

DOCKET NO. 13

APPLICATION BY NORTHEAST UTILITIES SERVICE
COMPANY FOR THE CONNECTICUT LIGHT AND POWER
COMPANY FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED RESPECTING A
PROPOSED TELECOMMUNICATION TOWER TO BE
CONSTRUCTED IN BETHEL, CONNECTICUT

: POWER FACILITY
:
: EVALUATION COUNCIL
:
: May 4, 1978

D I S S E N T I N G O P I N I O N

This Council is charged by law "to provide for the balancing of the need for adequate and reliable public utility service at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state ... and to ... encourage research to develop new and improved methods ... of transmitting and receiving ... telecommunications with minimal damage to the environment ... "C.G.S. 16-50g as amended by Public Act 77-218,

Section 1.

The Applicant in the instant case has proposed the erection of a microwave tower in Bethel. The tower would help obviate existing communication problems between two of the Applicant's facilities located in Southern Connecticut (Norwalk Harbor & Devon). It would also be one of more than 75 relay stations inter-connecting the operations of eight utility companies servicing all of New England. Although the Applicant has proffered voluminous evidence from expert technical witnesses concerning the efficiency, reliability and cost effectiveness of the proposed microwave telecommunications system as opposed to the less efficient, less reliable and less cost effective wire based telephone system presently in use, the majority has chosen to characterize that evidence as "guesstimates closed" which "are bereft of hard data backed up by reliable records to corroborate those propositions".

We acknowledge that the Applicant could have presented a more cogent and better documented case than that which was presented. However, the law does not require that the optimum case be presented. Neither does the law require an Applicant to prove public need beyond a reasonable doubt. The Applicant is only required to demonstrate by a fair preponderance of the evidence that the proposed facility meets a public need.

State-wide, nation-wide and world-wide, the telecommunications industry is undergoing evolutionary and indeed revolutionary changes. Systems are being modernized. Microwave telecommunications has, is, and will continue to supplant and replace wire based communications as part of that modernization. It is patently and obviously a more reliable system, patently and obviously a more efficient system and in many instances totally cost justified even though it supplants or makes redundant an existing wire system. Isn't the public need satisfied if an existing good and reasonably reliable system is replaced by a better and highly reliable system so long as there is not an offsetting economic or environmental cost associated with the change? Isn't this concept called progress?

In evaluating and weighing the quantity and quality of evidence which is before us the Council may utilize its "... experience, technical competence, and specialized knowledge . . . "C.G.S. Section 4-178(4). In presenting the instant application we believe the Applicant assumed that the Power Facility Evaluation Council, which is charged by statute to provide a specialized administrative review of utility actions which may have environmental ramifications, with possessing a certain base level of technical competence and scientific and engineering sophistication in analyzing the instant application. The proof proffered by the Applicant in this case seems to have assumed, and we believe legitimately so, that the Council possessed the aforementioned level of competence.

To require the production of hard data backed up by reliable records to demonstrate this proposition is to require proof of the obvious. Indeed, we believe some of the "hard" evidence which the majority of the Council would require is information which the Applicant would not ordinarily maintain and/or retain in the regular course of its business.

The public need which the Applicant is required to prove really envisions two separate sequential considerations: first, whether that which is being proposed will provide a more adequate and reliable quantum of public utility service than that which is presently being utilized. Assuming the first criterion is satisfied, the second consideration is what is the environmental cost associated with the more adequate and more reliable service being provided. If the latter outweighs the former, the application must be denied. In this case, we do not believe the environmental cost outweighs the service benefit. The erection

and maintenance of the tower itself will cause minuscule physical damage. The natural beauty of the area surrounding the tower would hardly be enhanced by its erection---the tower will be visible from many vantage points in the area. However, the topographical undulations of the surrounding area minimizes the visual damage. Indeed, in order to see the tower from some particular vantage points in the area one must look beyond existing power poles and wires which line the streets in question. (Perhaps we have grown so accustomed to these earlier "improvements" that we no longer see them.) Evidence concerning dangers posed to the public health by microwave transmissions either singularly or in aggregate was much too inexact and disputed to justify a conclusion that a danger to the public health would be posed by this project.

It appears to ~~we~~^{us} Council members that: there is a fair preponderance of evidence in this record to demonstrate that the public need will be met by the erection of this microwave tower in the Town of Bethel; that facility will provide a more efficient, reliable and cost effective communications link between its facilities located in Norwalk and New Milford; that this facility will provide a vital link of an integrated, interconnected microwave communications system servicing customers throughout the New England states; and that the \$145,000 expenditure regarding this facility is more than justified when a common sense cost benefit analysis is made of the evidence in this record.

Although the majority of the Council, having failed to find proven public need, never reached the question of counterwailing considerations we would find them insufficient on balance to counter-weight need.

We would grant the application.