

Before The Connecticut Siting Council  
Docket No. 360

In Re Application of Cellco Partnership, Etc. for a Certificate of Environmental  
Compatibility and Public Need

**Motion to Preclude**

Intervenor Dina Jaeger by her undersigned attorney respectfully moves the Connecticut Siting Council to preclude Applicant Cellco-Verizon's hearing exhibits and witnesses for failure to comply with the express requirements of the Siting Council's notice of Public Hearing dated May 30, 2008 and for violation of state and federal constitutional provisions of equal protection and due process for the following reasons:

1. In early June, Mrs. Jaeger received from the Connecticut Siting Council (CSC) a copy of the Council's notice of public hearing (Exhibit A) inviting her to attend a pre-hearing conference on procedural matters on Thursday, June 5, 2008 at 1:00 p.m. in New Britain. The notice of public hearing also gave the following instruction:

"The Council directs that all testimony and exhibits be pre-filed with the Council and all parties and intervenors by June 24, 2008." (Emphasis added.)

2. On Thursday, June 5, 2008, Mrs. Jaeger attended the pre-hearing conference at the CSC offices in New Britain at which time she submitted to the CSC her Intervenor Form and her pre-filed hearing exhibits in compliance with the express requirement of the Hearing Notice. She obtained proof of this early pre-filing of her hearing exhibits from the Siting Council. (Exhibit B)

3. At the pre-hearing conference, Mrs. Jaeger attempted to hand-deliver her pre-filed hearing exhibits to Applicant Cellco-Verizon and Applicant's legal counsel refused to accept the documents.

4. On the same day, June 5, 2008 Mrs. Jaeger then mailed by certified mail, return receipt requested (Exhibit C) the large document and retained this proof of service in compliance with the Council's direction "that all testimony and exhibits be pre-filed.....with all parties.... by June 24, 2008." (Exhibit A, supra.)

5. At no time before June 24, 2008, in compliance with the directive of the CSC, was Intervenor Jaeger served by Applicant Cellco-Verizon with its application, its pre-filed exhibits or any pre-filed witness testimony. (Mrs. Jaeger acknowledges receipt of some items. None of these was the Application, a pre-filing of hearing exhibits or a pre-filing of Applicant witness testimony.)

6. On June 19, 2008, Mrs. Jaeger was recognized as an Intervenor on Docket 360 by the CSC.

7. On June 20, 2008, by certified mail, return receipt requested, Mrs. Jaeger pre-filed her hearing testimony, as required and as directed by the CSC in its notice of public hearing (Exhibit A).

8. On June 20, 2008, in compliance with the express requirement of the CSC hearing notice, Mrs. Jaeger served, by certified mail, return receipt requested, her pre-filed hearing testimony on Verizon and on Verizon's Counsel (Exhibit D).

9. On June 29, 2008, Mrs. Jaeger's undersigned attorney informed Cellco-Verizon's counsel by email of its failure to properly and timely serve Intervenor Jaeger with pre-filed exhibits or witness testimony in compliance with the CSC May 30, 2008 Hearing Notice directive.

10. On June 30, 2008, Counsel for Cellco-Verizon Kenneth Baldwin asserted that such items had been mailed either to Attorney Seymour, Attorney Rout, or to Intervenor Jaeger directly, but that he had no proof of any such service.

11. At no time has Applicant Cellco-Verizon complied with the CSC express requirement to timely serve on Intervenors, before June 24, 2008, a pre-filing of hearing exhibits.

12. At no time has Applicant Cellco-Verizon complied with the CSC express requirement to timely serve on Intervenors, before June 24, 2008, a pre-filing of witness testimony.

13. Mrs. Jaeger fully complied with the express requirements in preparation and pre-filing and properly serving hearing exhibits and witness testimony on Applicant Cellco-Verizon and its counsel.

14. The enforcement of a double standard requiring intervenors to prepare, serve and pre-file copies of exhibits and hearing testimony to the applicant, and the failure to apply and enforce the same requirement on the industry applicant is a violation of due process and equal protection.

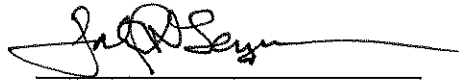
15. Applicant Cellco-Verizon has failed even to prepare or pre-file or timely serve on Intervenor Jaeger before June 24, 2008, witness testimony.

16. Such failure is a blatant violation of express rules for the purpose of allowing an intervenor to properly prepare for a hearing, and thereby prejudices Intervenor.

Therefore, for all the foregoing reasons, Intervenor Jaeger moves the Connecticut Siting Council to enforce its express requirements as detailed in its Hearing Notice published on May 30, 2008 on Docket 360 and with whose requirements Intervenor

Jaeger has painstakingly complied, and sanction applicant Cellco-Verizon for its failure to comply with these express requirements by precluding its exhibits and witnesses at this hearing.

Falls Village, CT, July 1, 2008



Gabriel North Seymour  
Counsel to Intervenor Jaeger  
Juris No. 424367  
200 Route 126  
Falls Village, CT 06031  
Tel: 860-824-1412  
Fax: 860-824-1412  
Email: certiorari@earthlink.net

I certify that a copy of the foregoing motion was delivered by hand by me at the Connecticut Siting Council hearing on July 1, 2008 to the following:

Sandy Carter, Regulatory Manager  
Verizon Wireless

Kenneth C. Baldwin, Esq.  
Counsel to Applicant Verizon Wireless



Gabriel North Seymour



Daniel F. Caruso  
Chairman

## STATE OF CONNECTICUT CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

Internet: [ct.gov/csc](http://ct.gov/csc)

### HEARING NOTICE

Pursuant to provisions of General Statutes § 16-50m and Section 16-50j-21 of the Regulations of Connecticut State Agencies, notice is hereby given that the Connecticut Siting Council (Council) will conduct a public hearing on Tuesday, July 1, 2008, beginning at 3:00 p.m., and continued at 7:00 p.m., at the Lee H. Kellogg School, All Purpose Room, 47 Main Street, Falls Village, Connecticut, and thereafter as necessary. The hearing will be on an application from Cellco Partnership d/b/a Verizon Wireless for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 188 Route 7 South, Falls Village (Canaan), Connecticut.

The purpose of the hearing is to hear evidence on the applicant's contentions that the public need for the facility outweighs any adverse environmental effects that would result from the construction, operation, or maintenance of a tower, ground equipment, and access road. The 3:00 p.m. hearing session will provide the applicant, parties, and intervenors an opportunity to cross-examine positions. The applicant will be allowed a final rebuttal. Briefs will be entertained after the close of the last hearing session. The 7:00 p.m. hearing session will be reserved for the public to make brief statements into the record. Cross-examination of parties and intervenors will resume, if necessary, after all statements have been heard.

The Council will conduct a public field review of the proposed site on Tuesday, July 1, 2008, beginning at 2:00 p.m. The applicant will fly a balloon during the field review to simulate the height of the proposed facility.

Applicable law for this proceeding includes the Public Utility Environmental Standards Act, General Statutes § 16-50g, et seq., and Sections 16-50j-1 through 16-50v-1a of the Regulations of Connecticut State Agencies.

The Council will hold a pre-hearing conference on procedural matters on Thursday, June 5, 2008, beginning at 1:00 p.m. at the Council's office, 10 Franklin Square, New Britain, Connecticut.

The Council directs that all testimony and exhibits be pre-filed with the Council and all parties and intervenors by June 24, 2008. In accordance with the State Solid Waste Management Plan, the Council requests that all filings be submitted on recyclable paper, primarily regular weight white office paper. Please avoid using heavy stock paper, colored paper, and metal or plastic binders and separators. ]



Individuals are encouraged to participate through their elected officials, and other party/intervenor groupings.

Any person seeking to be named or admitted as a party or intervenor to the proceeding may file a written request to be so designated at the office of the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut 06051, on or before June 24, 2008.

Parties and intervenors will be allowed to submit briefs and proposed findings of fact within 30 days after the close of the hearing.

Any person who is not a party or intervenor to this proceeding may file a written statement with the Council at the hearing or any time up to 30 days thereafter. Such statements will become part of the record. No written statement or any other material, evidence, or other information will be accepted from any person not a party or intervenor to the proceeding after 30 days following the close of the hearing, except as otherwise prescribed by law or the Council.

A verbatim transcript of the hearing session(s) will be made and deposited with the Town Clerk's Office of the Canaan Town Hall and in the Salisbury Town Hall for the convenience of the public.

Requests for information in alternative formats or for sign-language interpreter services must be submitted in writing by June 24, 2008.

The applicant of this facility is represented by the following:

**Applicant**

Cellco Partnership d/b/a Verizon Wireless

**Its Representative**

Kenneth C. Baldwin, Esq.  
Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CT 06103-3597

Sandy Carter, Regulatory Manager  
Verizon Wireless  
99 East River Drive  
East Hartford, CT 06108

A copy of the application is available for review at the Council's office during office hours at 10 Franklin Square, New Britain, Connecticut, (860) 827-2935. The Council has assigned this application docket no. 360.

May 30, 2008.

Connecticut Siting Council

EXHIBIT  
B

Dina K. Jaeger  
167 Beebe Hill Road  
Falls Village, CT 06031  
Phone (860) 824-7930  
dinajaeger@comcast.net

June 5, 2008

▷ Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051

RE: Docket #360

For the Connecticut Siting Council, I acknowledge receipt of 20 full sets of Mrs. Dina Jaeger's Exhibits this 5 of June, 2008. Signed: *Jessica Brito*

**Hearing Exhibits Submitted by Intervenor Dina K. Jaeger - CSC Docket #360**

Submitted herewith pursuant to the Council's Hearing Notice of May 30, 2008 are Intervenor Jaeger's submission of Hearing Exhibits.

Respectfully submitted,

Dina K. Jaeger

cc.

▷ Sandy Carter, Regulatory Manager  
Verizon Wireless  
99 East River Drive  
East Hartford, CT 06108

I acknowledge receipt of one full set of Mrs. Dina Jaeger's Exhibits this \_\_\_\_\_ day of June, 2008  
signed:  
\_\_\_\_\_

▷ Kenneth C. Baldwin, Esq.  
Robinson & Cole, LLP  
280 Trumbull Street  
Hartford, CT 06103-3597

I acknowledge receipt of one full set of Mrs. Dina Jaeger's Exhibits this \_\_\_\_\_ day of June, 2008  
signed:  
\_\_\_\_\_

7006 0100 0007 2009 0437

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NEW BRITAIN CT 06051 OFFICIAL U

Postage	\$ 5.80	0131
Certified Fee	\$2.70	06
Return Receipt Fee (Endorsement Required)	\$2.20	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 10.70	06/05/02

Sent To  
 The CONNECTICUT SITING  
 Street, Apt. No., or PO Box No. 10 Franklin Sq  
 City, State, ZIP+4 New Britain, Ct. 06055

PS Form 3800, June 2002 See Reverse

**SENDER: COMPLETE THIS SECTION**

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1. Article Addressed to:  
 The Connecticut Siting Council  
 10 Franklin Square  
 New Britain, Ct. 06057

2. Article Number (Transfer from service label)  
 7006 0100 0007 2009 0437

PS Form 3811, August 2001

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X L Desrosiers  
 B. Received by (Printed Name) L. Desrosiers JUN 10 2008  
 C. Date of Delivery JUN 10 2008  
 D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7006 0100 0007 2009 0437

Domestic Return Receipt

**EXHIBIT C**

7006 0100 0007 2009 0420

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HARTFORD CT 06103 OFFICIAL U

Postage	\$ 5.20	0131
Certified Fee	\$2.70	06
Return Receipt Fee (Endorsement Required)	\$2.20	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 10.10	06/05/02

Sent To  
 Kenneth C. Baldwin, Esq.  
 Street, Apt. No., or PO Box No. Robinson + Cole  
 City, State, ZIP+4 280 Trumbull St.  
 Hartford Ct. 06103

PS Form 3800, June 2002 See Reverse

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1. Article Addressed to:  
 Kenneth C. Baldwin, Esq.  
 Robinson + Cole, LLP  
 280 Trumbull St.  
 Hartford Ct. 06103-3597

2. Article Number (Transfer from service label)  
 7006 0100 0007 2009 0420

PS Form 3811, August 2001

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X T Johnston  
 B. Received by (Printed Name) T. Johnston 6-7-05  
 C. Date of Delivery 6-7-05  
 D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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Domestic Return Receipt

102595-02-M-0835

7006 0100 0007 2009 0418

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Postage	\$ 5.20	01
Certified Fee	\$2.70	06
Return Receipt Fee (Endorsement Required)	\$2.20	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 10.10	06/05/02

Sent To  
 Sandy Carter, Regional  
 Street, Apt. No., or PO Box No. Verizon Wireless  
 City, State, ZIP+4 99 East River Dr.  
 East Hartford, Ct. 06108

PS Form 3800, June 2002 See Reverse

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1. Article Addressed to:  
 Sandy Carter, Reg. Mgr  
 Verizon Wireless  
 99 East River Dr.  
 East Hartford, Ct.  
 06108

2. Article Number (Transfer from service label)  
 PS Form 3811, August 2001

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X Maria Ramos  
 B. Received by (Printed Name) Maria Ramos  
 C. Date of Delivery  
 D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

Domestic Return Receipt

102595-02-M-0835

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Postage	\$ 2.70	0131
Certified Fee	\$ 2.70	04
Return Receipt Fee (Endorsement Required)	\$ 2.20	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 7.60</b>	06/20/2008

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 New Britain CT 06051

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 Connecticut Siting Council  
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 New Britain, Ct. 06051

2. Article Number (Transfer from service label): 7006 0100 0007 2009 0499

PS Form 3811, August 2001 Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X [Signature]

B. Received by (Printed Name) C. Date of Delivery  
 Lois PATERASOZA 06-23-08

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below: JUN 23 2008

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7006 0100 0007 2009 0512

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Certified Fee	\$ 2.70	04
Return Receipt Fee (Endorsement Required)	\$ 2.20	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 5.32</b>	06/20/2008

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 Kenneth Baldwin Esq.  
 Street, Apt. No., or PO Box No. 280 Trumbell Street  
 City, State, ZIP+4  
 Hartford CT 06103

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1. Article Addressed to:  
 Kenneth Baldwin Esq  
 Robinson + Cole, LLP  
 280 Trumbell Street  
 Hartford, CT 06103-3597

2. Article Number (Transfer from service label): 7006 0100 0007 2009 0512

PS Form 3811, August 2001 Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 [Signature]

B. Received by (Printed Name) C. Date of Delivery  
 Kenneth Baldwin Esq 6/23-08

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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Certified Fee	\$ 2.70	04
Return Receipt Fee (Endorsement Required)	\$ 2.20	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 5.32</b>	06/20/2008

Sent To  
 Sandy Carter Verizon Wireless  
 Street, Apt. No., or PO Box No. 99 East River Dr  
 City, State, ZIP+4  
 East Hartford CT 06108

PS Form 3800, June 2002 See Reverse for

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1. Article Addressed to:  
 Sandy Carter  
 Verizon Wireless  
 99 East River Drive  
 East Hartford, Ct. 06108

2. Article Number (Transfer from service label): 7006 0100 0007 2009 0505

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**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X [Signature]

B. Received by (Printed Name) C. Date of Delivery  
 Maria Ramos 6-23

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**EXHIBIT D**