

JOINT APPLICATION OF UNITED CABLE TELEVISION SERVICES CORPORATION AND UNITED CABLE TELEVISION CORPORATION OF CONNECTICUT FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED TO ESTABLISH A COMMUNITY ANTENNA TELEVISION HEAD-END FACILITY IN THE TOWN OF FARMINGTON, CONNECTICUT. : CONNECTICUT SITING COUNCIL  
: February 19, 1986

O P I N I O N

United Cable Television Services Corporation and United Cable Television Corporation (applicant or companies) filed a joint application with the Connecticut Siting Council (Council) for a certificate of environmental compatibility and public need to establish a CATV head-end facility in the Town of Farmington, Connecticut. The Council visited the tower and surrounding area on November 18, 1985, and December 12, 1985. Public hearings were held in the Town of Farmington on December 4, 12, and 30, 1985.

The Town of Farmington (Town) and Farmington Plan and Zoning Commission (PZC) moved to dismiss the Siting Council proceeding on the grounds that the Council lacks jurisdiction over the applicant's proposed installation, and that the notice provided by the applicant was inadequate. The Council denied the requested motions to dismiss.

The legislative findings and purposes as expressed in sections 16-50g and 16-50x of the Connecticut General Statutes (CGS) clearly indicate that the General Assembly recognized the desirability that an agency with statewide jurisdiction and with expertise in the field have exclusive power and responsibility over public service company facilities which provide CATV service.

The legislature has provided the Siting Council with exclusive jurisdiction over certain types of "facilities" as defined in CGS section 16-50i(a). The applicant proposes to establish a head-end facility in the Town of Farmington. Some of the proposed equipment is to be located on an existing broadcast tower owned by Chase Family Limited Partnership No. 7 and operated by Arch Communications, which are not public service companies under CGS section 16-50i and CGS section 16-331, as amended by Public Act 85-509. All the equipment proposed by the applicant for the head-end facility is to be owned and/or operated by the companies, which are public service companies. The applicant has a licensing agreement to place equipment on the tower.

Pursuant to CGS section 16-501(b) and section 16-501-1 of the Regulations of Connecticut State Agencies (RSA), applicants who file with the Council for a certificate of environmental compatibility and public need under CSG section 16-50k are required to give notice of said application to the general public and the affected municipalities. Notice must be published in a newspaper of general circulation in the municipality of the proposed facility and must contain the applicant's name, the application filing date, a "summary of the application and the reasons therefor", RSA section 16-501-1(e).

The applicant's notice met the statutory and regulatory requirements for adequate and reasonable notice. The public and interested persons were accorded sufficient due process to appear at the hearings and present their arguments and evidence in the proceedings. The notice published by the applicants meets the statutory standards of section 16-501(b), in that the notice served to "substantially inform the public

of such application and to afford interested persons sufficient time to prepare for and to be heard at the hearing".

The Town and PZC became parties to the proceeding. The Town and PZC presented testimony and exhibits regarding their contention that the proposal posed substantial adverse environmental and ecological effects and that alternatives were not sufficiently considered. Landowners abutting the proposed site (abutters), who have contested the PZC's approval of the Channel 61 tower in a separate civil action, were made parties to the proceeding and presented testimony and exhibits regarding their contention that the proposal would have an adverse environmental impact. Ms. Rachael DeRham was made a party to the proceeding and offered testimony.

In 1984, the Council rejected an application by Hartford CATV, Inc., predecessor to United Cable Services, for a consolidated head-end at its Shield Street, West Hartford, location. The Council cited inadequate consideration of possible alternatives in its rejection. The proposal in this proceeding would accomplish a greater consolidation of two CATV systems.

The applicant considered at least one alternative site, near the proposed site, which would require a new 500' tower to accomplish the planned consolidation. Several other alternatives were investigated by the Council and parties to this proceeding, including options that would retain and improve parts of the existing system with retrunking and new microwave paths.

While it is possible that one or more alternative system designs or tower sites could provide sufficient service, it is also apparent that greater costs and more adverse environmental effects would be incurred

because more towers would be required and fewer would be dismantled. Although this in and of itself should not preclude consideration of such alternatives, the threshold consideration by the Council is whether the environmental effects of the proposal outweigh the demonstrated public need for the facility. No party contested the need to consolidate the system head-end and to improve service. Although some parties claimed that the proposal would cause significant environmental damage, the record does not support a conclusion that environmental effects would be so severe as to warrant denial of the application. One salient and simple fact should be emphasized. The proposal will use an existing 1292' tower, the erection of which was approved by the PZC.

The issue before the Council is the incremental effects of the proposed facility. The primary environmental concern regarding towers is typically visibility, and, as noticed by the DEP in its comments, the existing tower is visible over a large area of the state. The addition of dishes and other antennas as proposed is not likely to increase materially that intrusion.

Analysis of the location of and necessary clearing for the proposed earth stations indicates that the only component that might be visible from residences or roads would be the interference screen, if it proves to be necessary. Other structures will be located below line of sight from off-site locations, and the area will remain screened by existing vegetation. In order to assure minimal visual impact from the facility, the Council will require landscaping to screen the fence.

In addition to the potential visual impact of the proposal, some parties expressed concern that the addition of antennas to the existing tower will increase the noise that occasionally emanates from the structure.

The assertions to this effect, however, are based on speculation because the record includes no technical evidence or analysis supporting the contention. On the other hand, the record contains ample testimony concerning the volume of noise from the existing structure. It would be difficult for the Council to conclude that rounded dishes, ice shields, and other antennas could add appreciably to the noise emitted by the tower. Nonetheless, the Council will specify in its order that the certificate holder cooperate with the tower owner and undertake all actions necessary with equipment owned and operated by the certificate holder to comply with governmental noise standards or with any rulings or agreements regarding mitigation of noise from the structure.

The applicant presented measurements of existing radio frequency electromagnetic radiation (RFER) levels at the site and in nearby residential neighborhoods. To these measurements were added calculations of incremental RFER power density from the proposed facilities that assumed conservatively that all antennas would point in one direction, which is not the case. The resulting total, .077 milliwatts per square centimeter ( $\text{mW}/\text{cm}^2$ ), is less than two percent of the ANSI and state safety standards. The calculation at the nearest residence is .0400035  $\text{mW}/\text{cm}^2$ . However, the Council will require that such levels be confirmed by actual measurement at the site and at the nearest residential area once all facilities are in operation. It should be noted that any transmission operation by the earth stations would be subject to the state RFER safety standard.

Approval of the proposed head-end does not invest the Channel 61 tower itself with any status as a facility as defined in CGS section 16-50i. The Council notes that a lawsuit is pending challenging the

PZC approval of the Channel 61 tower. Therefore, if any legal action requires the removal of the tower, the CATV equipment on the tower must also be removed.

The proposed consolidation will effect some local environmental improvement by allowing removal of many of the existing reception and transmission facilities operated by the companies, namely three earth stations and a head-end at Bristol, a main head-end at Plainville, an earth station in West Hartford, an earth station and head-end in East Hartford, and a microwave relay structure in Hartford. Most, if not all, of the alternatives proposed by parties would not result in the degree of improvement sought by the applicant.

The state legislature has determined that there is a need for CATV service. The companies are franchised by the Department of Public Utility Control to provide cable television service to the New Britain and Hartford franchise areas. The proposal will improve service and system reliability.

The Council concludes that all of the potential adverse effects of the proposed facility are minimal and can be reduced further by actions that the Council will order. The need for the companies to consolidate facilities and improve service is evident, and there is no compelling reason for the Council to conclude that the potential environmental effects outweigh that need. Therefore, the Council will order that a certificate of environmental compatibility and public need be issued for the construction, maintenance, and operation of the proposed facility.