

DOCKET NO. 209 - Wireless Solutions, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a wireless telecommunication facility at one of two locations at 72 Boggy Hole Road, or at 62-1 Boggy Hole Road, Old Lyme, Connecticut.

Connecticut
Siting
Council
June 25, 2002

Revised Opinion

On August 14, 2001, Wireless Solutions, LLC applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, operation, and maintenance of a wireless telecommunications facility in Old Lyme, Connecticut, to provide wireless telecommunications services within the Town of Old Lyme and New London County, Connecticut. Wireless Solutions, LLC, SNET Mobility, LLC (SNET), AT&T Wireless, Inc. (AT&T), the Town of Old Lyme Zoning Commission, Nextel Communications of the Mid-Atlantic (Nextel), VoiceStream Wireless Corporation (VoiceStream), and Cellco Partnership d/b/a Verizon Wireless (Verizon) are parties and intervenors in this proceeding.

On September 12, 2001, the Council issued a Certificate to Crown Atlantic Company LLC and Cellco Partnership d/b/a Verizon Wireless for the construction, maintenance, and operation of a cellular telecommunications facility located at 125 Mile Creek Road in Old Lyme. The Council identified a coverage gap located along I-95 west of the facility at 125 Mile Creek Road that could prevent the successful hand-off of a call between existing sites in Old Saybrook and Old Lyme, even if a telecommunications facility was developed at 125 Mile Creek Road. Consequently, the proposed facility in this proceeding would provide coverage to those portions of I-95 that would not otherwise be served by existing and approved facilities in the area.

On December 11, 2001, the Council issued a Certificate to Wireless Solutions, LLC for the construction, maintenance, and operation of a wireless telecommunication facility at the proposed alternate site at 72 Boggy Hole Road, Old Lyme, Connecticut, with conditions, and denied the proposed prime site. The Council's approval required, in part, that the proposed tower be constructed as a monopole no taller than 175 feet above ground level (AGL), including appurtenances; that a single equipment building be constructed to accommodate the telecommunications equipment for at least six telecommunications providers with suitable architectural treatment; and that Wireless Solutions submit a Development and Management (D&M) for the development of the proposed alternate site relocated to the southeast. The Council ordered the relocation of the telecommunications compound to the southeast to maintain the tower radius of a 175-foot tower on the property at 72 Boggy Hole Road

On March 7, 2002, the Council moved to reopen and reconsider the decision in this docket based on a showing of changed conditions resulting from incorrect information in the record, which was disclosed in the D&M Plan. The erroneous information in the record included a map that depicted the lessor's house approximately 150 feet northeast of its true location; and ground elevations that differed as much as twelve feet from existing conditions. Subsequently, Wireless Solutions filed an Application Upon Reopening with the Council requesting that the Council approve the proposed relocation of the approved telecommunications facility from the alternate site located at 72 Boggy Hole Road to an Alternate #1 site located at 62-1 Boggy Hole Road. The Application Upon Reopening was sent to municipal, regional, State, and federal officials; and notice of the Application Upon Reopening was published in the Middletown Press and sent to each owner of property, which about the proposed Alternate #1 site at 62-1 Boggy Hole Road, pursuant to C.G.S. § 16-501(b).

The proposed prime and alternate sites would be located approximately 500 feet apart on an approximately 30-acre parcel at 72 Boggy Hole Road, Old Lyme. The parcel is owned by Michael Sanders, and contains a single home and an approximately 1,700 foot long gravel driveway. In order to allow for the proposed relocation of the telecommunications facility compound to 62-1 Boggy Hole Road, Michael Sanders purchased the approximately ten-acre parcel immediately to the north. The proposed Alternate #1 site would be located approximately 70 feet north of the northern property line for 72 Boggy Hole Road; approximately 220 feet north of the proposed alternate site, and approximately 690 feet north of the proposed prime site.

The proposed prime site would be located north of and adjacent to the property line for I-95, and approximately 150 feet north of the southbound travel lanes. Although all of the proposed sites are remote from residents in the area, the proposed prime site would be more visible than the proposed alternate or Alternate #1 site because of its proximity to I-95. Furthermore, development of the interstate highway system from four lanes to six lanes may require an expansion onto the lessor's property. While the Council believes that development of a telecommunications facility at the alternate site would have minimal adverse effects on the environment, relocation of the telecommunications facility compound to 62-1 Boggy Hole Road would maintain the tower radius on property owned by the lessor; would maintain a ground elevation that is consistent with the telecommunications carriers' propagation modeling; and would increase the distance between the proposed telecommunications facility and the lessor's residence. Therefore, the Council will direct Wireless Solutions to construct a telecommunications facility at the proposed Alternate #1 site.

The primary purpose of the proposed telecommunications facility is to provide wireless telecommunications coverage to existing gaps in coverage along Interstate 95 (I-95), Route 1, and local roads in the Old Lyme area; and to provide call handling capacity in the Old Lyme area. After a detailed analysis of propagation, capacity, signal strength, and facility sharing, the Council found a technical need for a new tower in this area of Old Lyme. The Council also found that all of the telecommunications providers in this proceeding would be able to achieve their coverage objectives at or below a height of 175 feet AGL. Consequently, the Council approved the construction, maintenance, and operation of a 175-foot telecommunications tower at the alternate site. Relocating the proposed telecommunications facility compound to the Alternate #1 site would have no adverse effect on propagation because of its proximity, and similarity of terrain, to the approved alternate site.

No wetlands or watercourses exist within the proposed compound or proposed access road at the proposed sites; nor would the proposed construction of a telecommunications facility at the proposed sites have an effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. Neither the proposed prime nor alternate site contain known extant populations of Federal or State Endangered, Threatened or Special Concern Species. Although Wireless Solutions did not provide correspondence from the Connecticut Department of Environmental Protection (DEP) regarding the presence of State Endangered, Threatened or Special Concern Species, the Council is confident that none exist in the vicinity of the proposed Alternate #1 site. Nonetheless, the Council will order Wireless Solutions to provide the Council with correspondence from the Connecticut DEP confirming the absence of State Endangered, Threatened or Special Concern Species.

The Council found in its Findings of Fact dated December 11, 2001, that notification to the Federal Aviation Administration (FAA) was not required because the airspace in the vicinity of nearby airports would not be violated, nor would the proposed tower exceed a height of 200 feet above ground level. Although the proposed Alternate #1 site would be close to the approved alternate site, and both sites are at approximately the same elevation, Wireless Solutions filed a Notice of Proposed Construction or Alteration with the FAA for the construction of a 198-foot structure. The Council will order Wireless Solutions to provide the Council with correspondence from the FAA confirming that the proposed structure would not be a hazard to air navigation.

Electromagnetic radio frequency power density levels are a concern of the Council. However, the radio frequency power densities at the base of the proposed tower would be well below federal and State standards for the frequencies used by the wireless companies. If federal or State standards change, the Council will require that this tower be brought into compliance with such standards.

The Town of Old Lyme prefers that a monopole be constructed instead of the proposed lattice tower. The Town of Old Lyme had also requested that unused or obsolete equipment be removed from telecommunications towers, and indicated a preference for a single equipment building, with suitable architectural treatment and landscaping, in a telecommunications facility proceeding earlier in 2001. The Council ordered that the proposed telecommunications tower be constructed as a monopole, and that a single equipment building be built for six wireless carriers. However, Wireless Solutions requested that the Council review and modify its Decision and Order in this proceeding to allow for the construction of a single equipment building for the carriers who have executed a lease at the time of construction, and allow future carriers to add onto the equipment building in increments with a similar exterior design and finish. The Council believes that Wireless Solution's proposal for the construction of the equipment building satisfies the Town of Old Lyme's request for a single equipment building. Consequently, the Council will modify its Decision and Order to allow for the construction of a single equipment building in stages versus all at once.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, and maintenance of the telecommunications facility at the proposed Alternate #1 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 certification of the proposed telecommunications facility at the proposed Alternate #1 site. Therefore, the Council will revoke the Certificate for the construction, operation, and maintenance of a telecommunications facility at the proposed alternate site located at 72 Boggy Hole Road, and issue a Certificate for the proposed Alternate #1 site located at 62-1 Boggy Hole Road, Old Lyme, Connecticut. The Council will revoke the Certificate issued to Wireless Solutions on December 11, 2001, and deny certification of the proposed prime and alternate sites at 72 Boggy Hole Road.

Our decision will be conditioned upon the Certificate Holder submitting a Development and Management Plan for approval by the Council prior to commencement of any construction at the facility site.