

DOCKET NO. 156 - An application of Litchfield County Cellular, Inc., for a Certificate of Environmental Compatibility and Public Need for the construction, operation, and maintenance of cellular telecommunications towers and equipment on Pine Hill west of South Street, Plymouth; on Wallens Hill north of Oakdale Avenue, Winchester (Winsted); east of Loon Meadow Drive, Norfolk; north of Sunnyside Avenue, Watertown; and on Town Hill south of Legion Road, New Milford, Connecticut.

: Connecticut  
: Siting  
: Council  
: March 16, 1993

OPINION

Introduction

Litchfield County Cellular, Inc. (LCC), applied to the Connecticut Siting Council (Council) on September 18, 1992, for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, operation, and maintenance of cellular telephone telecommunications towers and equipment in the Towns of Plymouth, Winchester (Winsted), Watertown, Norfolk, and New Milford.

In rendering a decision for this application, we recognize that our jurisdiction has been partially pre-empted by the Federal Communications Commission (FCC), which has determined and declared a general public need for cellular service, and that cellular service shall be provided by two competing companies. The FCC has also established technical standards which has resulted in the need for numerous cellular telecommunications towers in nearly all areas of this State. Nonetheless, while our jurisdiction to consider public need has been substantially curtailed and our flexibility to consider possible technical alternatives reduced, this Council still has jurisdiction over site location and a responsibility to balance the need to develop the proposed sites with the need to protect the environment. Although the hilly terrain of Litchfield County will make coverage difficult and the necessary cellular tower system potentially more difficult to construct in a totally environmentally benign fashion, a carefully planned system is possible and need not be inconsistent with either this agency's charge to protect the environment of this State or the FCC's objective to provide effective competitive cellular service throughout the country.

### Watertown

The proposed Watertown facility has been designed to provide coverage to the population centers of Watertown and Oakville, and to major roadways, including US 6, Route 8, Route 63, and Route 109. Both the proposed primary and alternate sites are located in the same open field on a relatively prominent hill partially surrounded by residential development.

Although the heights of these towers were originally planned at a lower elevation, and were subsequently increased in height to meet coverage objectives, coverage gaps would still exist along Route 8 north of Watertown, along Route 63 north of Thomaston, along Route 109 northwest of Thomaston, and on Route 6 west of Watertown. Moreover, the increased height of the towers now exceeds the Federal Aviation Administration's (FAA) general threshold for aviation marking and lighting, and these towers would now require such marking and lighting.

In deciding this application, we must be reasonably certain that a facility located at either of these sites would provide more acceptable cellular service and that there are no more acceptable sites that could provide equal or better service with less of an environmental effect. We are unconvinced on both counts.

First, the detailed propagation coverage maps produced by the applicant clearly show coverage gaps along major transportation routes and within population centers. These coverage gaps may require additional towers that could have been avoided had a better site been identified and acquired initially. Second, we do not believe all possible alternative sites have been sufficiently investigated. We sincerely appreciate the participation of the Town of Watertown and other parties and intervenors for providing information suggesting the existence of possible superior sites, but we are disappointed that the community became active in this case so late in the proceeding. Active participation culminating in the identification of a more acceptable site to the overall community is clearly in the best interest of the community.

Furthermore, effects on scenic quality from either tower are significant. The open fields around the tower sites are largely without vegetative screening, so nearby residential development would have a clear view of the facility. The FAA marking and lighting requirements would increase these visual effects over a large area.

Consequently, we find the proposed primary and alternate sites to be inappropriate because of significant scenic effects on the adjacent neighborhood and surrounding area, partially due to the nature of the marked and lighted tower from a largely unscreened site, and the possible existence of superior sites that would have less of an environmental effect. We therefore deny the proposed Watertown sites.

Norfolk

LCC designed the proposed Norfolk facility to provide coverage to the population center of Norfolk and to populated areas of Colebrook, and to major roadways including US 44, Route 182, Route 183, and Route 272. Nonetheless, even with the proposed tower heights and antenna center lines at 257 feet above ground level, there would be coverage gaps along US 44, Route 272, and Route 183. This shortcoming is significant in that these towers fail to meet major coverage criteria for cellular telephone service. Furthermore, the decision to increase the heights of the towers beyond the FAA threshold for aviation marking and lighting has not been justified.

We do, however, recognize that the "perfect" facility site may not be available or even possible in this hilly region. Nonetheless, it is difficult for this Council to approve a site that appears not to meet major coverage objectives when at the same time it would have significant scenic effects on the environment because of tower height and the need for FAA marking and lighting. In addition to producing a regional scenic effect on the environment, we find the proposed tower, whose fall zone extends a considerable distance onto several abutting residential properties, to be inconsistent with both the existing land use and likely future land use of the area. Furthermore, because the property on which the proposed primary and alternate tower sites would be built is relatively narrow, the tower's location can not be adjusted to prevent the fall zone of the tower from extending a significant distance onto abutting properties.

In considering this application, we have analyzed the adequacy of the proposed cellular coverage, the associated environmental effects from the proposed primary and alternate towers, the consistency of this application with our statutory purpose to promote tower sharing wherever feasible to avoid the unnecessary proliferation of towers in the State, and have reviewed other alternative sites that could provide similar or better service with fewer environmental effects.

Although LCC considered several potential cell sites in the Norfolk search area before proposing sites off of Loon Meadow Road, we are not convinced that the existing SNETCO Norfolk facility located about 1.4 miles northwest of the proposed site was given sufficient consideration for tower sharing. Clearly, the negotiations to share this tower have been slow, partially because of the location of antennas on this existing tower by SNET Cellular Inc., an unregulated affiliate of SNETCO and competitor of LCC. Nonetheless, this proceeding did bring about an offer by SNETCO to consider construction of a replacement tower or a 60-foot extension on the existing tower. SNETCO would own and maintain the new tower and equipment placed on it. LCC could own and operate its own equipment within a new equipment building at the base of the tower. While we acknowledge LCC's concern that its competitor could indirectly have control of LCC's cellular service, LCC's ownership and operation of equipment within a secure and

separate equipment building would seem to dismiss most if not all of these concerns. Consequently, we believe LCC has an opportunity to share this existing facility and avoid constructing a new tower.

In summary, we find the proposed primary and alternate Norfolk sites to be inappropriate because of their significant scenic effects, partially caused by tower marking and lighting requirements, and because of an inconsistency with abutting residential property use due to the near proximity of the tower to, and extension of the tower's fall zone onto, abutting properties. Furthermore, we see a strong possibility that equivalent or possibly better cellular service could be provided from an existing tower that could be shared with far fewer environmental effects. This tower sharing would meet our legislative purpose by avoiding unnecessary tower proliferation. Consequently, we deny the proposed primary and alternate Norfolk sites, and encourage LCC to consider proposing alternative sites and the sharing of existing towers, including the existing SNETCO facility. We have full expectations that SNETCO, a public service company, will continue good faith negotiations with LCC to share its tower consistent with its offer made during this proceeding, on terms comparable with the sharing arrangement now in place with SNETCO's affiliate, SNET Cellular, Inc. Any breach of this offer may be interpreted by the Council as a refusal to share and will be investigated by the Council.

#### Winchester (Winsted)

The proposed Winchester facility would be located on the same property and adjacent to an existing 180-foot Springwiche Cellular tower. Although LCC and Springwiche Cellular negotiated a preliminary generic tower-sharing agreement for a mutual exchange of facility space, this has not yet been performed. Moreover, we find no significant technical, legal, environmental, or economic reasons why LCC could not attach its antennas to the existing Springwiche tower. Although coverage from antennas located on this 180-foot existing tower would be less than that of the proposed 250-foot LCC tower, no additional roadways would be exposed to a disruption of continuous cellular service.

Furthermore, environmental effects associated with sharing an existing tower would be considerably less than constructing a new tower. In fact, the environmental effects associated with constructing the proposed primary or alternate towers would have significant effects on the scenic environment because of the proposed tower's increased height and required aviation marking and lighting. In addition, a second tower on this hill would create the appearance of a "tower farm" which we find inconsistent both with our statutory purpose to share towers wherever feasible, and with much of the residential development in near proximity to the proposed tower. Consequently, we deny the proposed primary and alternate Winchester facilities, and to urge LCC to consider alternative sites and/or pursuing negotiations to share the existing Winchester Springwiche tower in exchange for sharing future LCC sites with Springwiche.

### New Milford

LCC designed the proposed New Milford facility to provide coverage to population centers and roadways in the southwest portion of Litchfield county. Areas to the west and south are outside of LCC's service territory and would not receive coverage. Areas to the north and east are not now proposed to be covered, but could be by some future facility sites. As proposed, this facility would not offer continuous coverage or the ability to hand-off calls to other cells, existing or proposed in this application, within LCC's service area.

The proposed primary and alternate sites are located on a ridgetop overlooking the Housatonic Valley to the southwest. The proposed 250-foot tower would become a prominent feature on this ridge as viewed from the Town and other areas in the Housatonic Valley. The importance of the scenic resources on this ridge have been documented by the Town of New Milford through a "Scenic Road" designation of the road which runs along the top of the ridge, on which the proposed facility would be located. While the simple designation of a "Scenic Road" is not necessarily inconsistent with a telecommunications tower, we find that in this case, a marked and lighted tower on this ridge would be inconsistent with this scenic road designation by the Town, and with scenic road policy and criteria set forth by State statute. Furthermore, we do not find a compelling need for a tower structure at the proposed location. With no constraints to blend coverage from this site into adjacent cells for continuous coverage and cell-to-cell hand-off, there appears to be flexibility and opportunity for LCC to locate one or more sites at other locations with fewer environmental effects.

In summary, we have not been convinced that the significant scenic effects associated with the proposed primary or alternate New Milford towers and conflicts with local and State policy to protect scenic resources are justified given the coverage that would be provided by this facility. We therefore deny these facilities without prejudice because of the possibility of a better alternative site and facility configuration which would provide equal or better coverage with fewer environmental effects and conflicts with State policy.

### Plymouth

The proposed Plymouth facility has been designed to provide coverage to the population centers of Plymouth, Thomaston, East Morris, Litchfield, and southern Torrington, and to sections of Routes 4, 6, 8, 63, 109, 118, and 262. Although the tower structures would be below the FAA's 200 foot criterion that would require aviation marking and lighting, antennas would extend to between 205 and 207 feet above ground level which would then require aviation marking and lighting.

Even though the proposed primary and alternate sites are undeveloped and the Town of Plymouth has intentions to designate this area as an "Area of Special Value", the facility would be located adjacent to an existing high voltage power line and would be served by an access road that now extends nearly the full distance to both the proposed primary and alternate sites. In addition, these sites would not be near existing residential development and would not be visually obtrusive. Furthermore, there is evidence that future development and construction on this parcel has been proposed. While we don't take the Town's designation of an "Area of Special Value" lightly, this parcel is large and remote, has existing access, is in near proximity to an existing high voltage power line, and need not be inconsistent with a tower structure.

Although there are 26 existing tower sites within a 10 mile radius of the proposed tower sites, we feel satisfied that the applicant has sufficiently explored the possibility of sharing these existing towers, and has located an acceptable site with minimal environmental effects associated with the development of a cellular telecommunications tower.

There are no known existing populations of Connecticut Species of Special Concern or State and Federal Endangered or Threatened Species occurring at either of the proposed primary or alternate sites. The construction of the proposed facility would have no effect on the State's historic, architectural, or archeological resources listed on or eligible for the National Register of Historic Places. Moreover, there has not been any substantial evidence that the development of this facility and improvement of the access road would have any substantial effect on the natural environment of the site, including effects on the quality of the air, water, or ecology.

Although electromagnetic radio frequency power density levels are a concern of the Council, the proposed power density level would be well below the American National Standards Institute exposure limits for the proposed frequencies.

The fall zone of the tower would encroach upon an existing CL&P high voltage transmission line right-of-way. Yet, we do not find this to be an inappropriate tower location because the function of this right-of-way would be unaltered, and the transmission line conductors would not be within the fall zone. Furthermore, the last segment of the access road that would need to be constructed for either the proposed primary or alternate sites would be shorter and less disruptive for the primary site. In fact, this arrangement would preserve more of the large adjacent lot for other proposed development without encroaching onto the fall zone of this tower. We are concerned, however, that the modification of the existing access road, construction of the final segment of the access road, and placement of utility lines to serve the facility could have some environmental consequences, such as erosion and sedimentation. Consequently, we will require a Development and

Management (D&M) Plan to be prepared by the applicant and monitored by the Council to ensure that these possible environmental effects are properly mitigated during construction.

While coverage from this site would be acceptable, and this site is generally consistent for the development of a tower structure, we are troubled by the height of this tower which would require FAA aviation marking and lighting. A drop of five to seven feet in height would dismiss the requirement for marking and lighting and would substantially reduce the visual and scenic effect that this facility would have on downhill areas including the Town's historic district. In fact, the applicant testified that this incremental reduction in tower height would result in only a negligible, incremental loss of coverage. While not specifically modeled, the reduction of the tower height to eliminate tower lighting and marking would minimize long-term visual effects, and is clearly worth pursuing. Therefore, we will approve the proposed tower, but at a height to be modeled and re-evaluated for the lowest height possible as part of the D&M Plan, not to exceed the FAA's threshold requiring marking and lighting.

To ensure that these and other mitigation measures are properly planned and implemented, we will require LCC to submit the D&M Plan for Council approval prior to the commencement of any construction. This D&M Plan shall include detailed plans for the placement of an unmarked and unlit tower and equipment building; location of the access road and utility line; erosion and sedimentation controls; security fencing; and site landscaping.

#### Conclusion

Based on the record in this proceeding, we find the effects associated with the construction, operation, and maintenance of a cellular telecommunications facility and associated equipment building at the proposed primary site in Plymouth, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with State policy, and are not sufficient reasons to deny this proposed primary site. Therefore, we will issue a Certificate for the proposed primary Plymouth facility, with conditions to ensure that its development is consistent with this Opinion and with the record of this application.

The proposed primary and alternate sites at New Milford are denied without prejudice. The proposed primary and alternate sites at Norfolk, Watertown, and Winchester are denied. In this application it has been difficult to balance the need for a facility at each particular site with effects on the environment. Consistent with our legislative purpose, we have considered alternatives for the sharing of existing towers to

avoid unnecessary tower proliferation. Admittedly, the process of sharing space on an existing tower is time-consuming, complex, and requires good faith negotiation. Yet, this process is well worth the effort given the long-term benefit to the environment and the residents of the State.

We have also been reluctant to accept the rejection of certain alternatives that may prove to be superior for both cellular coverage and protection of the environment. These alternatives include reduced tower heights that would reduce tower visibility and effects on scenic resources, alternative sites that would place tower facilities in less sensitive areas, and the use of specialized technology such as cell enhancers or additional sites to tailor a system to the hilly topography of Litchfield County.

Our final note is directed at the communities of this service area. Consistent with federal mandates, Litchfield County Cellular will have cellular service and an associated cellular tower system. The most obvious objectionable aspect of cellular service is its tower system; yet, with careful planning and analysis it need not be objectionable. While not a requirement, assistance by each community in the planning and analysis for a tower site can yield long-term benefits. We urge each community to accept the reality of cellular service and to take on a responsibility to assist in the identification of tower sites acceptable to the community. Such cooperation may not only produce acceptable cellular sites that spare the public the burdens of less appropriate sites, but may also produce a windfall opportunity for tower-sharing with public facilities. This opportunity could lead to upgraded and/or new public services for local police, fire, emergency dispatch, and public works at little or no cost to the community. This opportunity is here today and should be considered as a chance to shape both future telecommunications services and the landscape of the community.

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