



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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April 1, 2009

Christopher B. Fisher, Esq.  
Cuddy & Feder, LLP  
445 Hamilton Avenue, 14<sup>th</sup> Floor  
White Plains, NY 10601

RE: **DOCKET NO. 376** - New Cingular Wireless PCS, LLC (AT&T) application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 24 Dinglebrook Lane, Newtown, Connecticut. **Motion for a Protective Order to Not Disclose the Amount of Monthly Rent in Lease Agreement.**

Dear Attorney Fisher:

This letter is specifically addressed to all parties and intervenors in the above-referenced docket. It seeks to obtain comments as to the question of whether a protective order should be granted to prevent disclosure to the Siting Council (Council) and/or the public of the rent amount paid in the lease agreement between New Cingular Wireless PCS, LLC (AT&T) and Barry Lundgren, Karl Lundgren and Linda Lundgren (Lundgrens). AT&T has filed a motion for a protective order that seeks to keep confidential the exact financial terms of the lease agreement between AT&T and the Lundgrens. Before deciding on this motion, the Council would like to receive comments from the parties and intervenors.

Specifically, the Council welcomes comment pertaining to the following issues:

1. Does the plain language of C.G.S. §16-50o(c) require disclosure of the rent amount contained in telecommunication tower lease agreements?
2. Does the rent amount contained in telecommunication tower lease agreements meet the definition of "proprietary information" or a "trade secret"?

Accordingly, the relevant statutory sections and term definitions are as follows:

C.G.S. §16-50o(c) states:

"The applicant shall submit into the record the **full text of the terms of any agreement**, and a **statement of any consideration** therefor, if not contained in such agreement, entered into by the applicant and any party to the certification proceeding, or any third party, in connection with the construction or operation of the facility. This provision shall not require the public disclosure of proprietary information or trade secrets." (emphasis added).

Black's Law Dictionary defines "**proprietary information**" as:

"Information in which the owner has a protectable interest."

The Freedom of Information Act (FOIA) §1-210(b)(5)(A) derives the definition of “**trade secret**” from Black’s Law Dictionary as:

“... information, including formulas, patters, compilations, programs, devices, methods, techniques, processes, drawings, cost data, or customer lists that (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy...”

Comments on the issue should be submitted on or before Friday, April 17, 2009 directly to the Siting Council. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "S. Derek Phelps" with a stylized initial "S" and a small "SAC" written below the name.

S. Derek Phelps  
Executive Director

SDP/MAB/laf

c: Parties and Intervenors

**LIST OF PARTIES AND INTERVENORS**  
**SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
<b>Applicant</b>	<input checked="" type="checkbox"/> U.S. Mail	New Cingular Wireless PCS, LLC (AT&T)	Christopher B. Fisher, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 <sup>th</sup> Floor White Plains, NY 10601 (914) 761-1300 (914) 761-5372 fax <a href="mailto:cfisher@cuddyfeder.com">cfisher@cuddyfeder.com</a>
<b>Intervenor (if granted on 04/07/09</b>	<input checked="" type="checkbox"/> E-mail	Cellco Partnership d/b/a Verizon Wireless	Kenneth C. Baldwin, Esq. Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 (860) 275-8200 (860) 275-8299 fax <a href="mailto:kbaldwin@rc.com">kbaldwin@rc.com</a>