

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF NEW CINGULAR WIRELESS
PCS, LLC FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 224 LOVELY STREET,
AVON, CONNECTICUT

DOCKET 373

AUGUST 19, 2009

POST- HEARING BRIEF OF INTERVENOR POCKET WIRELESS

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies (“RCSA”), intervenor Youghiogheny Communications Northeast, LLC d/b/a Pocket Wireless (“Pocket”) submits this post-hearing brief in support of the above-captioned application.

I. BACKGROUND

New Cingular Wireless, LLC (“AT&T”), in accordance with the provisions of Connecticut General Statutes (“CGS”) §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the RCSA, applied to the Connecticut Siting Council (“Council”) on January 9, 2009 for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction of a telecommunications facility at 225 Lovely Street, Avon, CT (the “Site”).

AT&T proposes to construct a 100 foot monopole with an associated 49 foot by 49 foot equipment compound (the “Facility”). AT&T proposes to install six (6) panel antennas at the 97 foot 8 inch centerline. Pocket evaluated the AT&T proposal and determined that the proposed site would fill an existing coverage gap in Pocket’s network along Lovely Street in Avon and the surrounding area. Consequently, on or about March 24, 2009, Pocket requested intervenor status in support of AT&T’s application. Pocket proposes to install three antennas

at the 88 foot centerline and associated ground equipment within the proposed equipment compound area.

The Council held public hearings on the Application on March 31, 2009 (TR1), April 29, 2009 (TR2) and July 7, 2009 (TR3).

II. A PUBLIC NEED EXISTS FOR THE PROPOSED FACILITY

Pursuant to CGS §16-50p, the Council must find that there is a significant public need for the facility. The Telecommunications Act of 1996 pre-empts state and local determination of need. The evidence in this record clearly demonstrates a significant public need for the proposed Facility and that this need is clearly outweighed by the minimal environmental impact anticipated.

A. POCKET'S NEED

CGS §16-50p(a) mandates that the Council “shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need...” CGS §16-50p(a). There can be no dispute that Pocket has established a significant public need in this area of Avon.


Pocket evaluated the AT&T proposal and determined that the proposed site could fill Pocket's existing coverage gap in this area of Avon at a height of 88 feet. Pocket testified that at heights below 88 feet, its coverage starts to break up to the south of the proposed Facility on Lovely Street. (TR2 at 270-271; TR3 at 16-18, 27-28). Pocket further testified that its existing coverage gap would not be filled by alternative sites suggested by other parties and intervenors to this proceeding including property owned by the Town of Avon at Huckleberry Hill (TR2 at 266-268, Pocket Exhibit 2) and property owned by the Avon Water Company

(TR2 at 293-294). This evidence of Pocket's need in this area of Avon is unrefuted in the record.

III. CONCLUSION

It is clear from the evidence presented in the docket that approval of the Facility at the Site is necessary to provide adequate wireless coverage for both AT&T and Pocket. As such, Pocket respectfully urges the Council to approve AT&T's Application for a Certificate for the proposed Facility.

Respectfully Submitted,

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Certification

This is to certify that a copy of the foregoing has been mailed, this date to all parties and intervenors of record.

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