

PETITION NO. 1101 - New Cingular Wireless PCS, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required to install a stealth rooftop telecommunications tower on the roof of the existing building located at 79 Park Avenue, Danbury, Connecticut.	} } }	Connecticut Siting Council
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October 2, 2014

Opinion

On May 1, 2014, New Cingular Wireless PCS, LLC (AT&T) submitted a Petition for declaratory ruling that no amended Certificate of Environmental Compatibility and Public Need is required pursuant to Sections 16-50j-38 and 16-50j-39 of the Regulations of Connecticut State Agencies (RCSA) to install a stealth tower on the rooftop of an existing apartment building located at 79 Park Avenue in Danbury, Connecticut. The property at 79 Park Avenue is approximately 1.4 acres, on which there is a four-story residential apartment building and associated parking areas.

The area surrounding the 79 Park Avenue property is characterized by multi-family and high density single-family residential development, with several commercial areas within two miles of the property. The purpose of the proposed facility would be to provide reliable wireless services along portions of Park Avenue, Lake Avenue, secondary and tertiary streets within the vicinity and the railroad in this area of Danbury. Moreover, residents in this area would be provided broadband accessibility and the site would offload congestion in AT&T's network.

The Council is satisfied the Petitioner sufficiently searched for alternative properties that could host a facility. The area to be covered is mostly densely-populated and residential. Other nearby locations investigated included a 55-foot smokestack, a 100-foot high apartment building, and a water tank. Because of AT&T's specific coverage objective, these sites were unsuitable as they were either too far from the target area to provide the desired coverage or too close to other existing antenna locations, which could cause interference problems. Additionally, wireless providers can only lease from willing landowners.

AT&T would add an extension measuring approximately 10 feet by 13 feet by 14 feet high to the top of an existing stairwell enclosure toward the front of the apartment building. The top of the enclosure extension would be 52.7 feet above grade level (agl). AT&T would mount 12 panel antennas inside the enclosure extension at a centerline height of approximately 47.5 feet agl. The ground equipment for AT&T's facility would be located in a room in the basement of the apartment building. The proposed stealth housing could further be camouflaged with architectural detailing and fenestration to make it more visually integrated with the overall structure.

The Council recognizes that emergency backup power is an important public safety component of a wireless network. At this site AT&T would install a diesel generator on a four-foot by 10-foot concrete pad near the apartment building's refuse container. The pad would be enclosed by an eight-foot tall wood stockade fence. In response to concerns expressed about vehicles colliding with the generator, AT&T stated that it would be willing to install bollards on the outside of the fence to provide additional protection for the generator and its fuel tank. The fuel storage associated with the generator may pose a risk of spills or leaks; however, it is double-walled with alarm sensors and includes overflow protection. The Council agrees that these features are adequately protective of the environment.

This petition is governed by the Telecommunications Act of 1996 (Act), which is administered by the Federal Communications Commission (FCC). The Act prohibits the Council from considering the health effects of radio frequency (RF) emissions on human health and wildlife beyond the extent of determining that such RF emissions meet safety standards established by the FCC. Thus, the Council notes, the State statute concerning proposed cell towers within 250 feet from schools is based on possible adverse visual effects to the neighborhoods in which schools are located rather than on possible health effects from RF emissions. The visual effects of the facility in this proceeding will be addressed in a subsequent paragraph of this Opinion. Returning to human health concerns, however—the Act is clear and case law has confirmed that the Council’s only responsibility under federal law can be to determine whether the RF emissions from a proposed telecommunications facility do or do not meet safety standards set by the FCC.

The Council exercises great care in fulfilling this responsibility. We have fully determined the extent of RF emissions compliance for the proposed facility. The simplest method to predict RF emissions from the facility to the apartment building is to calculate those emissions at a point directly below the stairwell extension. However, the Council also considered emissions to the building’s penthouse apartments in particular, since the ridgeline of their roofs is only approximately three feet lower than the proposed centerline for AT&T’s antennas. Finally, the Council considered emissions at various points around the nearby school. We requested AT&T to provide calculations of predicted RF emissions from all these locations. The calculations, based on methodologies prescribed by the FCC, indicated that the predicted RF emissions would be 35.34 percent of the FCC standard: thus the proposed facility is in full compliance. However, in order to ensure that the predictions are confirmed and compliance assured, the Council will require AT&T to make actual measurements of RF emissions at all the previously-identified locations after the antennas are operational.

The purpose of stealth applications such as the one proposed by AT&T is to minimize the visual intrusion of a telecommunications facility onto its surrounding environs. Although critics of AT&T’s proposal contend that the extension of the stairwell tower will not be unobtrusive but will instead call unwanted attention to itself, the Council believes that the proposed extension is a good faith attempt to fit cellphone antennas into a densely developed urban environment. Furthermore, the Council notes that the visual impact of the tower extension should be softened—at least during leaf-on times of the year—by the deciduous trees in front of the 79 Park Avenue apartment building.

After reviewing the record in this proceeding, the Council finds that the proposed facility will provide needed coverage and additional capacity for AT&T’s wireless network in this part of Danbury. The Council will move to ensure that the radio frequency emissions do not exceed the FCC limits by requiring AT&T to conduct a Radio Frequency Exposure Report once this facility is operational. Finally, the Council considers the use of an existing building for the installation of the telecommunications facility to be consistent with the State’s tower sharing policy to avoid the unnecessary proliferation of towers and to have less environmental impact than the construction of a new tower facility.

For these reasons, the Council finds that there would be no significant adverse environmental effects associated with the construction of a rooftop telecommunications facility at 79 Park Avenue in Danbury, Connecticut. Therefore, the Council will grant the Petition for declaratory ruling that a Certificate of Environmental Compatibility and Public Need is not required for this project. Since the stealth housing and the emergency backup power will require additional mitigation, the Council shall order a Development and Management Plan be submitted for review and approval prior to construction.