

DOCKET NO. 87A - AN AMENDMENT OF SNET CELLULAR, : Connecticut
INC., CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY : Siting
AND PUBLIC NEED FOR THE CONSTRUCTION, OPERATION, : Council
AND MAINTENANCE OF A FACILITY TO PROVIDE CELLULAR
TELEPHONE SERVICE IN THE TOWN OF
NORWICH, CONNECTICUT. : June 9, 1988

F I N D I N G S O F F A C T

1. On October 30, 1987, SNET Cellular Inc., (SNET), in accordance with the provisions of Section 16-50g through 16-50z of the CGS, applied to the Connecticut Siting Council for a Certificate of Environmental Compatibility and Public Need for the construction, operation, and maintenance, of a cellular telephone tower and associated equipment in Norwich, Connecticut. (Record)
2. After giving due notice thereof, the Siting Council inspected the site and held a Public Hearing on February 8, 1988, to consider the application of SNET. No persons requested party status. Metro Mobile CTS of New London, Inc., requested and was given Intervenor Status. (Record)
3. On March 22, 1988, the Siting Council approved the application. The Council's decision included Findings of Fact, an Opinion, and a Decision and Order for the construction, operation, and maintenance of the proposed facility. (Record)
4. The Opinion states that under the Federal Communications Commission (FCC) rulings, there are two competitors providing cellular telephone service in Connecticut, that this concept could result in a proliferation of towers, and that such tower duplication could be avoided by the sharing of towers. (Record)
5. The Opinion also states that it would be in the public interest to require that SNET construct the tower to accommodate the other FCC authorized cellular service provider and that SNET negotiate in good faith to lease space on the tower to the other FCC authorized cellular service provider with the fee for leasing the tower structure to be based on the cost to acquire land, construct and maintain the tower, and to install cellular antennas and associated equipment on the tower. (Record)
6. Condition 3 of the Council's Decision and Order requires that the tower be constructed so as to be sufficient to accommodate cellular antennas and equipment of the other cellular service provider, authorized by the FCC. (Record)

7. Condition 4 of the Council's Decision and Order requires that the Certificate Holder negotiate in good faith to lease space on this tower to the other cellular provider authorized by the FCC and that the fee for leasing the tower be based on the cost to acquire land, construct and maintain the tower, and to install such cellular antennas and associated equipment on the tower. (Record)
8. On April 15, 1988, SNET moved that the Council re-hear or, in the alternative, reconsider its Decision and Order in the Docket.
9. The SNET Motion maintains that Conditions 3 and 4 in the Decision and Order are without equal protection of the law and would result in lost revenues, in that SNET is compelled to lease part of its leasehold interest to its competitor at a price based on the cost to acquire land, construct and maintain the tower, and to install cellular antennas and associated equipment on the tower.
10. The Council has not approved the Development and Management Plan or any detailed construction plans authorizing construction of the certified facility. (Record)
11. At a meeting of the Council held on May 3, 1988, the Council passed a resolution to amend its Opinion, Decision and Order, and Certificate, pursuant to CGS 16-501(d) and decided that the changes would not result in any material increase in any environmental impact of the facility, and that no public hearing session would be necessary for the amendment pursuant to Section 16-50m(b). (Meeting Minutes 5/3/88)
12. Notice of the resolution was provided pursuant to CSC 16-501(d). (Record)
13. At a meeting of the Council held on June 9, 1988, the Council amended the March 22, 1988, Opinion and Decision and Order by (1) deleting language requiring that the tower accommodate cellular antennas and equipment of the other cellular service provider authorized by the FCC with a fee for leasing the tower based on the cost to acquire land, construct, and maintain the tower, and to install such cellular antennas and associated equipment on the tower, and (2) inserting language requiring:

(a) SNET or its successor to permit public or private entities to share space on the tower for fair consideration; (b) that if SNET refuses to permit such public or private entities to share space for specific legal, technical, economic, or environmental reasons, it shall submit such reasons in writing to the Council for determination whether sharing should be ordered pursuant to its certificate; and (c) that all other conditions of the Council's Decision and Order, dated March 22, 1988, be adhered to as required by the Council's certificate dated March 22, 1988.

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