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Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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June 21, 2010

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

RE: **DOCKET NO. 395B** - 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 off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut.

By its Decision and Order dated June 17, 2010, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a telecommunications facility located off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut.

Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

SDP/CDM/jbw

Enclosures (3)

c: State Documents Librarian

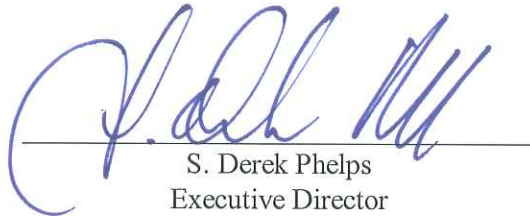
STATE OF CONNECTICUT)

ss. New Britain, Connecticut :

COUNTY OF HARTFORD)

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

ATTEST:



S. Derek Phelps
Executive Director
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 395B has been forwarded by Certified First Class Return Receipt Requested mail, on June 21, 2010, to all parties and intervenors of record as listed on the attached service list, dated December 3, 2009.

ATTEST:



Jessica Brito-Weston
Office Assistant
Connecticut Siting Council

**LIST OF PARTIES AND INTERVENORS
SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input type="checkbox"/> E-mail or <input checked="" type="checkbox"/> U.S. Mail	New Cingular Wireless PCS, LLC	Christopher B Fisher, Esq. Daniel M. Laub, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 th Floor White Plains, NY 10601 (914) 761-1300 (914) 761-5372 fax cfisher@cuddyfeder.com dlaub@cuddyfeder.com Michele Briggs AT&T 500 Enterprise Drive Rocky Hill, CT 06067-3900 michele.g.briggs@cingular.com
	<input type="checkbox"/> E-mail or <input type="checkbox"/> U.S. Mail		
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<p>DOCKET NO. 395B – New Cingular Wireless PCS, LLC } application for a Certificate of Environmental Compatibility and } Public Need for the construction, maintenance and operation of a } telecommunications facility located off of Ed Williams Road in } the Town of East Haddam, Connecticut. }</p>	<p>Connecticut Siting Council</p>
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June 17, 2010

Findings of Fact

Introduction

1. Pursuant to Chapter 277a, Sections 16-50g et seq. of the Connecticut General Statutes (CGS), as amended, and Section 16-50j-1 et. seq. of the Regulations of Connecticut State Agencies (RCSA), New Cingular Wireless PCS, LLC (AT&T) applied to the Connecticut Siting Council (Council) on December 3, 2009 for the construction, management, and maintenance of two telecommunications facilities. Both facilities would be located within the Town of East Haddam, Connecticut. One of the facilities would be located off of Haywardville Road and would include a 180-foot monopole tower. The other facility would be located off of Ed Williams Road and would include a 160-foot monopole tower. (AT&T 1, pp. 1, 3)
2. AT&T's application for the two telecommunications facilities was bifurcated into two separate dockets. The facility off of Ed Williams Road, identified as Devil's Hopyard South, was designated as Docket 395B. (Transcript, March 4, 2010, 3:30 p.m. [Tr. 1], p. 4)
3. AT&T is a Delaware limited liability company with an office at 500 Enterprise Drive, Rocky Hill, Connecticut. The company's member corporation is licensed by the Federal Communications Commission (FCC) to construct and operate a personal wireless services system. The company does not conduct any other business in the State of Connecticut other than the provision of wireless services under FCC rules and regulations. (AT&T 1, p. 4)
4. The party in this proceeding is the applicant. (Tr. 1, p. 6)
5. The purpose of the proposed facility would be to provide wireless communication services in the eastern portion of East Haddam, including the Devil's Hopyard State Park, and along State Routes 434 and 82 as well as other local roads in the area. (AT&T 1, pp. 2, 12)
6. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on March 4, 2010, beginning at 3:30 p.m. and continuing at 7:00 p.m. in the Grange Hall, 488 Town Street in East Haddam, Connecticut. (Tr. 1, p. 3 ff.)
7. The Council and its staff conducted an inspection of the proposed site on March 4, 2010, beginning at 2:00 p.m. On the day of the field inspection, the applicant flew a balloon at the proposed site between 7:30 a.m. and 5:00 p.m. There was a breeze most of the day that prevented the balloon from flying at the height of the proposed tower. The balloon at the Devil's Hopyard South site burst at approximately 10:00 a.m. and was not reflown until approximately 1:30 p.m. (Tr. 1, p. 25)

8. Pursuant to CGS § 16-50l (b), public notice of the application was published in the Hartford Courant on November 18 and 19, 2009. (AT&T 1, p. 5, Attachment 8; Hartford Courant Affidavit of Publication, dated November 19, 2009)
9. Pursuant to CGS § 16-50l(b), AT&T sent notices of its intent to file an application with the Council to each person appearing of record as owner of property abutting the property on which the proposed facility is located. (AT&T 1, p. 5, Attachment 8)
10. AT&T received return receipts from all of the abutting property owners except one, the Nature Conservancy. After re-verifying the Nature Conservancy's address, AT&T sent it an additional notice via certified mail. (AT&T 2, A1)
11. Pursuant to CGS § 16-50l (b), AT&T provided notice to all federal, state, regional, and local officials and agencies listed therein. (AT&T 1, p. 5, Attachment 7)
12. On February 19, 2010, AT&T posted a sign at this site informing the passing public of its pending application. The sign included the height of the proposed tower, the date of the Council's scheduled hearing, and information about how to contact the Council. (Tr. 1, pp. 14-16)

State Agency Comments

13. Pursuant to CGS § 16-50l, the Council solicited comments on AT&T's application from the following state departments and agencies: Department of Agriculture, Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, the Department of Transportation, and the Department of Emergency Management and Homeland Security. The Council's letters requesting comments were sent on January 11, 2010 and April 9, 2010. (CSC Hearing Package dated January 11, 2010; Letter to State Department Heads dated April 9, 2010)
14. The Department of Transportation (ConnDOT) responded to the Council's solicitation with no comments. (ConnDOT Letter dated January 26, 2010)
15. Except for ConnDOT's comments, no other comments were received from state agencies regarding the Devil's Hopyard South site. (Record)

Municipal Consultation

16. After conducting its initial site searches, AT&T met with officials of the Town of East Haddam in the fall of 2008 to discuss its requirements in the targeted coverage area, its proposed sites, and to receive input from the town. (AT&T 1, p. 9)

17. These initial meetings, which included a representative from the Eightmile River Wild and Scenic Coordinating Committee, identified several important resources including Devil's Hopyard State Park and its scenic views to the south and the Millington Green Historic District to the west of AT&T's site search areas. (AT&T 1, p. 9)
18. In accordance with CGS § 16-50l, AT&T sent a letter to the town on May 11, 2009 to commence the municipal consultation period for the proposed facility locations AT&T had leased. AT&T also provided a technical report describing the proposed facility as part of its notice to the town. (AT&T 1, pp. 9-10)
19. On June 13, 2009, AT&T conducted balloon floats at its two proposed sites, including the Devil's Hopyard South site, in response to a request from the town. (AT&T 1, p. 10)
20. AT&T representatives appeared before the East Haddam Planning and Zoning Commission on June 23, 2009 to discuss details of its proposed tower site candidates and to receive comments from the town and other interested parties including the Eightmile River Wild and Scenic Coordinating Committee and the East Haddam Land Trust. (AT&T 1, p. 10)
21. At the June 23, 2009 meeting of the East Haddam Planning and Zoning Commission, local representatives had significant opposition to two potential candidate sites for the Devil's Hopyard South facility that were identified by AT&T. The sites to which local representatives objected were a site more internal to the state park (on property owned by Edward Hotyckey) and a site on property owned by the Bochain Family Trust. The Hotyckey property site was objected to because a tower at this location would visibly impact the entrance to the Devil's Hopyard State Park. The Bochain Family Trust property was objected to because a tower on this property would be visible along a trail within the park and from a documented scenic view in the park. (AT&T 1, p. 10)
22. During the municipal consultation period, the Town of East Haddam provided AT&T with a recommended alternate location for a facility south of Devil's Hopyard. This alternate location is the site off of Ed Williams Road. The property is owned by Andrew Tarpill, who was willing to host a facility. Acting on the town's recommendation, AT&T developed plans for a facility on the Tarpill property and submitted its plans to the town for its review. The Tarpill property site is included in AT&T's application to the Council as its Devil's Hopyard South facility. (AT&T 1, pp. 10-11; Attachment 6)
23. The East Haddam Planning and Zoning Commission issued a letter in which it expressed the belief that the two locations chosen by AT&T were the best available sites considering topography in the area and the availability of sites not already encumbered with restrictions. (Letter from James Ventres, East Haddam Land Use Administrator, dated February 3, 2010)
24. The Eightmile River Wild and Scenic Coordinating Committee submitted a letter in which it acknowledged AT&T's efforts to preserve scenic vistas in the area by adjusting the locations of its proposed towers. (Letter from Eightmile River Wild and Scenic Coordinating Committee, dated March 29, 2010)
25. AT&T would make space available on the proposed towers for municipal antennas at no cost. (AT&T 2, A6)

Federal Designation for Public Need

26. The United States Congress, through adoption of the Telecommunications Act of 1996 (Act), recognized the important public need for high quality telecommunication services throughout the United States. The purpose of this Act 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.” (AT&T 1, p. 6)
27. In issuing cellular licenses, the Federal government has preempted the determination of public need for cellular service by the states, and has established design standards to ensure technical integrity and nationwide compatibility among all systems. AT&T is licensed by the FCC to provide personal wireless communication service throughout the State of Connecticut. (Council Administrative Notice Item No. 7; AT&T 1, p. 6)
28. The Act prohibits local and state bodies from discriminating among providers of functionally equivalent services. (Council Administrative Notice No. 7 - Telecommunications Act of 1996)
29. The Act prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC’s regulations concerning such emissions. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice No. 7 - Telecommunications Act of 1996)
30. Congress enacted the Wireless Communications and Public Safety Act of 1999 (the 911 Act) to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (AT&T 1, p. 7)
31. AT&T would provide Enhanced 911 services from its proposed facilities as required by the 911 Act. (AT&T 1, p. 7)
32. Youghiogheny Communications Northeast LLC, an FCC-licensed wireless telecommunications provider doing business in Connecticut as Pocket Wireless, experiences a coverage gap in the vicinity of the proposed towers and would place its antennas at a centerline height of 150 feet on each tower, if that height were available. (Letter from Pocket Wireless, dated February 24, 2010)

Existing and Proposed Wireless Coverage

33. In the area that would be covered by the proposed facility, which is within the Hartford Metropolitan Statistical Area, AT&T is licensed to use the 850 MHz “b” frequency band and the 1900 MHz A3, D, E, and C1 frequency bands. (AT&T 2, A7)

34. AT&T's design signal strength for in-vehicle coverage is -82 dBm. For in-building coverage, it is -74 dBm. (AT&T 2, A8)
35. The overall percentage of dropped calls for the surrounding AT&T facilities with which the proposed Devil's Hopyard South facility would hand off calls is approximately two percent. (Transcript, March 4, 2010, 7:00 p.m. [Tr. 2], pp. 43-44)
36. The existing signal strength in the area that would be covered by the proposed facility varies between -82 dBm and -105 dBm. (AT&T 2, A10)
37. AT&T's proposed facilities would provide in-vehicle coverage for approximately 4.8 miles along Route 434 and approximately 1.8 miles along Haywardville/Millington Road. (AT&T 2, A13; Tr. 1, 19)
38. AT&T's antennas at the Devil's Hopyard South site would hand off signals to existing AT&T facilities identified in the table below.

Site Address	Facility Type	Structure Height	AT&T Antenna Height	Distance & Direction
160 Witch Meadow Road, Salem	Monopole	196 feet	185 feet	2.86 mi. to NE
126 Parker Road, East Haddam	Guyed lattice tower	300 feet	188 feet	3.3 mi. to WSW
East Haddam Road, Salem	Monopole	190 feet	127 feet	3.1 mi. to ESE
135 Honey Hill Road, East Haddam	Monopole	150 feet	120 feet	2.9 mi. to SW

(AT&T 2, A16)

39. At -82 dBm, the area that would be covered by the Devil's Hopyard South site would be 5.0 square miles. Together, the Devil's Hopyard North and South sites would cover approximately 12.3 square miles. (AT&T 2, A12)
40. The minimum height at which AT&T could achieve its coverage objective from the Devil's Hopyard South site is 160 feet. (AT&T 2, A17)
41. At heights lower than 160 feet, AT&T would lose areas of reliable coverage along Salem Road east of the proposed site and along State Route 434 west of the proposed site. (Tr. 1, p. 20)

Site Selection

42. AT&T established a site search in 2008 to address coverage problems identified in eastern East Haddam. (AT&T 1, p. 8)
43. Due to the proximity of Devil's Hopyard State Park, AT&T generated two search areas, one to the north and one to the south of the park. (AT&T 1, Attachment 2)

44. There are six communications towers within a radius of approximately four miles of the proposed Devil's Hopyard South Site. AT&T has antennas on four of these towers. None of these towers was found to be adequate for AT&T's coverage purposes. The towers are listed in the table below.

Tower Location	Height of Tower	Tower Owner	Approx. Distance and Direction
27 Maynard Hill Road, Salem	100 feet	AT&T	3.9 miles to SE
153 East Haddam Road, Salem	190 feet	American Tower	1.2 miles to NE
399 West Road, Salem	180 feet	Crown	2.1 miles to E
160 Witch Meadow Road, Salem	197 feet	SBA	2.4 miles to NE
126 Parker Road, East Haddam	300 feet	Century Cable Management	3.8 miles to SW
135 Honey Hill Road, East Haddam	150 feet	Crown	3.3 miles to SW

(AT&T 1, Attachment 1)

45. AT&T investigated ten properties as potential locations for its Devil's Hopyard South site. Information about these properties is presented in the table below.

Location	Owner	Size of Property	Determination
Ed Williams Road	Andrew Tarpill	64.32 acres	Proposed Devil's Hopyard South site
17 Jones Hill Road	Bochain Family Trust	32.28 acres	Original candidate site, but town officials voiced concerns about proximity to and visual impact on state park
Hopyard Road	Nature Conservancy of CT, Inc.	216.53 acres	Restricted use/conserved land.
22 Dolbia Hill Road	John Kashanski	52.75 acres	Owner was not interested
121 Hopyard Road	Andrea Hunt	24.56 acres	Rejected for RF engineering criteria
50 Mitchell Road	Len Veronica	62.76 acres	Owner was not interested
George Babcock Road	John & Suzanne Hand	246.32 acres	Rejected for RF engineering criteria
407 Hopyard Road	Woods	19.69 acres	Access to site hindered by wetlands

(Table continued on next page)

Location	Owner	Size of Property	Determination
81 Haywardville Road	Golet	14.9 acres	Access impacted by wetlands & rejected for RF engineering criteria
100 Mitchell Road	State of CT – DEP	88.56 acres	Restricted use/ conserved land

(AT&T 1, Attachment 2)

46. Repeaters, microcell transmitters, distributed antenna systems and other types of transmitting technologies are not a practicable or feasible means of providing service within the coverage objective area, and there are no equally effective and feasible technological alternatives to the construction of the proposed tower. (AT&T 1, p. 6)

Facility Description

47. AT&T’s proposed Devil’s Hopyard South Site is located in the southern portion of a 64.32 acre parcel on the south side of Ed Williams Road and east of Jones Hill Road in East Haddam. The property is owned by Andrew J. Tarpill. (See Figures 1 and 2) (AT&T 1, Attachment 4)
48. The Tarpill property is classified as an R-4 Zoning District, a residential district that requires a minimum lot size of four acres. Wireless telecommunications towers are permitted in R-4 districts with a special exception issued by the Planning and Zoning Commission. (AT&T 1, p. 21; Bulk filing – East Haddam Zoning Regulations)
49. At its proposed Devil’s Hopyard South Site, AT&T would lease a 100-foot by 100-foot area, within which it would develop a facility that would include a 160-foot monopole tower inside a 75-foot by 75-foot compound. (See Figure 3) (AT&T 1, p. 3, Attachment 4)
50. The proposed tower would be designed in accordance with the American National Standards Institute TIA/EIA-222-F “Structural Standards for Steel Antenna Towers and Antenna Support Structures” and the 2003 International Building Code with the 2005 Connecticut Amendment. The base of the tower would be approximately four and a half feet in diameter. The top of the tower would be approximately two feet in diameter. (AT&T 1, Attachment 4 – Facilities and Equipment Specification)
51. The proposed tower would be designed to accommodate the antennas of four wireless carriers and the antennas of local public safety services. (Tr. 1, pp. 17-18)
52. The proposed tower would be located at 41° 28’ 17.7” north latitude and 72° 19’ 23.9” west longitude. Its ground elevation would be 476 feet above mean sea level (amsl). (AT&T 1, Attachment 4 – Site Evaluation Report)

53. At this location, AT&T would install six panel antennas, two per sector, and six tower-mounted amplifiers, on a low profile platform at a centerline height of 157 feet above ground level (agl). AT&T would also install a 12-foot by 20-foot radio equipment shelter within the proposed facility compound. (AT&T 1, Attachment 4 – Facilities and Equipment Specification; Tr. 1, p. 16)
54. The proposed compound would be enclosed by an eight-foot chain link fence. (AT&T 1, p. 14)
55. For emergency backup power, AT&T would rely on a battery backup system and a permanent diesel generator. The battery system would be used to prevent a “re-boot” condition from occurring during the generator start-up period, which typically lasts ten minutes. The generator’s fuel tank would consist of a bladder within a steel container designed to contain fuel in the event of a fuel spill. (AT&T 1, p. 15)
56. Development of the Devil’s Hopyard South site would require 875 cubic yards of cut. It would not require any fill. (AT&T 2, A3)
57. Vehicular access to the proposed facility, as shown in AT&T’s original application, would extend southerly from Ed Williams Road along a new 12-foot wide gravel drive for a distance of approximately 1,498 feet, portions of which would utilize an existing dirt road. (AT&T 1, p. 14)
58. In response to Council interrogatories, AT&T proposed an alternate access road that would closely follow an existing, unimproved woods road that travels over an adjacent property for a short distance. The existing woods road is approximately 130 feet east of the access road shown in the original application; it would be widened to allow access and utility lines to remain on the host property. (AT&T Responses to CSC Interrogatories-Set 2, Exhibit B, Response to Question 9, Drawing C02A)
59. Utility service for the proposed facility would be brought overhead across Ed Williams Road to a new riser pole to be installed at the entrance of the access drive and then extended underground to the compound alongside the access drive. (AT&T 1, pp. 14-15)
60. If ledge is encountered during the development of the Devil’s Hopyard South site, chipping would be the preferred method of removal rather than blasting. (AT&T 2, A4)
61. The setback radius of the proposed tower would be contained within the Tarpill property. (AT&T 1, Attachment 4 – Distance to property lines)
62. The nearest property boundary to the location of the proposed tower would be 172 feet to the south. (AT&T 1, Attachment 4 – Distance to property lines)
63. There are two residences located within 1,000 feet of the proposed tower. (AT&T 1, Attachment 4 – Residence Information)
64. The nearest residence to the proposed tower is located at 6 Ed Williams Road, 800 feet to the northwest. It is owned by Michael and Karen Curley. (AT&T 1, Attachment 4 – Residence Information; Attachment 8)

65. Land use in the vicinity of the proposed Devil's Hopyard South Site consists primarily of single family residences and the Devil's Hopyard State Park. (AT&T 1, Attachment 4 – Site Evaluation Report)

66. The estimated cost of construction of the proposed Devil's Hopyard South Site is:

Tower and foundation costs	\$100,000
Site development costs	82,000
Utility installation	112,000
<u>Facility installation</u>	<u>93,000</u>
Total estimated costs	\$387,000

(AT&T 1, p, 26)

67. The cost of AT&T's antennas and related equipment would be between \$250,000 and \$300,000. (AT&T 2, A5)

68. The total cost of the AT&T's proposed facility, including the cost of antennas and related equipment, would be between \$637,000 and \$687,000. (AT&T 1, p, 26; AT&T 2, A5)

Environmental Considerations

69. The State Historic Preservation Office determined that the proposed facility at this location would have no effect on historic properties that are listed in or have been determined eligible for the National Register of Historic Places. (AT&T 6, SHPO Finding of No Effect, dated December 28, 2009)

70. There are no known extant populations of Federal or State Endangered, Threatened, or Special Concern Species that occur in the vicinity of the proposed Devil's Hopyard South Site. (AT&T 1, Attachment 6 – Letter from DEP's Bureau of Natural Resources, dated October 5, 2009)

71. Approximately 64 trees with a diameter at breast height of six inches or more would be removed for the compound and access road at the proposed Devil's Hopyard South Site. (AT&T 1, Attachment 4 – Site Evaluation Report)

72. There are two wetland areas (designated as Wetland A and Wetland B) in the vicinity of the proposed Devil's Hopyard South facility. Wetland A is a palustrine forested broad-leaved deciduous wetland system located approximately 160 feet to the south of the proposed tower site and extending in a southerly direction onto an adjacent property. Wetland B is also a palustrine forested broad-leaved deciduous wetland system and is located approximately 100 feet directly west of the proposed access road at its closest point. It extends in a southwesterly direction onto an adjacent property. (AT&T 1, Attachment 4, Tab A – Wetland & Watercourse Delineation Report for SR2293 Ed Williams Road and Wetland Delineation Sketch Map)

73. Within Wetland B, there are two potential vernal pools. These pools are located approximately 150 feet from the edge of the originally proposed access road to the site of the facility. (AT&T 1, Attachment 4, Tab A – Wetland & Watercourse Delineation Report for SR2293 Ed Williams Road, Wetland Delineation Sketch Map; AT&T Responses to CSC Interrogatories-Set 2, Exhibit B, Response to Question 9)
74. The alternate access road shown in AT&T's response to the Council's second set of interrogatories would be located approximately 220 feet from the closest points of the two potential vernal pools. (AT&T Responses to CSC Interrogatories-Set 2, Exhibit B, Response to Question 9, Drawing C02A)
75. If AT&T were to use the originally proposed access road, there would be no disturbance within 100 feet of the two potential vernal pools and less than 25% of the acreage within 750 feet of the pools would be disturbed during construction of the proposed facility, making construction of the facility consistent with the guidelines set forth in Best Development Practices for pool-breeding amphibians in commercial and residential developments, Calhoun, A.J.K. and M.W. Klemens, 2002. Use of the proposed alternate access road would make any disturbance due to construction activities further removed from the potential vernal pools. (AT&T Responses to CSC Interrogatories-Set 2, Exhibit B, Response to Question 10)
76. This proposed facility would have no impact on Burnham Brook, a tributary of the Eightmile River, which is located approximately 1,800 feet to the south. (AT&T Responses to CSC Interrogatories-Set 2, Exhibit A, CHA Response to Question 11)
77. At this site, AT&T would establish and maintain appropriate soil erosion and sedimentation control measures, in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended, established by the Connecticut Council for Soil and Water Conservation, in cooperation with the Connecticut Department of Environmental Protection. (AT&T 1, pp. 25-26)
78. AT&T utilized the FCC's TOWAIR program to determine if this proposed site would require registration with the Federal Aviation Administration (FAA). The results of this program indicated that no registration would be required for this site and that the proposed tower would not require lighting or marking. (AT&T 1, p. 20)
79. The cumulative worst-case maximum power density from the radio frequency emissions of AT&T's proposed antennas at the proposed Devil's Hopyard South Site is calculated to be 0.0370 mW/cm² or 5.43% of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (AT&T 1, Attachment 4A – Power Density Calculation for Antennas on a Proposed Tower at Ed Williams Road, East Haddam, CT)

Visibility

80. The tower at the proposed Devil’s Hopyard South Site would be visible year-round from approximately 3.95 acres within a two-mile radius of the site. (AT&T 1, Attachment 4C – Visual Analysis Report)
81. The acreage where this tower would be visible year-round includes two areas immediately south of Ed Williams Road and one area west of West Street. (AT&T 1, Attachment 4C – Visual Analysis Report)
82. The tower at the proposed Devil’s Hopyard South Site would be seasonally visible from approximately 1.39 acres. (AT&T 1, Attachment 4C – Visual Analysis Report)
83. Areas of seasonal visibility include a 170-foot stretch along Foxtown Road and a 210-foot stretch along West Street. (AT&T 1, Attachment 4C – Visual Analysis Report)
84. The tower at the proposed Devil’s Hopyard South Site would be seasonally visible from one residence on Foxtown Road and one residence on West Street. (AT&T 1, Attachment 4C – Visual Analysis Report)
85. The visibility of the tower at the proposed Devil’s Hopyard South Site from different vantage points in the surrounding vicinity is summarized in the following table. (See Figure 7)

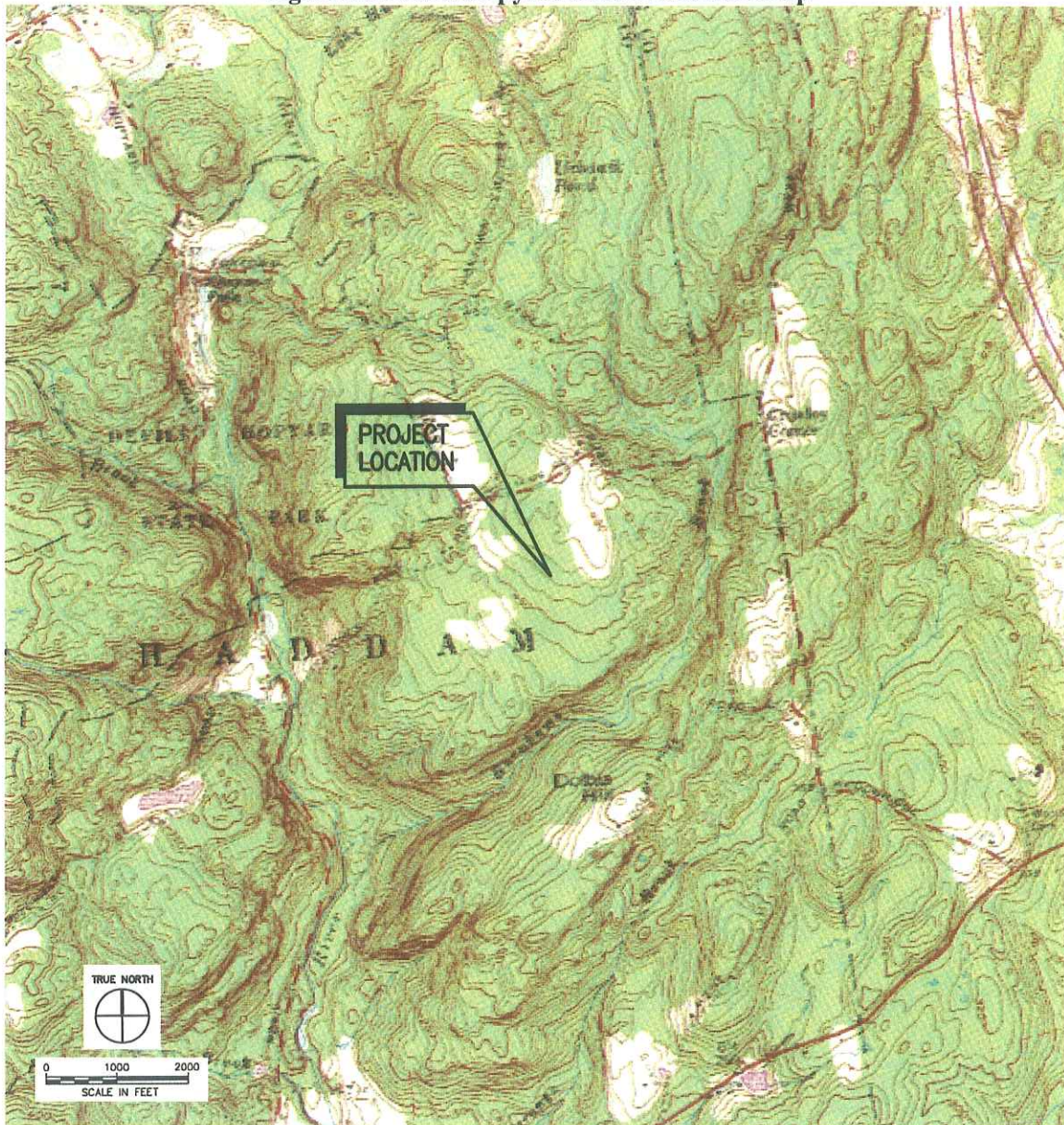
Location	Visible Site	Approx. Portion of (160’) Tower Visible (ft.)	Approx. Distance and Direction to Tower Site
1 – West Street	Seasonal	20’	3,410 feet; W
2 – Foxtown Road	Seasonal	20’	2,130 feet; SE
3 – Foxtown Cemetery	No	n/a	8,100 feet; S
4 – Salem Farm Camping	No	n/a	10,335 feet; S
5 – North Plain Cemetery	No	n/a	10,045 feet; NE
6 – Woodbridge Farm	No	n/a	7,415 feet; NW
7 – Millington Green	No	n/a	10,310 feet; SE
8 – Devil’s Hopyard State Park South Viewpoint	No	n/a	3,480 feet; E
9 – Devil’s Hopyard State Park North Viewpoint	No	n/a	6,880 feet; SE
10 – Devil’s Hopyard State Park Yellow Trail	No	n/a	4,920 feet; E

(AT&T 1, Attachment 4C – Visual Analysis Report)

86. The tower at the proposed Devil’s Hopyard South Site would not be visible from the Devil’s Hopyard State Park. (AT&T 1, p. 15; Attachment 4C – Visual Analysis Report)
87. The tower at the proposed Devil’s Hopyard South Site would not be visible from the Millington Green Historic District. (AT&T 1, p. 15; Attachment 4C – Visual Analysis Report)

88. The tower at the proposed Devil's Hopyard South would be seasonally visible from land owned by the Nature Conservancy to the southeast and northeast. (Tr. 1, p. 33)

Figure 1: Devil's Hopyard South Location Map



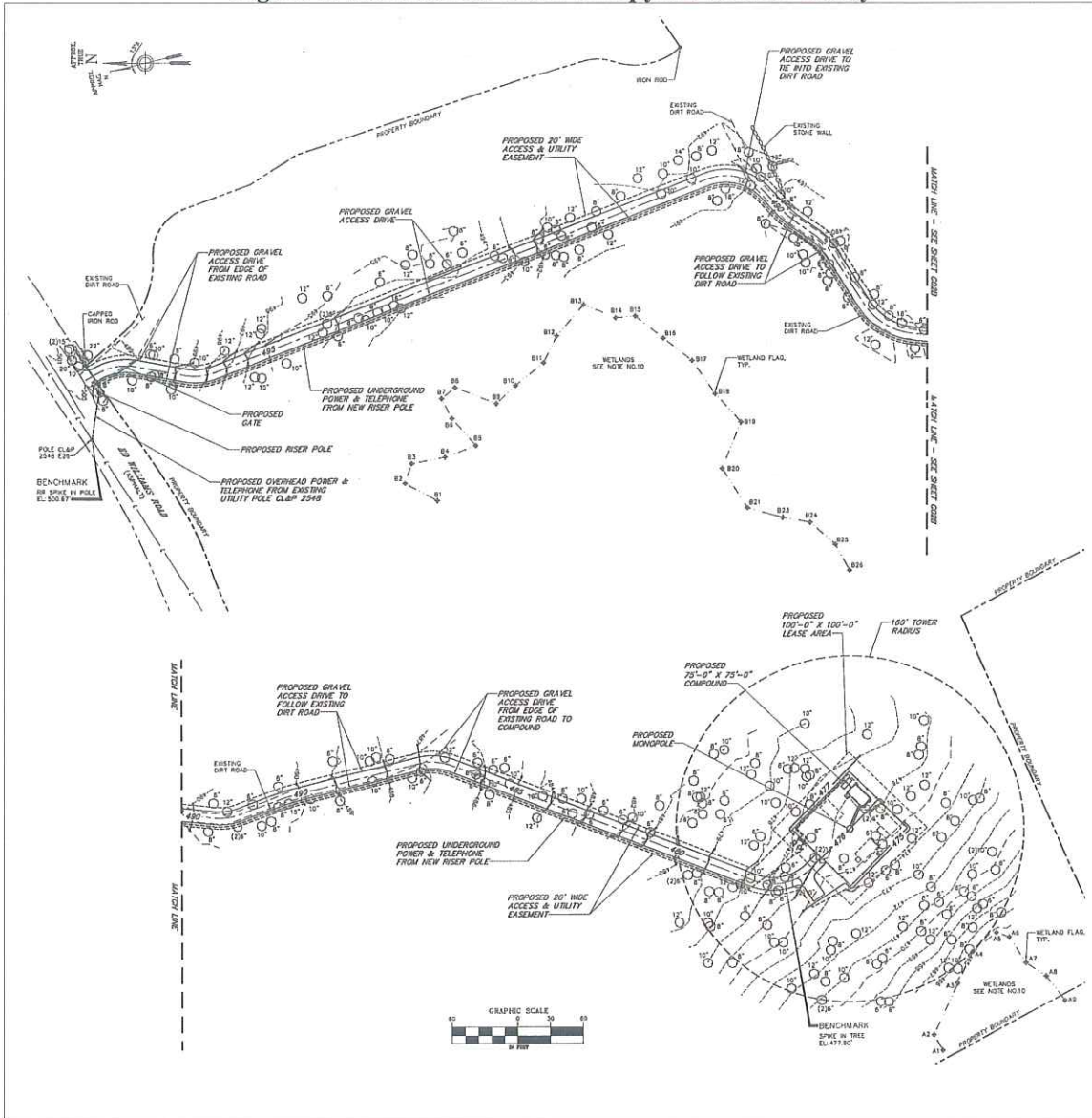
(AT&T 1, Attachment 4)

Figure 2: Aerial Photograph of Devil's Hopyard South's Proposed Location



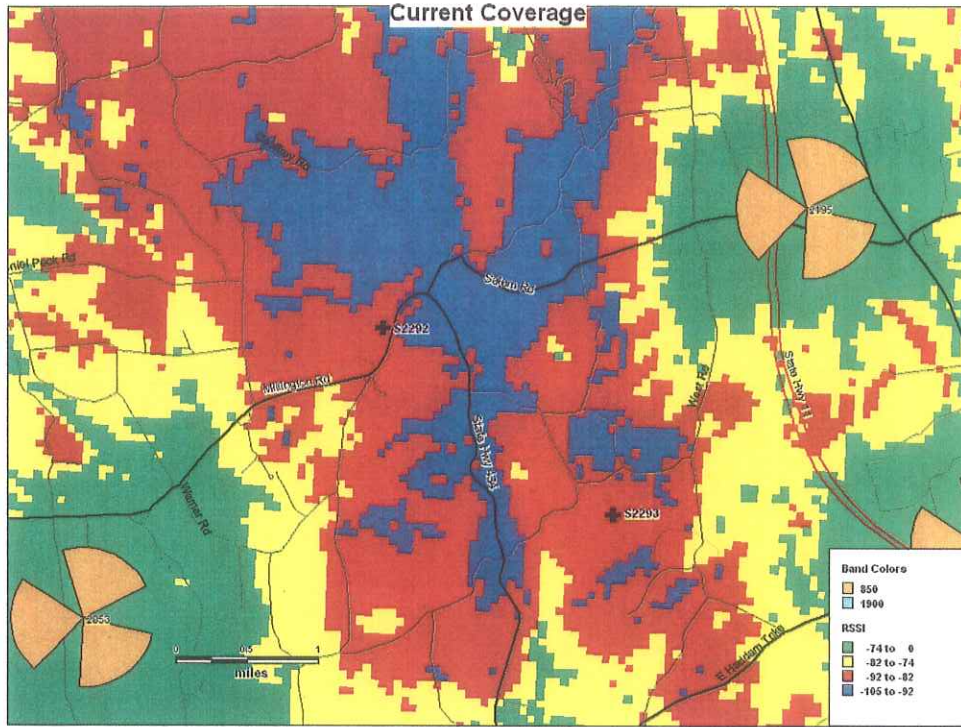
(AT&T 1, Attachment 4)

Figure 3: Site Plan for Devil's Hopyard South Facility



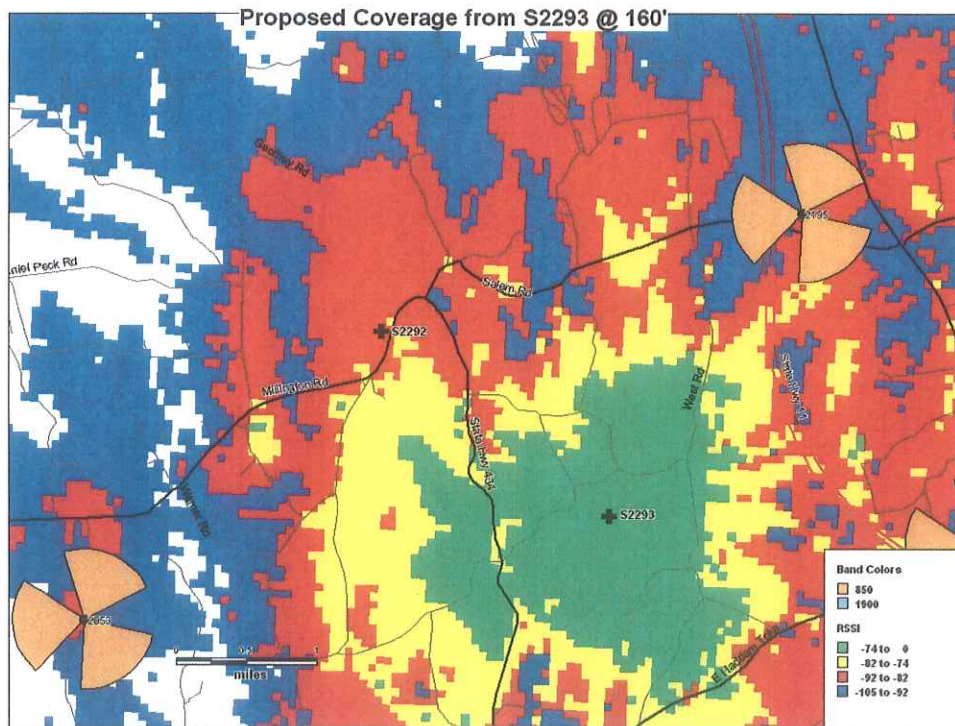
(AT&T 1, Attachment 4)

Figure 4: AT&T's Existing Coverage



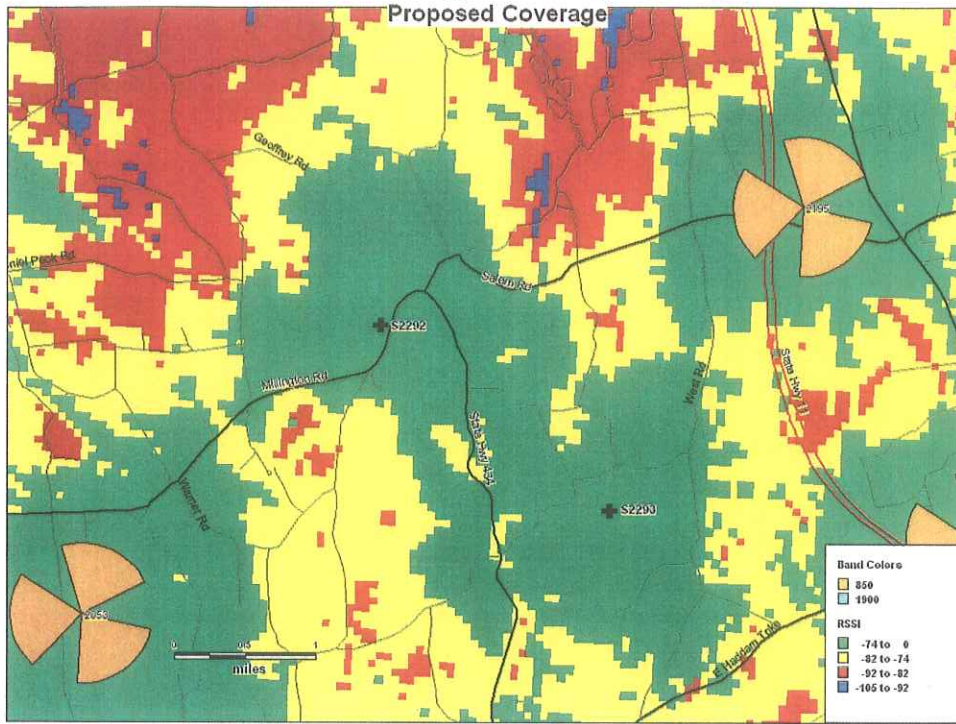
(AT&T 1, Attachment 1)

Figure 5: Coverage from Proposed Devil's Hopyard South Site



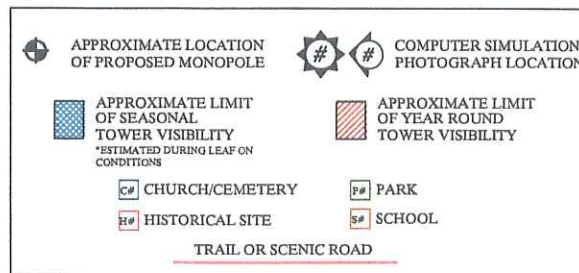
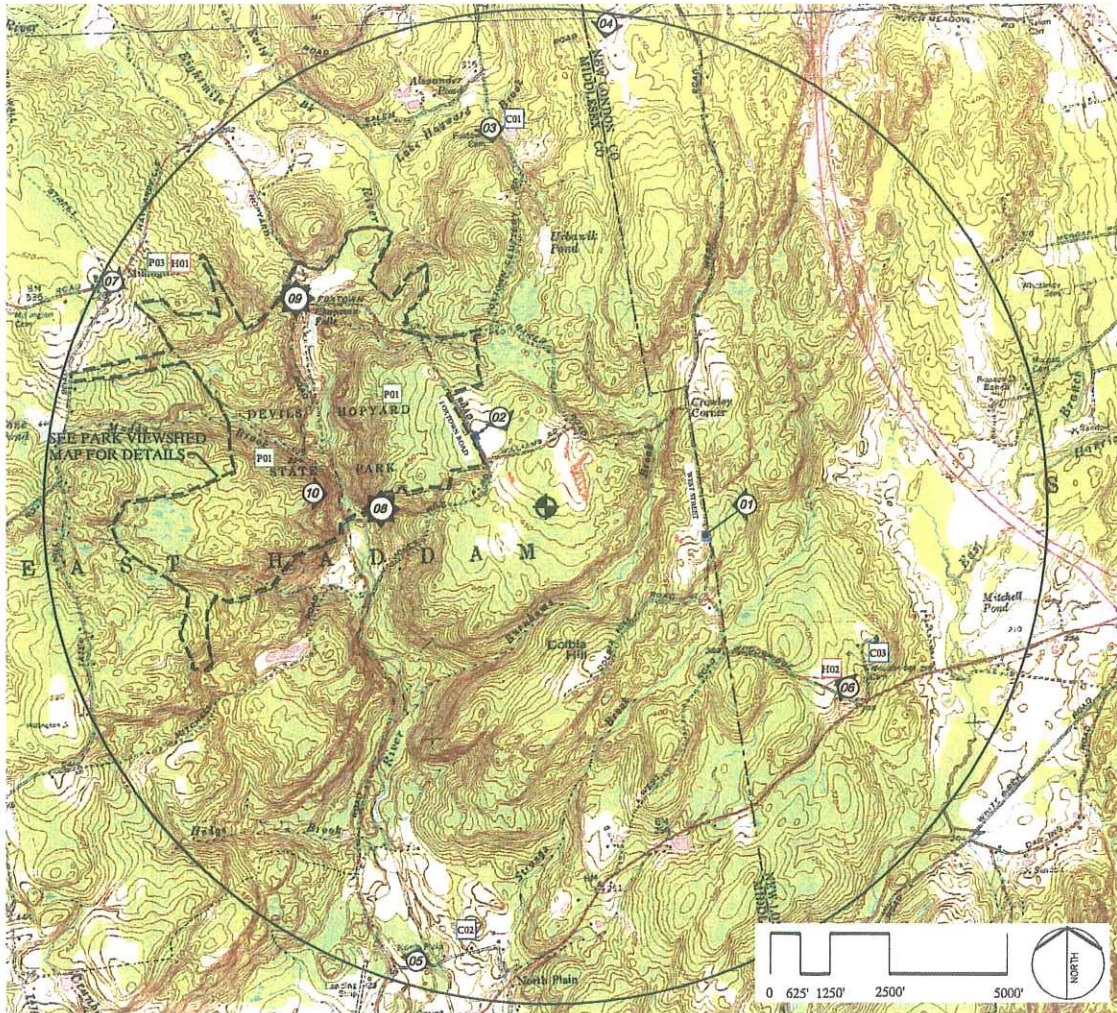
(AT&T 1, Attachment 1)

Figure 6: Proposed Coverage – Existing and Proposed Sites



(AT&T Attachment 1)

Figure 7: Visibility Map for Devil's Hopyard South Facility



(AT&T 1, Attachment 4C)

<p>DOCKET NO. 395B – New Cingular Wireless PCS, LLC } application for a Certificate of Environmental Compatibility and } Public Need for the construction, maintenance and operation of a } telecommunications facility located off of Ed Williams Road in } the Town of East Haddam, Connecticut. }</p>	<p>Connecticut Siting Council</p>
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June 17, 2010

Opinion

On December 3, 2009, New Cingular Wireless PCS, LLC (AT&T) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, management, and maintenance of two wireless telecommunications facilities to be located in the Town of East Haddam, Connecticut. One site was proposed for a location off of Haywardville Road. The other site was proposed for a location off of Ed Williams Road. After AT&T's application was submitted, it was bifurcated into two separate applications. The site off of Haywardville Road, also referred to as the Devil's Hopyard North site, was designated as Docket 395A. The site off of Ed Williams Road, also referred to as the Devil's Hopyard South site, was designated as Docket 395B. The Devil's Hopyard South site is located on a 64.32 acre parcel owned by Andrew J. Tarpill. The Tarpill property is heavily wooded and undeveloped. AT&T's objective in locating a facility at this location is to provide wireless communication services in the eastern portion of East Haddam, including the Devil's Hopyard State Park, and along State Route 434 and 82 as well as other local roads in the area. Youghiogheny Communications Northeast LLC, an FCC-licensed wireless telecommunications provider doing business in Connecticut as Pocket Wireless, submitted a letter stating its intention to place antennas at a centerline height of 150 feet on the proposed tower in order to provide service within an existing coverage gap it has in the vicinity of the proposed facility.

At the proposed Devil's Hopyard South site, AT&T would construct a 160-foot monopole within a 75-foot by 75-foot compound that would be enclosed by an eight-foot chain link fence. The tower and compound area would be located in the southwesterly portion of the Tarpill property. No landscaping is proposed, as the area around the proposed facility is heavily wooded. Access to the proposed facility would consist of an approximately 1,500 foot long gravel drive. In its application, AT&T proposed an access drive that would lie entirely within the Tarpill property. In response to Council concerns about potential impacts on vernal pools on the Tarpill property, AT&T submitted an alternative design for its access drive that would place it further to the east, following an existing dirt road for a short distance. However, the Council is satisfied that the originally proposed access drive would not adversely impact the vernal pools and will approve the original design. Utility service for the proposed facility would be brought overhead across Ed Williams Road to a new riser pole to be installed at the entrance of the access drive and then extended underground to the compound alongside the access drive. The tower would be designed to support the antennas of a total of four wireless carriers and the antennas of local public safety services.

The setback radius of the proposed tower would be entirely contained within the Tarpill property. Two residences are located within 1,000 feet of the proposed tower, the closest of which is 800 feet to the northwest.

The proposed tower at the Devil's Hopyard South site would be visible year-round from approximately 3.95 acres within a two mile radius of the site. It would be seasonally visible from approximately 1.39 acres and from one residence on Foxtown Road and one residence on West Street. The proposed tower would not be visible from the Devil's Hopyard State Park or from the Millington Green Historic District. It would be visible from land owned by the Nature Conservancy to the southeast and northeast.

The proposed facility is located in a flat, heavily wooded area. Development of the proposed site would require the clearing of approximately 64 trees of at least six inches in diameter at breast height (dbh). There are two wetland areas (designated as Wetland A and Wetland B) in the vicinity of the proposed Devil's Hopyard South facility. Wetland A is a palustrine forested broad-leaved deciduous wetland system located approximately 160 feet to the south of the proposed tower site and extending in a southerly direction onto an adjacent property. Wetland B is also a palustrine forested broad-leaved deciduous wetland system and is located approximately 100 feet directly west of the proposed access road at its closest point. It extends in a southwesterly direction onto an adjacent property. Wetland B encompasses two potential vernal pools. These pools are located approximately 150 feet from the edge of the originally proposed access road to the site of the facility.

The proposed Devil's Hopyard North facility would not impact any federally or state listed endangered, threatened or special concern species. It would have no effect on historic properties that are listed in or have been determined eligible for the National Register of Historic Places. The proposed facility would have no impact on Burnham Brook, a tributary of the Eightmile River, which is located approximately 1,800 feet to the south.

The Council finds that the proposed facility would provide service to an area of the state currently without adequate coverage. Although the proposed facility would be located near to the Devil's Hopyard State Park, it would not have a visual impact on this important natural and recreational resource.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the combined worst-case radio frequency power density levels of AT&T's antennas proposed to be installed on the tower would amount to 0.0370 mW/cm² or 5.43% of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies. If federal or state standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower. The Telecommunications Act of 1996 prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, management, and maintenance of the telecommunications facility at the proposed Devil's Hopyard South site off of Ed Williams Road, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, management, and maintenance of a 160-foot monopole telecommunications facility on the property owned by Andrew J. Tarpill off of Ed Williams Road in East Haddam, Connecticut.

DOCKET NO. 395B – New Cingular Wireless PCS, LLC } Connecticut
application for a Certificate of Environmental Compatibility and }
Public Need for the construction, maintenance and operation of a } Siting
telecommunications facility located off of Ed Williams Road in }
the Town of East Haddam, Connecticut. } Council

June 17, 2010

Decision and Order

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, management, and maintenance of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes § 16-50k, be issued to New Cingular Wireless PCS, LLC, hereinafter referred to as the Certificate Holder, for a telecommunications facility on property owned by Andrew J. Tarpill and located off of Ed Williams Road in East Haddam, Connecticut.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and subject to the following conditions:

1. The tower shall be constructed as a monopole, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of New Cingular Wireless PCS, LLC and other entities, both public and private, but such tower shall not exceed a height of 160 feet above ground level.
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of East Haddam for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, access road (as submitted in the original application), utility line, and landscaping; and
 - b) construction plans for site clearing, grading, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

3. The Certificate Holder shall, prior to the commencement of operation, provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities' antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.
4. Upon the establishment of any new state or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
5. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
6. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of East Haddam public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
7. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed and providing wireless services within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline.
8. At least one wireless telecommunications carrier shall install their equipment and shall become operational not later than 120 days after the tower is erected. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
9. Any request for extension of the time period referred to in Condition 7 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of East Haddam. Any proposed modifications to this Decision and Order shall likewise be so served.
10. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
11. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.

12. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in the Hartford Courant.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

Applicant


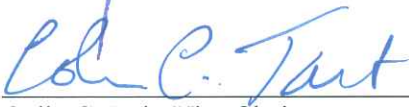
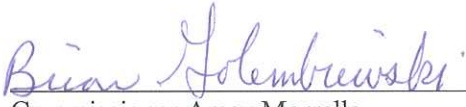
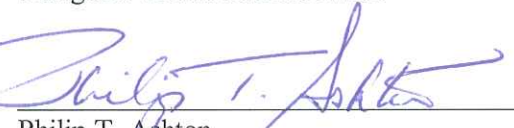
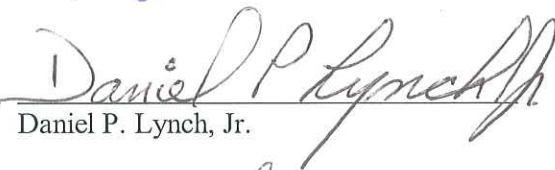
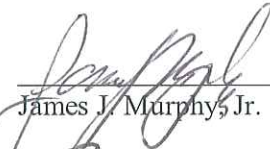

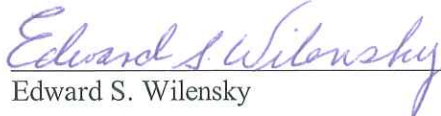
New Cingular Wireless PCS, LLC

Its Representative

Christopher B Fisher, Esq.
Daniel M. Laub, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

CERTIFICATION

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 395B** - 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 off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut, and voted as follows to approve the proposed telecommunications site located off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut:

<u>Council Members</u>	<u>Vote Cast</u>
 _____ Daniel F. Caruso, Chairman	Yes
 _____ Colin C. Tait, Vice Chairman	Yes
_____ Commissioner Kevin M. DelGobbo Designee: Larry P. Levesque	Absent
 _____ Commissioner Aney Marrella Designee: Brian Golembiewski	Yes
 _____ Philip T. Ashton	Yes
 _____ Daniel P. Lynch, Jr.	Yes
 _____ James J. Murphy, Jr.	Yes
 _____ Dr. Barbara Currier Bell	Yes
 _____ Edward S. Wilensky	Yes

Dated at New Britain, Connecticut, June 17, 2010.



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

Internet: ct.gov/csc

June 21, 2010

TO: Classified/Legal Supervisor
395100304
The Hartford Courant
285 Broad St.
Hartford, CT 06115

FROM: Jessica Brito-Weston, Office Assistant 

RE: **DOCKET NO. 395B** - 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 off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut.

Please publish the attached notice as soon as possible, but not on Saturday, Sunday, or a holiday.

Please send an affidavit of publication and invoice to my attention.

Thank you.

JBW



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

Internet: ct.gov/csc

NOTICE

Pursuant to General Statutes § 16-50p (e), the Connecticut Siting Council (Council) announces that, on June 17, 2010, the Council issued Findings of Fact, an Opinion, and a Decision and Order approving an application from New Cingular Wireless PCS, LLC (AT&T) for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut



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

Internet: ct.gov/csc

June 21, 2010

Christopher B Fisher, Esq.
Daniel M. Laub, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

RE: **DOCKET NO. 395B** - 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 off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut.

Dear Attorney Fisher:

By its Decision and Order dated June 17, 2010, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a telecommunications facility located off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut.

Enclosed are the Council's Certificate, Findings of Fact, Opinion, and Decision and Order.

Very truly yours,



S/ Derek Phelps
Executive Director

SDP/CDM/jbw

Enclosures (4)

c: Michele Briggs, AT&T



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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**CERTIFICATE
OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED
DOCKET NO. 395B**

Pursuant to General Statutes § 16-50k, as amended, the Connecticut Siting Council hereby issues a Certificate of Environmental Compatibility and Public Need to New Cingular Wireless PCS, LLC (AT&T) for the construction, maintenance and operation of a telecommunications facility located off of Ed Williams Road (Devil's Hopyard South), East Haddam, Connecticut.

This Certificate is issued in accordance with and subject to the terms and conditions set forth in the Decision and Order of the Council on June 17, 2010.

By order of the Council,

Daniel F. Caruso, Chairman

June 17, 2010