

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY T-MOBILE
NORTHEAST LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR A TELECOMMUNICATIONS FACILITY
AT 232 SHORE ROAD IN THE TOWN
OF OLD LYME, CONNECTICUT

DOCKET NO. 391

Date: July 23, 2010

THE APPLICANT'S PROPOSED FINDINGS OF FACT

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, T-Mobile Northeast LLC ("T-Mobile") submits these proposed findings of fact.

Introduction

1. On October 15, 2010, T-Mobile filed with the Connecticut Siting Council ("Council") an application for Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a 100 foot monopole wireless telecommunications facility ("Facility") at 232 Shore Road, Old Lyme, Connecticut ("Property"), pursuant to General Statutes § 16-50aa and § 16-50j-34 of the Regulations of Connecticut State Agencies ("Application"). (*Hearing Exhibit 1, Application, p. 1; February 4, 2010 3:00p.m. Transcript ["2.4.10 3:00p.m. Tr.,"] p. 4.*)¹

2. The Facility would sit within a 2,400 square foot area leased by T-Mobile, located in the northwestern portion of the Property, which is a 5 acre parcel owned by South Shore Landing Self Storage ("Site"). (*App., pp. 2, 9; App. Ex. B.*)

¹ For the Council's convenience, all subsequent page references to Hearing Exhibit 1, which is T-Mobile's Application, shall be made as "App., p. ___." All subsequent references to exhibits attached to the Application shall be made as "App. Ex. ___."

3. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on February 4, 2010, beginning at 3:00p.m., and continued to 7:00p.m., at the Stonington Community Center, 28 Cutler Street, Stonington, Connecticut. The Council closed the public comment portion of the hearing on February 4, 2010; however, the Council continued the evidentiary portion of the hearing to March 2, 2010, April 20, 2010, and June 23, 2010. The hearing addressed the Application, as well as the applications for Certificate of Environmental Compatibility and Public Need regarding proposed telecommunications facilities in Dockets 392 and 393. (*Hearing Notice; 2.4.10 3:00p.m. Tr., p. 3; Council Memoranda Regarding Continued Hearing, dated February 26, 2010, March 10, 2010 and June 1, 2010.*)

4. The Council and its staff conducted a field review of the Site on February 4, 2010, at 1:00p.m. The Council also inspected the proposed sites of the telecommunications facilities proposed in Dockets 392 and 393. (*Hearing Notice.*)

5. On February 4, 2010, T-Mobile conducted a balloon float, with a balloon 4 feet in diameter, at a height of 110 feet, at the Site from 7:00a.m. to 10:00a.m. T-Mobile subsequently tethered a balloon, 4 feet in diameter, to a height of 100 feet from 1:00p.m. to 2:15p.m., at which time an Amtrak representative required T-Mobile to terminate the balloon float. T-Mobile also conducted balloon floats at the proposed sites of the telecommunications facilities in Dockets 392 and 393. Those balloon floats were also terminated by Amtrak representatives. (*Pre-Hearing Conference Notice; Supplemental Pre-Filed Testimony of Michael P. Libertine ["Suppl. Libertine,"] p. 4; Balloon Float Affidavits filed in Dockets 391, 392 and 393, dated February 22, 2010; 2.4.10 3:00p.m. Tr., pp. 24-25.*)

Need

6. In amending the Communications Act of 1934 with the Telecommunications Act of 1996, the United States Congress recognized the important public need for high quality telecommunications services throughout the United States. The purpose of the Telecommunications Act of 1996 was to “provide for a competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans.” H.R. Conf. Rep. No. 104-458, 206, 104th Cong., Sess. 1 (1996). The Telecommunications Act of 1996 expressly preserved State and/or local land use authority over wireless facilities, placed several requirements and legal limitations on the exercise of that authority, and preempted State or local regulatory oversight of radio frequency emissions as set forth in 47 U.S.C. § 332(c)(7). In doing so, Congress sought a balance between the public interest in deployment of wireless services and legitimate areas of State and/or local regulatory control over wireless infrastructure. (*App.*, p. 4; *2.4.10 3:00p.m. Tr.*, pp. 4-6; *February 4, 2010 7:00p.m. Transcript* [“*2.4.10 7:00p.m. Tr.*,”] pp. 5-6.)

7. There is a coverage gap in T-Mobile’s network in the areas surrounding the Site. (*App.*, pp. 4-5; *App. Ex. H, J; Pre-Filed Testimony of Scott Heffernan* [“*Heffernan*,”] pp. 3-4; *2.4.10 3:00p.m. Tr.*, pp. 34-35, 88-89.)

8. T-Mobile experiences an average dropped call percentage of 3.81 percent for the cells surrounding the coverage objective for the Facility. This percentage is above T-Mobile’s target dropped call percentage of 2 percent. (*2.4.10 3:00p.m. Tr.*, pp. 88-89.)

9. The Town of Old Lyme ("Town") recognizes that it needs enhanced wireless coverage for its residents, businesses and emergency services, specifically in the areas that would be addressed by the Facility and the telecommunications facilities proposed in Dockets 392 and 393. (2.4.10 3:00p.m. Tr., pp. 10-11; 2.4.10 7:00p.m. Tr., pp. 12-13; April 20, 2010 Transcript ["4.20.10 Tr.,"] pp. 90, 105.)

10. The coverage gap requires the installation of a telecommunications facility in the Town. (Heffernan, pp. 3-4; 4.20.10 Tr., p. 118.)

11. The Facility would be an integral component of T-Mobile's wireless network in the Town. The Facility would remedy the existing coverage gap in this area of the Town, specifically along Route 156, Mill Creek Road, Hawks Nest Road and Cross Lane, south of Interstate 95, as well as the surrounding areas and the Amtrak rail line that passes through the area. (App., pp. 4-5; App. Ex. H, J; Heffernan, pp. 3-4; T-Mobile's Responses to the Council's First Set of Interrogatories ["T-Mobile First Interrog. Resp.,"]; T-Mobile's Responses to the Town's First Set of Interrogatories.)

12. Cellco Partnership d.b.a. Verizon Wireless ("Verizon") also experiences a coverage gap in its network in the area of the proposed Facility, including along Route 156 and the Amtrak rail line that passes through the area. (Verizon's Responses to the Council's First Set of Interrogatories ["Verizon Interrog. Resp.,"].)

13. New Cingular Wireless PCS, LLC ("AT&T") experiences a coverage gap in its network in the area of the proposed Facility, including along Route 156, nearby local roads and the Amtrak rail line that passes through the area. (AT&T's Responses to the Council's First Set of Interrogatories ["AT&T Interrog. Resp.,"].)

Coverage

14. To provide effective coverage in the area of the proposed Facility, T-Mobile would have to mount its antenna array at 100 feet above grade level ("AGL"). This position would allow T-Mobile to minimize the number and height of future telecommunications facilities in this area of the Town. (*App.*, pp. 4-5, 9; *App Ex. B, H; Heffernan*, p. 5; *2.4.10 3:00p.m. Tr.*, p. 33.)

15. An antenna array at 100 feet AGL would allow T-Mobile to overcome the mature vegetation and topography in the area, and achieve the coverage objective. (*App.*, pp. 4-5, 9; *App. Ex. B, H; Heffernan*, pp. 4-5; *4.20.10 Tr.*, pp. 106, 110.)

16. Verizon would locate its antenna array at 90 feet AGL. This position would enable Verizon to provide coverage along Route 156, the surrounding area and the Amtrak rail line that passed through the area. (*Verizon Interrog. Resp.*)

17. AT&T has requested that the Council approve the Facility at a height of 110 feet. AT&T would locate its antenna array at 110 feet AGL. This position would enable AT&T to provide coverage along Route 156, nearby local roads, the surrounding area and the Amtrak rail line that passed through the area. (*AT&T Interrog. Resp.*)

18. The Town has also indicated that it could use the Facility to improve wireless public safety services. The Town would require a height of 160 feet to ensure appropriate wireless coverage for its public safety services. (*2.4.10 3:00p.m. Tr.*, p. 11; *4.20.10 Tr.*, pp. 39-40, 74-80, 129-31; *June 23, 2010 Transcript* ["6.23.10 Tr.,"] pp. 105-08, 122.)

19. The Town has not allocated the funds necessary to procure its equipment for the Facility; however, T-Mobile would construct the Facility so that the foundation

could support a 160 foot monopole structure should the Town obtain the necessary equipment. (4.20.10 Tr., pp. 85-86; 6.23.10 Tr., p. 107.)

20. SBA Towers II LLC ("SBA") proposed a telecommunications facility, consisting of a 170 foot monopole structure, on property owned by the Town, located at 14 Cross Lane ("SBA Facility"). The Town, however, rejected the proposed SBA Facility and did not lease its property to SBA. (2.4.10 3:00p.m. Tr., pp 10-11; 4.20.10 Tr., p. 84; T-Mobile's Responses to the Council's Second Set of Interrogatories ["T-Mobile Second Interrog. Resp."])

21. Increasing the height of the telecommunications facilities proposed in either Docket 392 or 393 would not obviate the need for the Facility. (4.20.10 Tr., pp. 67-68.)

22. Increasing the height of the Facility would not obviate the need for the telecommunications facilities proposed in either Docket 392 or 393. (Supplemental Pre-Filed Testimony of Scott Heffernan; 4.20.10 Tr., p. 67.)

23. Increasing the height of any of the telecommunications facilities proposed in the Town would not obviate the need for any of the facilities or allow T-Mobile to reduce the height of any of the facilities. (3.2.10 Tr., pp. 246-47.)

24. A two tower scenario would not alleviate T-Mobile's existing coverage gap in the Town. Under such a scenario, gaps would exist in T-Mobile's network, which would result in network performance problems. Additionally, a two tower scenario would require taller facilities – much taller than those proposed by T-Mobile in this Docket and Dockets 392 and 393. T-Mobile requires a three tower scenario to provide effective wireless service to the areas of the Town covered by the Facility and those

telecommunications facilities proposed in Dockets 392 and 393. (3.2.10 Tr., p. 113; 4.20.10 Tr., pp. 68-69, 71-74, 111.)

25. The difficulties inherent in a two tower solution to the coverage gaps in the Town are compounded by the coverage needs of Verizon and AT&T. AT&T could not use either of the facilities proposed in Dockets 392 or 393 to alleviate its existing coverage gap. Although Verizon could use the facility proposed in Docket 392, Verizon could not alleviate its coverage gap with the facility proposed in Docket 393. (*Verizon pre-hearing filing, April 26, 2010; AT&T filing, June 28, 2010; 4.20.10 Tr., pp. 168-70; 6.23.10 Tr., pp. 20, 31-32.*)

26. An outdoor Distributed Antenna System is not an alternative, feasible deployment technology. (*Supplemental Pre-Filed Testimony of Scott Heffernan; 3.2.10 Tr., pp. 73-75, 78-80, 82-83, 88-89.*)

27. Repeaters, microcell transmitters and other types of deployment technologies are not alternative, feasible deployment technologies. (*App., p. 7; T-Mobile First Interrog. Resp.*)

Site Search

28. There are no existing towers, transmission line structures or other structures of a suitable height or location in this area of the Town that would be suitable to remedy the existing coverage gap. (*App., pp. 7-8; App. Ex. J; Pre-filed Testimony of Raymond Vergati ["Vergati,"] pp. 2-6; 2.4.10 Tr., pp. 42, 52.*)

29. Amtrak adheres to a policy prohibiting wireless carriers such as T-Mobile from locating wireless telecommunications equipment on any Amtrak catenaries. (3.2.10 Tr., pp. 239-40; 4.20.10 Tr., p. 32.)

30. After determining that there were no existing structures suitable for co-location, T-Mobile conducted a site analysis of properties within the area to identify the best possible location to address T-Mobile's coverage needs. (*App.*, pp. 7-8; *App. Ex. J; Vergati*, pp. 2-5; *Heffernan*, pp. 4-5.)

31. When selecting a site, T-Mobile considered which properties would address its coverage needs and minimize environmental impacts. (*App.*, pp. 7-8; *App. Ex. J; Vergati*, pp. 2-3.)

32. T-Mobile conducted a site analysis of properties within the area to identify the best possible location to address T-Mobile's coverage needs. None of the parcels, other than the Property, considered by T-Mobile were suitable sites. (*App.*, pp. 7-8; *App. Ex. I, J; Vergati*, pp. 3-6.)

33. The Site would address T-Mobile's coverage objective, including along Route 156, Mill Creek Road, Hawks Nest Road and Cross Lane, just south of Interstate 95, as well as the surrounding area and the Amtrak rail line that passes through the area. (*App.*, pp.1, 4-5; *App. Ex. H, J; Heffernan*, pp. 3-5; *Vergati*, pp. 4-5; *T-Mobile First Interrog. Resp.*)

34. The Property is superior to other parcels in the area. The Property is approximately 5 acres and zoned for light industrial uses. The Property is currently developed as a commercial storage facility. Although there are some wetlands on the Property, the proposed Facility would not have an adverse impact on those systems. (*App.*, pp. 1, 9-10; *App. Ex. J; Vergati*, pp. 4-5; *Pre-filed Testimony of Scott Chasse* ["Chasse,"] p. 2; *Pre-Filed Testimony of Dean Gustafson* ["Gustafson,"] pp. 3-5.)

The Site

35. T-Mobile proposes to construct the Facility at the Site located in the northwestern portion of the Property, which is a 5 acre parcel of land commonly known as 232 Shore Road and is identified as Assessors Tax Map 8, Lot 36-2. The Property is zoned for light industrial uses and currently serves as a storage facility. (*App.*, pp. 1-2; *App. Ex. B*; *Chasse*, p. 2.)

36. The Facility would accommodate T-Mobile and the equipment of three other wireless carriers, as well as the Town's emergency services equipment, if requested. (*App.*, pp. 8-9; *App. Ex. B*; *Chasse*, p. 3.)

37. The Facility would accommodate the antennae and equipment of T-Mobile at an antenna centerline of 100 feet AGL, mounted to the tower by T-arms, and three other telecommunications carriers at antenna centerlines of 90, 80 and 70 feet AGL. (*App. Ex. B*; *Chasse*, p. 3; *2.4.10 3:00p.m. Tr.*, p. 34; *7:00p.m. Tr.*, p. 88.)

38. The Facility would consist of a 2,400 square foot fenced compound area leased to T-Mobile. (*App.*, pp. 2, 9; *App. Ex. B*; *Chasse*, p. 3.)

39. The compound area would host T-Mobile's equipment and the equipment of three other wireless carriers. The compound would be enclosed by an 8 foot high chain-link fence. (*App.*, pp. 2, 9; *App. Ex. B*; *Chasse*, p. 3.)

40. Vehicular access to the Facility would extend from Shore Road along an existing bituminous driveway and gravel parking area. (*App.*, pp. 2, 9; *App. Ex. B*; *Chasse*, p. 3; *2.4.10 3:00p.m. Tr.*, p. 31.)

41. Utility service would extend underground from an existing transformer and telephone demarcation point on the Property. No water or sanitary facilities would be

required and, once built, the Facility would generate minimal traffic because T-Mobile, or any other carrier, would only need to visit the Site approximately once a month to perform routine maintenance and inspection. (*App.*, p. 13; *App. Ex. B*; *Chasse*, p. 3; *2.4.10 3:00pm Tr.*, pp. 31-32.)

42. The Facility compound area would require approximately 8 cubic yards of cut and 42 cubic yards of fill. The utility trench would require approximately 222 cubic yards of cut and 222 cubic yards of fill. (*Chasse*, pp. 3-4; *T-Mobile First Interrog. Resp.*)

43. The estimated cost of the proposed Facility is approximately \$178,000. The duration of the construction would be approximately thirteen weeks, with an additional two weeks for Facility integration and system testing. The estimated cost of the antennae and related equipment for T-Mobile would be approximately \$45,000. (*App.*, p. 19; *T-Mobile Second Interrog. Resp.*)

44. T-Mobile could design the Facility with a yield point so that the tower radius remains on the Property. (*2.4.10 3:00pm Tr.*, pp. 30, 73.)

45. At the request of the Council, T-Mobile considered two alternative locations for the Facility on the Property. The first alternative would be slightly to the north of the Site in the northwest corner of the Property ("NW Location"). The second alternative would be located in the northeast corner of the Property ("NE Location"). The NE Location would be more difficult from an engineering perspective. (*T-Mobile filing*, April 12, 2010; *4.20.10 Tr.*, p. 52.)

Municipal Consultation

46. On May 28, 2009, T-Mobile submitted a technical report to the Town regarding the Facility pursuant to General Statutes § 16-50f (e). The technical report, a

copy of which is included in the bulk filing accompanying the Application, included specifics about the Property, the Facility, the site selection process and the environmental effects of the Facility. (*App.*, p. 17; *App. Ex. R*; *Bulk Filing*; *Vergati*, p. 6.)

47. On June 25, 2009 and December 1, 2009, representatives of T-Mobile met with the First Selectman, the Honorable Timothy Griswold; the Fire Chief; and the Town Zoning Enforcement Officer to discuss the proposed Facility. (*App.*, p. 17; *Vergati*, p. 6.)

Environmental Considerations

48. The Property is not designated as a wilderness area and it is not located in any areas identified as a wildlife preserve or in a U.S. Fish and Wildlife Service National Wildlife Refuge. (*App.*, p. 13; *App. Ex. Q*; *Pre-Filed Testimony of Michael Chun* [*Chun*,] p. 3.)

49. The Facility would not affect threatened or endangered species or designated critical habitats. The piping plover is the only endangered species located in the Town. The piping plover's habitat is limited to coastal beaches. The proposed Facility would not be situated within the piping plover's natural habitat, as it would be located away from any coastal beaches. (*App.*, p. 13; *App. Ex. Q*; *Chun*, p. 3.)

50. The Facility would be designed to minimize any impact on migratory bird species. The Facility would comply with the United States Fish and Wildlife Service interim guidelines because the Facility would be well under 200 feet and without guy wires. (*App. Ex. B, Q*; *Pre-Filed Testimony of Ashley Bonavenia* [*Bonavenia*,] p. 3; *2.4.10 3:00p.m. Tr.*, p. 62.)

51. The Facility would not be located in a nominated or existing “important bird area.” (*Bonavenia*, p. 2; 2.4.10 3:00 p.m. Tr., pp. 63, 176.)

52. There are no known instances of bird strikes and/or bird carcasses at any existing T-Mobile telecommunications facility. (*Bonavenia*, p. 3; 4.20.10 Tr., pp. 60-61.)

53. The Facility is located in an avian flyway designated by the Audubon Society. (*Bonavenia*, p. 2; 2.4.10 3:00p.m. Tr., p. 62.)

54. It is unlikely that avian species would inhabit or otherwise rely on the wetland systems located nearby the Property. (2.4.10 3:00p.m. Tr., p. 63.)

55. The Facility would not endanger osprey. T-Mobile has protocol in place to avoid disturbing any osprey that use T-Mobile telecommunications facilities for nesting. (4.20.10 Tr., pp. 62-64.)

56. The proposed Facility would not affect any National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Game lands. (*App.*, p. 13; *App. Ex. Q*; *Chun*, p. 3.)

57. The proposed Facility would not impact any recognized districts, sites, buildings, structures or objects of significance in American history, architecture, archeology, engineering or culture as listed on the National Register of Historic Places. On December 23, 2009, the State Historic Preservation Officer (“SHPO”) determined that the Facility would not have an adverse impact on any such resources. (*App.*, p. 14; *App. Ex. O, Q*; *Chun*, p. 4.)

58. The proposed Facility would not affect any Native American religious sites. T-Mobile consulted with three Native American tribes – the Mashantucket Pequot Tribe, the Mohegan Indian Tribe and the Narragansett Indian Tribe – because they might have

had interests impacted by the construction, operation and maintenance of the Facility. All of the Tribes confirmed that they do not have any interests that would be impacted by the Facility. (*App.*, p. 14; *App. Ex. Q*; *Chun*, p. 4; 2.4.10 3:00p.m. *Tr.*, pp. 72-73.)

59. There are two wetland systems located nearby the proposed Facility. One wetland is a forested wetland system associated with a wetland system on an adjacent parcel to the east. The second wetland is a larger, more complex system located to the west. Most of the second wetland system is located on an adjacent parcel to the west. (*App.*, pp. 9, 16-17; *App. Ex. B, K*; *Gustafson*, pp. 3-4; 2.4.10 3:00p.m. *Tr.*, pp. 53-60; 4.20.10 *Tr.* pp. 49-50.)

60. Although there are two wetland systems located on or near the Property, the proposed Facility would be located immediately adjacent to existing developed and disturbed areas associated with the storage facility on the Property and the Amtrak rail line adjacent to the Property. To avoid temporary impacts to these wetland systems, T-Mobile would install a silt fence during construction. T-Mobile would also stabilize the Facility with loam and a New England Conservation / Wildlife seed mix to avoid any permanent impacts. In addition, a buffer planting of native shrubs would be located along the north, west and south sides of the proposed Facility to enhance the wetland buffer. This native wetland buffer would not require maintenance. The construction, maintenance and operation of the Facility would not have an adverse impact on these wetland systems. (*App.*, pp. 9, 16-17; *App. Ex. B, K*; *Gustafson*, pp. 3-4; 2.4.10 3:00p.m. *Tr.*, pp. 53-60; 4.20.10 *Tr.* pp. 49-50.)

61. The Facility would have no impact on water flow, water quality, or air quality and would comply with relevant noise regulations. (*App.*, p. 13; *Gustafson*, pp. 3-5.)

62. The proposed access and utility routing for the Facility would not impact any wetland system. (*App. Ex. B, K; Gustafson*, p. 5; *Chasse*, p. 3.)

63. The Facility would not impact any coastal resources. There are no coastal resources located on or near the Property. The nearest coastal resource consists of tidal wetlands associated with Mile Creek located 800 feet west of the Site. (*App.*, p. 14; *App. Ex. O; Gustafson*, p. 5.)

64. The Facility would not be located within a flood plain. (*App.*, p. 14; *App. Ex. Q; Chun*, p. 4; *Supplemental Pre-Filed Testimony of Michael Chun*.)

65. The NW Location would increase the buffer between the Facility and the nearest wetland system from 20 feet to 38 feet. Neither the Site nor the NW Location would adversely impact any wetland systems. The NE Location would also not adversely impact any wetland systems. (*4.20.10 Tr.*, pp. 49-50; *Gustafson Memorandum*, dated April 2, 2010.)

66. According to an aeronautical study conducted by T-Mobile, in accordance with the regulations promulgated by the Federal Aviation Administration, the proposed Facility would not require marking or lighting. (*App.*, p. 18; *App. Ex. S, Revised Ex. S*.)

67. The Facility's maximum emissions levels would be approximately 12.3359 percent of the safety criteria adopted by the Federal Communications Commission. (*App.*, pp. 12-13, *App. Ex. P*.)

Visibility

68. Existing topography and mature vegetation would reduce some of the potential visual impacts of the proposed Facility on the surrounding areas. The average height of the tree canopy within a two mile radius of the Facility ("Study Area") is approximately 60 feet. The tree canopy covers nearly 3,804 acres of the 8,042 acre study area – with 2,605 acres of the Study Area consisting of surface water, mainly portions of the Long Island Sound. (*App.*, p. 11; *App. Ex. N; Pre-Filed Testimony of Michael P. Libertine* ["*Libertine*,"] p. 6.)

69. At the Site, the Facility would be set back approximately 900 feet from Shore Road, with significant screening provided by dense stands of mature trees, limiting most of the nearby views to the upper 10 or 20 feet of the proposed Facility. Residential development is limited to Otter Rock Road to the west and areas to the southeast, all at distances at or greater than 0.25 miles from the proposed Site. (*App.*, p. 11; *App. Ex. B, N; Libertine*, p. 6.)

70. At the Site and with a proposed height of 100 feet AGL, the areas from which the Facility would be at least partially visible year round comprise approximately 1,817 acres. Approximately 97 percent of this area (1,773 acres) consists of open water on the Long Island Sound, over 0.50 miles away, where any views of the Facility would be limited to the top of Facility among surrounding vegetation. Aside from these more distant, open water views, some areas near the Facility would have year round partial views, including portions of Shore Road, Otter Rock Road, Hawks Nest Road and Washington Avenue. These views would be limited primarily to areas within 0.25 miles of the Facility. (*App.*, p. 11; *App. Ex. N; Libertine*, p. 5.)

71. The open water views on the Long Island Sound would have a minimal visual impact on the shoreline and the Facility would not impact any coastal resources. These views would be distant and would be limited to the very upper portion of the Facility, which would be difficult to discern above the tree canopy. The vegetative backdrop coupled with the rising topography as one moves inland from the shoreline would further limit the views of the Facility from the Long Island Sound. The existing development along the immediate shoreline would provide more prominent views than the proposed Facility. (*App. Ex. N; Libertine, p. 5; 2.4.10 3:00p.m. Tr., pp. 64-68; 3.2.10 Tr., pp. 51, 72; 4.20.10 Tr., pp. 56-57.*)

72. The combined total acreage of these distant open water views of the Facility, along with the other telecommunications facilities proposed in Dockets 391 and 392, on the Long Island Sound would be approximately 2,555 acres, a very small percentage of the total acreage of the Long Island Sound. The total acreage of the Long Island Sound (within the Connecticut Coastal Management Zone) is approximately 334,350 acres. (*Docket 393 Supplemental Pre-Filed Testimony of Michael P. Libertine, p. 3.*)

73. The Facility, along with the other telecommunications facilities proposed in Dockets 392 and 393, would not have a detrimental, cumulative impact on the shoreline. The relatively low height of the facilities and the existing mature vegetation would limit the views of the Facility from the shoreline. (*3.2.10 Tr., pp. 59, 216.*)

74. Areas of seasonal visibility would comprise approximately 55 additional acres. These views would be within the immediate vicinity of the proposed Facility. (*App., pp. 11-12; App. Ex. N; Libertine, p. 6.*)

75. The Facility would not have an adverse visual effect on historic, architectural, or archeological resources listed on or eligible for the National Register of Historic Places. This determination is consistent with SHPO's conclusion. (*App. Ex. N; Libertine, p. 7.*)

76. The Facility would not be visible from any hiking trails. (*App. Ex. N; Libertine p. 7.*)

77. At the request of the Council, T-Mobile conducted additional visual predictive computer models of the proposed Facility at various heights and at alternative locations on the Property. (*Suppl. Libertine, p. 1.*)

78. The visibility of the proposed Facility at 100 feet AGL and situated in the NW Location would be substantially similar to the views of the Facility at the same height and situated at the Site. (*Suppl. Libertine., p. 2; 4.20.10 Tr., pp. 34, 37, 46.*)

79. The views of the proposed Facility would not change significantly if the height of the Facility is increased from 100 feet AGL to 110 feet AGL at the Site or the NW Location. At either height and location, the views would be limited to the upper part of the Facility and would be primarily within close proximity to the Property (0.25 miles) or distant views from portions of the Long Island Sound. (*Suppl. Libertine, pp. 2-3.*)

80. At either the Site or the NW Location, the Facility at 100 feet AGL would be visible from approximately 1,817 acres of the 8,042 acre Study Area. The Facility at 110 feet AGL would be visible from approximately 1,876 acres of the Study Area. At both heights and locations, approximately 97 percent of the views (acreage) would be distant views on the Long Island Sound. (*Suppl. Libertine, pp. 2-3; AT&T filing, February 23, 2010.*)

81. The views of the Facility at a height of 180 feet AGL, at either the Site or NW Location, would be more pronounced. The Facility would be visible year round from approximately 2,128 acres of the 8,042 acre Study Area; however, 95 percent (2,017 acres) of these views would consist of distant, open water views on the Long Island Sound. Areas where a shorter Facility might be visible would be subjected to views of a larger portion of the Facility above the tree canopy. Some developed areas to the south and southeast would experience an increase in visibility. (*Suppl. Libertine, p. 3.*)

82. The views of the Facility from the NE Location would differ somewhat from the views of the Facility at the Site and the NW Location. At 100 feet AGL, the Facility would be visible from approximately 1,899 acres within the 8,042 acre Study Area. The additional acreage of visibility would include a slight expansion of views to the east and southeast of the Property. These views would be within close proximity (0.25 miles) of the Facility and would be limited to the upper portions of the Facility. (*Suppl. Libertine, pp. 3-4; 4.20.10 Tr., pp. 35-36, 47.*)

83. At 110 feet AGL and situated in the NE Location, the Facility would be visible from approximately 1,953 acres of the 8,042 acre Study Area. These views would not differ significantly from the views of the Facility at 100 feet AGL. Most of the views would be distant, open water views on the Long Island Sound. Approximately 97 percent of this area (1,892 acres) would consist of open water views on the Long Island Sound. There would be additional views of the upper portions of the Facility from select areas to the northeast, east and southeast. (*Suppl. Libertine, p. 4; 4.20.10 Tr., pp. 35-36, 47.*)

84. The views of the Facility at 180 feet AGL from the NE Location would be more pronounced. The Facility would be visible year round from approximately 2,270 acres, although 94 percent of these views (2,138 acres) would consist of distant, open water views on the Long Island Sound. A Facility at this height would substantially expand areas of year-round visibility, particularly in those neighborhoods to the south and southeast. (*Suppl. Libertine, p. 4; 4.20.10 Tr., pp. 35-36, 47.*)

85. Although the visibility of the proposed Facility at 100 and 110 feet AGL, from any of the locations on the Property, would not have an adverse visual impact on the surrounding areas, the Site and the NW Location would have less of a visual impact than the NE Location. (*4.20.10 Tr., pp. 51-52.*)

Tower Sharing

86. The Facility would accommodate T-Mobile and three other wireless telecommunications carriers, which would limit the proliferation of telecommunications facilities. (*App., pp. 8-9; App. Ex. B; Chasse, p. 3.*)

87. Verizon has intervened in the proceedings and indicated an interest to locate its antennas on the Facility at a height of 90 feet AGL. (*Verizon Interrog. Resp.*)

88. AT&T has intervened in the proceedings and indicated an interest to locate its antennas on the Facility at a height of 110 feet AGL. (*AT&T Interrog. Resp.*)

89. The Facility would accommodate the Town's municipal public safety communications systems. T-Mobile has offered the Town space on the Facility at no charge. (*App., pp. 8-9; Vergati, pp. 5-6; Supplemental Pre-Filed Testimony of Raymond M. Vergati, pp. 1-2; 2.4.10 3:00p.m. Tr., p. 33.*)

90. The Town has indicated an interest to locate its public safety communication systems on the Facility; however, the Town requires a height of 160 feet AGL. The Town has not yet allocated the funding necessary to procure the public safety communication equipment for the Facility. (2.4.10 3:00p.m. Tr., p. 11; 4.20.10 Tr., pp. 39-40, 74-80, 129-31; 6.23.10 Tr., pp. 105-08, 122.)

91. T-Mobile would agree to construct the Facility so that the foundation would accommodate a monopole extendable to 160 feet AGL. (4.20.10 Tr., pp. 85-86; 6.23.10, p. 107.)

Dated at Bridgeport, Connecticut this 23rd day of July, 2010.

**THE APPLICANT,
T-MOBILE NORTHEAST LLC**

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing was delivered by Electronic Mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

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Jesse A. Langer