, which was my recollection
14 from the field investigation. But when I
15 looked at the map that accompanied the
16 wetland delineation report, the wetland
17 appears to be totally off site.
18 Could you explain why there
19 these are different?
20 THE WITNESS (Gustafson): The
21 wetland, as it's depicted on the site plans,
22 such as in, well, A1 and SP1, is accurately
23 depicting the wetland with respect to the
24 property boundary.
25 For the wetland delineation
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Page 97

1 map, we rely upon parcel boundary data that's
2 publicly available through the DEEP MAGIC
3 site. And there's oftentimes rectification
4 issues with the parcel data with respect to
5 location of features that we collect in the
6 field, such as the wetland system. So that
7 that explains the issues. There's a
8 rectification issue with the parcel-level
9 data that's publicly provided versus the
10 actual survey data that's provided in the
11 site plans.
12 THE WITNESS (Libertine): Dr.
13 Klemens, just to help clarify, because we
14 caught this after everything was produced,
15 and it is clear that the parcel-level data
16 that's supplied digitally is substantially
17 off of this property.
18 If you do look and compare the
19 wetland delineation map that's behind the end
20 of Tab 4 as part of the report and with the
21 abutters map of A1, I would just point out
22 that area that is on the wetland's map is
23 shown as the property boundary kind of coming
24 in severely to the west just above where it
25 says Wetland 1. It's a very narrow point
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Page 98

1 that it comes to.
2 If you'll notice that's
3 substantially different than that portion of
4 the property that was actually surveyed. And
5 that's just indicative of some of the offsets
6 that we get. This was more of a -- I think
7 the wetland delineation map was typically
8 intended to be more of a semantic, and we
9 rely more on the property boundary for trying
10 to pin down exactly where some of the
11 resources are. So we apologize for the
12 confusion. We found that after the fact.
13 DR. KLEMENS: Okay. So that
14 explains it. This, the abutters map, these
15 are the maps that really shows the actual
16 location of the wetland on the property?
17 THE WITNESS (Libertine):
18 Correct. Yes, that is
19 correct.
20 DR. KLEMENS: Okay. That
21 explains it.
22 Thank you.
23 THE CHAIRPERSON: Thank you.
24 Mr. Ashton?
25 MR. ASHTON: Thank you.
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Page 99

1 If I could refer to SP1, the
2 drawing of the site plan. I thought it said,
3 palatial site plan, but it says partial site
4 plan.
5 I believe that I'm correct in
6 understanding that the pole line on the
7 street is on the north side so that there's
8 no pole going to be set overhead for one or
9 the other and then underground. Is that
10 correct?
11 THE WITNESS (Chasse): Yes,
12 sir. There's an unmarked SNET utility pole
13 sitting in the southeast corner of the parcel
14 on the north side of Blackville Road.
15 MR. ASHTON: Okay. I'm a
16 little bit puzzled by the -- I'm going to
17 have to lead you on this, because I don't
18 quite understand.
19 You show an electric and
20 telephone 20-foot-wide easement that comes
21 in, takes a dog leg following along the road
22 all the way to the site. But then it shows
23 near the existing equipment storage building,
24 going back down the hill it shows a proposed
25 conduit stub bump-up for existing building to
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Page 100

1 replace existing overhead lines.
2 Is that a separate conduit
3 altogether from the one that you're
4 proposing?
5 THE WITNESS (Chasse): It will
6 stub off, actually come from -- it will come
7 back from the existing service that we'll be
8 pulling into the site to provide the Town
9 with electrical power and telco to that
10 maintenance building, because currently there
11 is none.
12 MR. ASHTON: Okay. My
13 question is more mechanical than anything
14 else, that it strikes me that with that
15 snake-like road, you're going to have a tough
16 time pulling in cable. I assume there's
17 going to be a number of handholds and so
18 forth?
19 THE WITNESS (Chasse): Yes.
20 MR. ASHTON: Okay. So that
21 that solves the problem we're getting around.
22 I wondered if you considered going straight
23 across, cutting off some of that loop. That
24 will make it a little easier.
25 THE WITNESS (Chasse): We did
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Page 101

1 with the Town and the DPW folks as well. And
2 just from the constructability of the slopes
3 that are there, that it was felt as though
4 going around the block was the better way to
5 go.
6 MR. ASHTON: Okay. That's my
7 one question. Thank you very much.
8 THE WITNESS (Libertine):
9 You're welcome.
10 THE CHAIRPERSON: Okay.
11 Mr. Lynch?
12 MR. LYNCH: I did have a
13 question on the monopine, but I think Senator
14 Murphy did a much better job than I could
15 have done.
16 And I agree with the Chairman
17 that the discussion on backup generators
18 should be at a later date.
19 As for my questions, if we can
20 go to SP2 and then the diagrams where the
21 compound plan is in the interrogatories, they
22 seem a little bit different. Which plan
23 should we be looking at?
24 You have to go the AT&T site
25 at 12 by 20. And it's not even on the
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1 interrogatory, and I'm assuming it's the 12
2 by 30 in the bottom corner.
3 THE WITNESS (Chasse): What is
4 the date of the drawings that you're looking
5 at? Rev 1, Rev zero or Rev 2?
6 MR. LYNCH: Oh, SP2 and that's
7 in the application and the compound plan.
8 THE WITNESS (Chasse):
9 Revision two. That's dated
10 9/10/13.
11 MR. LYNCH: And it's -- and
12 the interrogatory, that date is 5/14/12. So
13 that's a while back.
14 MR. FISHER: I think the
15 answer to the question is that the exhibit
16 that's in the interrogatory is attached to
17 the lease itself, which predates the drawings
18 that are in front of the Council.
19 MR. LYNCH: Sorry. I didn't
20 hear that.
21 MR. FISHER: The exhibit that
22 you're referring to that is attached to the
23 interrogatories, I believe that's the lease
24 exhibit that's attached to the lease that was
25 provided to the Council. And that predates
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1 MR. LYNCH: So you're
2 comfortable with the separation?
3 THE WITNESS (Lawton): Yes.
4 MR. LYNCH: And also for
5 Mr. Lawton, I've asked this question a number
6 of times in the hearings, and it has to do
7 with the planning of your network. And I
8 know you're between a rock and a hard place
9 with R and D and your marketing people, but
10 is the main focal point of your network now
11 to deliver data rather than voice?
12 THE WITNESS (Lawton): At this
13 point, the usage from data is significantly
14 increased and to the point where it is more
15 that voice. Certainly, customers are not
16 ceasing to use voice. We still need to
17 provide voice.
18 At this point, LTE technology
19 only supports data. It will support voice in
20 the future. The need will continue for
21 voice, but it will be -- in fact, when LTE is
22 supporting voice, it will be voice as data,
23 similar to a home phone which would have, you
24 know, VOIP. Somebody said VOIP, which is,
25 you know, the common name for it, something
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1 what was applied to by the Siting Council.
2 MR. LYNCH: That's all right.
3 I just noticed there was a difference. I
4 figured I'd ask.
5 And also, if we go to SP2, as
6 we look at the design for the tower, my
7 question is really maybe for Mr. Lawton. Is
8 there enough separation between the Town's
9 antennas and AT&T antennas? I know you like
10 to get a 10-foot separation. There's only 9
11 between the centerline, but the top of the
12 antennas and the bottom of the Town's
13 antennas are very close. Is there any
14 problem with separation or interference or
15 anything?
16 THE WITNESS (Lawton): I
17 believe that the Town -- excuse me -- the
18 Town antennas would be operating on a very
19 different frequency band for most of what
20 AT&T would be using. Certainly there are
21 ways to work around interference to and from
22 public safety and in terms of adding
23 additional filters if necessary, and that
24 sort of thing, which AT&T would be prepared
25 to do in this case.
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1 like a Vonage or something like that where
2 your telephone is actually carried over your
3 Internet, a similar sort of technology for
4 carrying voice service on LTE, which is with
5 the evolution of AT&T's network.
6 MR. LYNCH: That's the answer
7 I've been hearing, and I just want to get
8 that in the record because the general public
9 doesn't understand that there's a tsunami
10 coming as far as, you know, data delivery is
11 concerned.
12 THE WITNESS (Lawton): It's, I
13 mean, in fact it's probably already here in
14 terms of the demand for data, surprising to
15 many of us who have been in this industry for
16 a long time. People really do use a lot of
17 data.
18 MR. LYNCH: Thank you.
19 Those are my questions,
20 Mr. Chairman.
21 THE CHAIRPERSON: Okay. We'll
22 now go to cross-examination by the Town.
23 We have about ten more minutes
24 before the break, but we don't want to hurry
25 you, so you can take your time.
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1 MR. LYON: No, that's fine. I
2 was just going to say I might not get the
3 microphone to work and we all go to dinner .
4 I just had, from what I've
5 heard tonight, one question about structure
6 of the tower itself. The design, I
7 understand the height is at 135, but is the
8 design of the tower going to allow it to be
9 extended at a future date or not?
10 THE WITNESS (Vicente): It
11 could be. We did not have plans on it
12 because of the Town's request in particular.
13 My experience tells me it's
14 always smart to plan for a foundation that
15 could be -- that would allow extension of a
16 tower. That's been our practice generally,
17 but that's up to the Siting Council and their
18 recommendation.
19 Personally, my experience
20 tells me that it's always smart to plan that
21 way. We've put contingencies in our
22 agreement that we would have to come back and
23 have that reviewed and approved and the lease
24 amended. So I think the Town is protected.
25 I would say that it's probably wise to design
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1 this to the extent that it's not currently
2 the plan.
3 MR. LYON: That's what I
4 wanted to hear, because I think that trying
5 to plan ahead, I would rather be able to --
6 if the need arose, have the ability to extend
7 one tower than have to create another one.
8 So that's all I had.
9 Thank you.
10 I didn't want to get into the
11 generator question again. So we'll leave
12 that for another time.
13 THE CHAIRPERSON: Okay. And
14 Mr. Soule, do you have --
15 MR. SOULE: I don't have any
16 questions.
17 THE CHAIRPERSON: No
18 questions. I think, at this point, then, we
19 will adjourn this portion of the meeting.
20 We'll then reconvene at 7 p.m. for the
21 public -- public hearing portion of the
22 meeting. So we'll enjoy one of the
23 restaurants in the meantime. Thank you.
24 (Whereupon, the above
25 proceedings were adjourned at 4:54 p.m.)
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1 CERTIFICATE
2 I hereby certify that the foregoing 107
3 pages are a complete and accurate
4 computer-aided transcription of my original
5 verbatim notes taken of the Connecticut
6 Siting Council Meeting in Re: DOCKET NO. 441,
7 HOMELAND TOWERS, LLC, AND NEW CINGULAR
8 WIRELESS PCS, LLC, APPLICATION FOR A
9 CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY
10 AND PUBLIC NEED FOR THE CONSTRUCTION,
11 MAINTENANCE, AND OPERATION OF A
12 TELECOMMUNICATIONS FACILITY LOCATED AT 10
13 BLACKVILLE ROAD, WASHINGTON, CONNECTICUT,
14 which was held before ROBIN STEIN,
15 Chairperson, at the Bryan Memorial Town Hall,
16 Main Hall, 2 Bryan Plaza, Washington Depot,
17 Connecticut, on December 3, 2013.
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21
22
23 Robert G. Dixon, CVR-M 857
24 Notary Public
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5 SCOTT CHASSE
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7 DEAN GUSTAFSON Page 10
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