DOCKET NO. 166 - An application of Springwich Cellular Limited Partnership for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a cellular telecommunications facility approximately 250 feet west of Maple Lane, approximately 850 feet west of Maple Lane, or approximately 750 feet west of New Creek Road in the Town of Westport, Connecticut.	}	Connecticut
	}	Siting
	}	Council
	}	August 29, 1995

OPINION

On January 6, 1995, Springwich Cellular Limited Partnership (Springwich) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) to construct, operate, and maintain a cellular telecommunications tower, building, and associated equipment in the Town of Westport, Connecticut.

The public need for cellular telephone facilities has been determined by the Federal Communications Commission (FCC) which has declared a general public need for cellular service, established a market structure for system development, and developed technical standards that have restricted the design of facilities. These pre-emptive determinations by the FCC have resulted in a system of numerous cellular telecommunications facilities in nearly all areas of the Country. Under federal law, the Council's jurisdiction has been limited by the FCC to determine siting. Under Connecticut State law, the Council must balance the need to develop a proposed site as a cellular telecommunications facility with the need to protect the environment, including public health and safety.

The proposed Westport facility would consist of a new site with an equipment building and a 110-foot monopole tower at the prime site, or a 130-foot monopole tower at the first alternate site, or a 190-foot monopole tower at the second alternate site. An existing dirt road from Maple Lane would be improved to access the proposed prime or first alternate sites. Springwich has an option to access the proposed first alternate site along the same existing dirt road, but from Post Office Lane. This alternate access road would be approximately 600 feet shorter than the proposed access road. A paved parking lot off New Creek Road would serve as access to the proposed second alternate site. Each site is bordered by Interstate 95 to the north, and the Metro North rail line and Connecticut Light and Power Company (CL&P) 115-kV transmission lines to the south. This facility would become part of Springwich's existing cellular network and would extend coverage to areas not presently or inadequately covered, including sections of U.S. Route 1, Interstate 95, and several secondary arteries within the Towns of Westport and Fairfield.

In the course of finding a proposed cell site, the applicant has searched for an existing structure to share; however, Springwich was unable to locate such a structure that would offer the required coverage. Because Springwich does not have the power to take land through eminent domain, acquisition of a potential site requires consent from a willing landowner to either lease or sell land rights.

When issuing a Certificate for a facility, the Council may impose such reasonable conditions as it deems necessary to promote immediate and future shared use of such facilities and avoid the unnecessary proliferation of towers in the State as mandated by General Statues § 16-50p(b)(2). In compliance with State law, Springwich has offered to share tower space with the Town of Westport and others. We investigated the shared use of the existing 100-foot monopole tower structures owned by CL&P supporting high voltage transmission lines. Even though the CL&P tower structures have heights and locations similar to the proposed telecommunications towers, placement of cellular antennas on these structures would be potentially dangerous.

The proposed prime 110-foot tower would allow 0.5 mile gaps in coverage along Interstate 95. Any tower height less than 190 feet at the proposed second alternate site would allow 0.5 mile gaps in coverage along Interstate 95 and U.S. Route 1. The proposed first alternate 130-foot tower would not have these gaps in coverage along these traveled roadways. If a new tower is necessary, it must adequately meet the existing and future needs of the cellular industry to avoid unnecessary construction of future fill-in towers. As such, we find the prime site and any tower of reduced height on the second alternate site to be technically inferior to the first alternate site.

Each of the proposed facilities is compatible with existing adjacent land uses that include a high voltage electric transmission line right-of-way, Interstate 95, and the Metro North rail line that uses an overhead catenary infrastructure. In addition, these sites have been previously disturbed. The proposed prime and first alternate sites are within a parcel of property being used for storage of nursery and landscaping material. The proposed second alternate site is on a closed landfill and located at the end of a commuter parking lot. In general, a cellular monopole tower would not be inconsistent with the adjacent infrastructure. Furthermore, because the heights of the prime and first alternate towers would be close to the heights of the existing 100-foot electric transmission line tower structures, these proposed telecommunications towers would be less conspicuous to the community. The second alternate tower would be nearly twice the height of any existing structure and substantially more conspicuous than the other proposals.

The heights of these towers above mean sea level vary between 132 feet at the prime site, 137 feet at the first alternate site, and 238 feet at the second alternate site. The substantial difference in tower heights is required because of location, local topography, and site elevations relative to the areas needing cellular coverage. We have carefully reviewed the record and the reasons that have led to the agreement between the Town and Springwich for the development of the second alternate tower on town-owned property. We are perplexed by the Town's assessment that a 190-foot tower on a relatively high elevation at the second alternate site would not be more visually obtrusive to adjacent property owners and the Town in general than the proposed prime 110-foot tower or first alternate 130-foot tower. We find to the contrary in that visual effects from the 190-foot tower on the second alternate site are significant and substantially greater than the 110-foot or 130-foot towers on the prime or first alternate sites, respectively. Moreover, we give these effects great weight because visual impacts from the development of this facility would constitute the greatest effect on the environment. While we disagree with the Town's choice, we are in agreement with their concerns to minimize visibility and other environmental effects associated with the development of a tower. In this case we are bound by State law to base our decision on the overall service needs of and environmental effects on all citizens of the State.

Facility construction would not be substantially different between the proposed prime and first alternate sites. Although a wetland does exist near the first alternate site, municipal wetland buffers could be complied with and proper erosion and sediment controls could further protect downhill wetlands. At the proposed second alternate site, a closed and capped landfill would need to be opened to install a tower foundation which would require Department of Environmental Protection review and approval. Furthermore, the erection and maintenance of the second alternate tower would take place close to high voltage transmission lines posing safety concerns for workers on the tower.

Although we prefer tower fall zones to be entirely within the property of the lessor, the high density development of this area nearly precludes this preference. In this case, the fall zone of the proposed prime tower would intersect the CL&P transmission line. The proposed first alternate tower would intersect the travel lanes of Interstate 95. The fall zone of the proposed second alternate tower would intersect a significant portion of Interstate 95, the CL&P transmission line, and the railroad right-of-way. While these fall zones are of concern to us, structural designs of towers have proven reliable and the falling of a tower is unlikely.

Electromagnetic radio frequency power density levels are a concern of the Council; however, the radio power densities at the base of all of the proposed towers would be well below the 1992 American National Standards Institute standard, adopted as the State standard, for the frequencies used by cellular companies.

We conclude that the proposed first alternate site would be the most appropriate site for a cellular facility because of reduced visibility, better cellular coverage to Interstate 95 and U.S. Route 1, and compatibility with adjacent land uses. We also believe that the alternate access road to this site from Post Office Lane shall be used because it would be shorter, be more practical, and involve less effects on the environment than the proposed access road from Maple Lane.

Based on the record in this proceeding, we find that the effects associated with the construction, operation, and maintenance of the cellular facility at the proposed first alternate site, 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 policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, we will issue a Certificate for the construction, maintenance, and operation of a cellular telecommunications facility at the proposed first alternate site located approximately 850 feet west of Maple Lane, Westport. We find the effects on scenic resources and adjacent land uses of the second alternate site to be significant, and the prime site does not provide full coverage to Interstate 95, and therefore deny certification of these sites.

Our decision will be conditioned upon the Certificate Holder submitting a Development and Management (D&M) Plan for approval by the Council prior to commencement of any construction at the facility site. This D&M Plan shall include detailed plans for the tower location and tower foundation; the placement of all antennas to be attached to this tower; plans for the

equipment building and security fence; plans for the access road and utility line installation from Post Office Lane; plans for site clearing and tree trimming; plans for water drainage and erosion and sedimentation controls consistent with the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended; and demarcation of wetlands with conditions that the building and tower shall be 65 feet or more from the wetland, and all grading and other disturbances shall be 25 feet or more from the wetland. No setback restrictions shall apply to the existing access road. Upon completion of construction, the Certificate Holder shall provide to the Council the final cost to construct the facility.