

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

IN RE: NEW CINGULAR WIRELESS PCS, LLC (AT&T)

**PETITION NO. 1386**

PETITION FOR A DECLARATORY RULING, PURSUANT TO  
CONNECTICUT GENERAL STATUTES §4-176 AND §16-50K,  
FOR THE PROPOSED INSTALLATION OF A WIRELESS  
TELECOMMUNICATIONS FACILITY AT AN EXISTING  
EVERSOURCE-OWNED ELECTRIC TRANSMISSION LINE  
STRUCTURE (#917) WITHIN AN EXISTING EVERSOURCE  
ELECTRIC TRANSMISSION LINE RIGHT-OF-WAY LOCATED  
AT 5 TALL PINES DRIVE, WESTON, CONNECTICUT.

November 20, 2019

**PETITIONER'S RESPONSE TO COMMENTS**

New Cingular Wireless PCS, LLC (“AT&T”), the Petitioner, hereby submits this response to comments received from the Town of Weston regarding its Petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need (“Certificate”) is required pursuant to Section 16-50k of the Connecticut General Statutes (“C.G.S.”)<sup>1</sup> to modify an existing public utility tower (the “Proposed Facility”) owned by Eversource located at 5 Tall Pines Drive in Weston, Connecticut (the “Site”).

I. Alternate Location Analysis

AT&T’s proposal to install its Proposed Facility on an existing Eversource transmission structure, as opposed to constructing a new tower at a separate location, such as the Weston Fire Station #2 located at 234 Lyons Plain Road in Weston (the “Fire Station”), is wholly consistent with legislative findings outlined in Connecticut General Statutes (“C.G.S.”) Sections 16-50g and 16-50aa that seek to avoid the unnecessary proliferation of towers in the State. We also note that pursuant to the Regulations of Connecticut State Agencies Section 16-50j-39 and Connecticut Siting Council (“Council”) procedures, there is no requirement that AT&T conduct an analysis of alternative site locations when submitting a petition to locate on an existing utility structure.

Nevertheless, prior to entering a lease to locate the Proposed Facility at the Site, AT&T’s radio frequency (“RF”) engineers did in fact evaluate the Fire Station to determine its feasibility for constructing a new monopole tower. AT&T’s RF engineers determined that the Fire Station is located too far north and at a significantly lower (~100 feet) elevation than the Site and therefore a monopole at the Fire Station is inadequate to fulfill AT&T’s coverage gap to provide reliable wireless services to this area of Weston. Further, the

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<sup>1</sup> Pursuant to C.G.S. § 16-50k(a), if a proposed facility may have a “substantial adverse environmental impact”, a Certificate of Environmental Compatibility and Public Need is required. Based on the information enclosed herein, we respectfully submit that the proposed facility will not have a substantial adverse environmental impact.

steep slopes and an adjacent stream on the Fire Station property contribute to limitations and do not provide ample space to construct a new monopole.

## II. Municipal Permit Requirements

Additionally, pursuant to C.G.S. Section 16-50x, the Council has exclusive jurisdiction over emergency and telecommunications matters in the State. Based on judicial decisions of the United States Second Circuit Court of Appeals and the Supreme Court of the State of Connecticut, no local zoning, wetlands or other land use permits are required for such telecommunication tower facilities. See Sprint Spectrum LP v. Connecticut Siting Council, 274 F.3d 674, 677 (Dec. 17, 2001); Town of Westport v. Connecticut Siting Council, 47 Conn. Supp. 382 (Super. Ct. 2001), aff'd, 260 Conn. 266, 274 (2002). Therefore, AT&T's Proposed Facility will not require any approvals or permits from the Town, such as a Soil Disturbance Permit.

## III. Conclusion

Based on the foregoing, AT&T respectfully requests that the Council issue a determination that the Proposed Facility does not require a Certificate of Environmental Compatibility and Public Need and that the Council issue an order approving same.

Respectfully Submitted,



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On behalf of the Petitioner, AT&T  
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## CERTIFICATION OF SERVICE

I hereby certify that on the 20<sup>th</sup> day of November 2019, a copy of the enclosed Response to Comments regarding Petition No. 1386, filed with the Connecticut Siting Council for a declaratory ruling, was sent by certified mail, return receipt requested, to the attached list of abutting property owners, the Town of Weston and individuals commenting on the filed Petition:

Dated: 11/20/19

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