

CONNECTICUT SITING COUNCIL

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CONNECTICUT
SITING COUNCIL

APPLICATION OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 343
DALEVILLE ROAD, WILLINGTON, CONNECTICUT

APPLICANT'S POST-HEARING BRIEF

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EXECUTIVE SUMMARY

On February 5, 2010, Cellco Partnership d/b/a Verizon Wireless (“Cellco”) filed an application (“Application”) with the Connecticut Siting Council (“Council”) for a Certificate of Environmental Capability and Public Need (“Certificate”) to construct a wireless telecommunications facility at 343 Daleville Road in the Town of Willington, Connecticut (the “Willington Facility”). The proposed Willington Facility would provide for much needed wireless service along the heavily-traveled Route 44, as well as local roads in southern portions of Willington and northern portions of Mansfield, Connecticut.

Facility Description

At the Willington Facility, Cellco proposes to construct a 105-foot tower¹ in the central portion of the 22-acre parcel located at 343 Daleville Road. At the top of the tower, Cellco would install twelve (12) antennas with their centerline at the 102-foot level. Cellco would also install a 12’ x 24’ shelter located near the base of the tower to house its radio equipment and a propane-fueled back-up generator. Access to the Willington Facility would extend from Daleville Road along the property owner’s existing driveway a distance of approximately 600 feet then over portions of an existing dirt path an additional distance of approximately 500 feet to the cell site. Cellco will improve the dirt path which will maintain a 12-foot wide gravel surface.

Public Need

Cellco currently experiences significant gaps in both PCS and cellular coverage along

¹ As described more fully in Late File Exh. 1, the finished grade of the tower compound was lowered by five feet. To maintain the same overall antenna elevation, (AMSL) Cellco would increase the tower height from 100 feet to 105 feet.

Route 44 between its existing Mansfield cell site at 497 Middle Turnpike in Mansfield and its Ashford West 2 cell site 99 Knowlton Road in Ashford. These gaps total 1.6 miles at PCS frequencies and 0.5 miles at cellular frequencies. The proposed Willington Facility would provide reliable service to a 1.9 mile portion of Route 44 and an overall area of 1.9 square miles at PCS frequencies; a 1.95 mile portion of Route 44 and an overall area of approximately 4.4 square miles at cellular frequencies; and a 2.35 mile portion of Route 44 and an overall area of approximately 5.95 square miles at LTE frequencies.

Nature of Probable Impacts

The only potential adverse impact from the proposed tower involves “scenic values.” The overall area where some portion of the proposed Willington Facility tower would be visible year round (above the tree line), is limited to approximately seven (7) acres, or less than one half of one-percent of the two mile radius study area (8,042 acres). Areas where seasonal views are anticipated comprise an additional twenty-three (23) acres. At least partial year-round views may be possible from select portions of five (5) residential properties all located in the immediate vicinity of the Willington Facility.

Public Input

The Willington Facility is located within 2,500 feet of the Willington-Mansfield town line. Cellco commenced its local input process by meeting with representatives from the Towns of Willington and Mansfield. Willington First Selectwoman, Christina Mailhos appeared at the Council’s May 25, 2010 hearing on behalf of the Town of Willington. Ms. Mailhos has not received any complaints nor has she received any comments in support of the Willington Facility proposal. No neighbors, residents or members of general public appeared at the Council’s hearing.

Reconfiguration of the Tower Compound

At the Council's request, Cellco reconfigured the Willington Facility compound, resulting in a reduction in the amount of fill and grading required to establish a level compound and the preservation of a number of additional trees within or near the compound area. The new compound area has been shifted to the southwest and narrowed. The finished grade of the reconfigured compound has been lowered by five (5) feet, thereby eliminating the need for any fill. In order to maintain the same overall antenna centerline height, Cellco will need to construct a tower with an overall height of 105 feet, above the finished grade, five (5) feet taller than proposed in the Application.

Conclusion

The evidence in the record clearly demonstrates that there is a need for the proposed Willington Facility and that the environmental impacts from the proposed facility would be minimal when balanced against its benefits. Therefore, the Council should approve the Application as submitted.

I. INTRODUCTION

On February 5, 2010, Cellco Partnership d/b/a Verizon Wireless (“Cellco” or “Applicant”) filed with the Connecticut Siting Council (“Council”) an application (the “Application”) for a certificate of environmental compatibility and public need (“Certificate”), pursuant to Sections 16-50g et seq. of the Connecticut General Statutes (“Conn. Gen. Stat.”), for the construction, maintenance and operation of a wireless telecommunications facility (the “Willington Facility”) on a 22 acre parcel at 343 Daleville Road in the Town of Willington, Connecticut (the “Property”). (Cellco Exhibit 1 (“Cellco 1”)). Cellco currently experiences significant gaps in both PCS and cellular coverage along Route 44 between its existing Mansfield cell site at 497 Middle Turnpike in Mansfield and Ashford West 2 cell site 99 Knowlton Road in Ashford. These existing coverage problems must be resolved in order for Cellco to continue to provide high-quality, uninterrupted and reliable wireless telecommunications service consistent with its Federal Communications Commission (“FCC”) license and to meet the demands of its wireless telecommunications customers. The Willington Facility would provide for much needed coverage along Route 44, as well as local roads in southern portions of Willington and the northern portions of Mansfield. (Cellco 1).

II. PROCEDURAL BACKGROUND

The Council conducted an evidentiary and public hearing on the Application on May 25, 2010. (May 25, 2010 Transcript (afternoon) (“TR1”) at 2; May 25, 2010 Transcript (evening) (“TR2”) at 2). Prior to the afternoon session of the hearing, the Council and its staff visited the Property. At the Council’s request, Cellco caused a balloon with a diameter of approximately four (4) feet to be flown at the proposed tower location, at 100 feet above ground level (“AGL”) during the site visit. (Cellco 1; TR2 at 8).

This post-hearing brief is filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”) and the Council’s directives. (TR2 at 9). This brief evaluates the Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes and addresses several other issues raised throughout the course of this proceeding.

III. FACTUAL BACKGROUND

A. Pre-Application History

Cellco is licensed to provide PCS (1900 MHz), cellular (850 MHz) and LTE (700 MHz) service throughout Connecticut. As of the date of this filing Cellco has not deployed and is not therefore operating its LTE service in or around the Willington area. Cellco currently experiences PCS and cellular coverage gaps along Route 44 and local roadways between its existing Mansfield cell site at 497 Middle Turnpike in Mansfield and Ashford West 2 cell site 99 Knowlton Road in Ashford. (Cellco 1). Cellco began a search for an appropriate location for a facility to resolve these significant coverage problems in July of 2006. (Cellco 1). As a first step in its site search process, Cellco investigates whether there are existing towers, or non-tower structures of suitable height in an area that can be used to satisfy its coverage objectives. There are no such existing towers in the vicinity of the Willington Facility that Cellco does not already share. Likewise, there are no existing non-tower structures of suitable height in the area that can satisfy Cellco’s coverage objectives. If a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the facility could be reduced to the greatest extent possible. (Cellco 1 at 10-11, Tab 9). Cellco selected the location for the proposed Willington Facility in such a manner as

to allow it to build and to operate a high-quality wireless system with the least environmental impact.

B. Local Contacts

On December 1, 2009, Cellco representatives met with Willington First Selectwoman Christina Mailhos and Susan Yorgenson, Willington's Zoning Enforcement Officer and Wetlands Agent regarding the proposed Willington Facility. (Cellco 1 at 20). At that meeting, Ms. Mailhos and Ms. Yorgenson received copies of technical information summarizing Cellco's plans to establish a telecommunications facility at the Property ("Technical Report"). Ms. Mailhos appeared at the Council's May 25, 2010. (TR1 at 7-8). Because the Town of Mansfield is located within 2,500 feet of the Property, on December 1, 2009, Cellco also met with and delivered copies of the technical information to the Greg Padick, Mansfield's Town Planner, as designee for the Town Manager. (Cellco 1. at 20; Cellco (Bulk File Exhibit) 1.d.).

C. Tower Sharing

Consistent with its practice, Cellco regularly explores opportunities to share its facilities with other wireless service providers. Cellco intends to design the Willington Facility tower so that it could be expanded up to twenty feet, if necessary, and shared by other carriers. (TR1 at 34). During the course of its meeting with municipal officials in Willington and Mansfield, Cellco agreed to provide access to the tower, at no cost, to the Towns local emergency service providers interested in sharing the tower. Cellco would also agree to make ground space in the facility compound available, if needed. (Cellco 1 at 11; TR at 45).

D. The Willington Facility Proposal

The Willington Facility would be located within a 44' x 60' fenced compound in the

central portion 22 acre parcel (“Property”) owned by Muriel Kreuzscher. (Cellco 1, Tab 1; Late File 1). At the Willington Facility, Cellco would construct a new 105-foot tall monopole tower² and install twelve (12) panel-type antennas – six (6) cellular and three (3) PCS and three (3) LTE - with their centerline at 102 feet above the finished grade of the modified site compound. The top of the Cellco antennas would not extend above the top of the proposed tower. (Cellco 1 at 2, Tab 1; Late File 1).

Cellco would install a 12’ x 24’ single-story shelter near the base of the tower to house its receiving, transmitting, switching, processing and performance monitoring equipment and the required heating and cooling equipment. A propane-fueled back-up generator would be installed within a segregated room in Cellco’s equipment shelter for use during power outages and periodically for maintenance purposes. A 1,000 gallon propane tank would also be installed within the Willington Facility compound. The tower, equipment shelter and propane tank would be surrounded by an 8-foot high security fence and gate. Vehicular access and utility service to the Willington Facility would extend from Daleville Road along a portion of the Property owner’s existing driveway, a distance of approximately 600 feet, then over a portion of an existing dirt path, which will be improved, an additional distance of approximately 500 feet to the cell site. (Cellco 1; Late File 1).

² As described in Late File Exh.1, the antenna centerline height for the proposed 105 foot tower is the same as the 100 foot tower described in the Application. The addition of five (5) feet of tower simply compensates for the change (reduction) in finished grade elevation of the reconfigured facility compound.

IV. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50P FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Section 16-50p of the Public Utility Environmental Standards Act (“PUESA”), Conn. Gen. Stat. §16-50g *et seq.*, sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. 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; (2) the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (3) why the adverse effects or conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. A Public Need Exists for the Willington Facility

The first step in the review of the pending Application addresses the public need for the proposed facility. As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. The Federal Telecommunications Act of 1996 (the "Telecommunications Act") emphasized and expanded on these aspects of the FCC's 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. Most recently, President Barak Obama issued in Presidential Proclamation 8460, in which "cellular phone towers" were identified as critical infrastructure vital to national security. (Cellco 1; Council Adm. Notice 7 and 19).

Cellco currently experiences significant gaps in PCS and cellular coverage along Route 44 between its existing Mansfield and Ashford West 2 cell sites. (Cellco 1, Tab 7). These existing coverage problems must be resolved in order for Cellco to continue to provide high-quality, uninterrupted and reliable wireless telecommunications service consistent with its FCC license and to meet the demands of its wireless telecommunications customers. The Willington Facility described above would provide for much needed coverage along the heavily-traveled Route 44 as well as local roads in southern portions of Willington and northern portions of Mansfield. (Cellco 1, Tab 7).

As the Council is aware, Cellco holds licenses to provide PCS, cellular and LTE services in Windham County, Connecticut and proposes to operate these frequencies at the Willington Facility. (Cellco 1; Cellco 4 Resp. 7). The PCS, cellular and LTE services Cellco plans to deploy, operate at different frequencies, and will allow customers to use the same cell site for voice and/or data services. By installing PCS, cellular and LTE antennas at the Willington Facility, Cellco can ensure that it has more capacity available to meet the growing demand of its customers for wireless voice and data services. (Cellco 1; Cellco 4 Resp. 7). The deployment of PCS, cellular and LTE frequencies is particularly important to Cellco in the Mansfield area given the Willington Facility's proximity to the University of Connecticut ("UCONN"). Cell sites in and around the UCONN campus regularly experience high volumes of data usage. (TR.1 at 35).

The record contains ample, written evidence and testimony that a 105-foot tower at the Property would allow Cellco to achieve and maintain high quality wireless telecommunications service at PCS, cellular and LTE frequencies without interruption from dropped calls and interference. The Willington Facility would be incorporated into a network design plan, intended to provide Cellco customers with reliable wireless service along Route 44, as well as along local roads in southern portions of Willington and northern portions of Mansfield where coverage is currently unreliable or non-existent. (Cellco 1; Late File 1).

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed facility and particularly the following factors:

1. Natural Environment and Ecological Balance

The proposed development of the Willington Facility has eliminated, to the extent possible, impacts on the natural environment. All Willington Facility improvements would be located within a 44' x 60' site compound. Access to the Willington Facility would extend from Daleville Road a total distance of approximately 1,100 to the cell site, utilizing a portion of the land owner's existing driveway. (Cellco 1, Tab 1; Late File Exh. 1). With changes to the grading plan, Cellco eliminated the need for any fill to construct the site compound (Late File 1). Construction of the site compound and access road will require clearing of approximately 25 trees with a six inch (6") diameter at breast height. (Cellco 1; Late File Exh. 1). Overall, the limited construction activity would have a negligible environmental impact on the Property. No evidence to refute this conclusion was presented to the Council.

2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed facility would be minimal or nonexistent.

First, the potential for the Willington Facility towers to fall does not pose an unreasonable risk to health and safety. The proposed tower would be designed and built to meet Electronic Industries Association ("EIA") standards. Other than Cellco's proposed equipment shelter and a small shed-like structure owned by Cellco's landlord, there are no structures within the fall radius of the tower and the fall radius would remain entirely within the limits of the Property. The nearest off-site residence is located approximately 680 feet to the south of the Willington Facility. (Cellco 4 Resp. 9; Cellco 9).

Second, worst-case potential public exposure to RF power density for operation of the

Willington Facility at the nearest point of uncontrolled access (the base of each tower) would be 35.43% of the FCC standard. Power density levels would drop off rapidly as distance from the tower increases. (Cellco 1).

Overall, the nature and extent of potential, adverse public health and safety impacts resulting from construction and installation of the Willington Facility would be minimal or nonexistent. No evidence to refute this conclusion was presented to the Council.

3. Scenic Values

As noted in the Application, the primary impact of any tower is visual. Cellco's site search methodology, described in the Site Search Summary, is designed in large part to minimize such visual impacts. As discussed above, wherever feasible, Cellco avoids construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near the search area. Cellco currently maintains antennas on six (6) existing towers within four miles of the proposed Willington Facility. No existing non-tower structures of suitable height exist in the southern portion of Willington and northern Mansfield. (Cellco 1, Tab 9).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the site would be reduced to the greatest extent possible. Cellco explored the use of several alternative sites in the area. (Cellco 1, Tab 9).

The Property and the surrounding area are heavily-wooded and sparsely developed for residential purposes. The Willington Facility would be located in the central portion of a 22 acre parcel, adequately buffered from all adjacent properties and land uses. (Cellco 1).

Cellco submitted a Visual Resource Evaluation Report prepared by VHB Inc. (“VHB Report”) as a part of the Application. Prior to preparing its report, VHB conducted a balloon float at the Property and field reconnaissance to assess visibility of the Willington Facility. VHB determined that the proposed Willington Facility tower would be partially visible above the tree canopy from only about seven (7) acres, less than one-half of one percent of the two mile radius (8,042-acre) study area. VHB estimates that select portions of five (5) residential properties may have partial year-round views of the tower, above the tree line. Areas where seasonal views are anticipated comprise an additional twenty three (23) acres and are located in the immediate vicinity of the proposed tower site. (Cellco 1 at 13-14, Tab 10). Modifications to the facility compound and the five foot increase in the height of the tower described in Late File Exh. 1 does not change the VHB analysis, primarily because the “top of tower” elevation (AMSL) does not change.

4. Historical Values

As it does with all of its tower proposals, prior to filing the Application with the Council, Cellco requested that the State Historic Preservation Office (“SHPO”) of the Connecticut Historical Commission (the “Commission”) review the proposed facility and provide a written response. Based on his review of the information submitted by Cellco, the Deputy State Historic Preservation Officer determined that the development of a telecommunications facility at the Property would have “no effect” on Connecticut’s Cultural heritage. (Cellco 1, Tab 11). No evidence to the contrary was presented to the Council. Furthermore, Cellco has no reason to believe that there are any other impacts on historical values not addressed by the SHPO’s review.

5. Recreational Values

There are no recreational activities or facilities at or near the Property that would be impacted by development of the Willington Facility. (Cellco 1, Tabs 10 and 11).

6. Forests and Parks

There is no State or local forests or park land that will be impacted by the proposed Willington Facility. (Cellco 1, Tabs 10 and 11). No evidence to refute this conclusion was presented to the Council.

7. Air and Water Quality

a. Air Quality.

The equipment at the site would generate no air emissions under normal operating conditions. During power outage events and periodically for maintenance purposes, Cellco would utilize a diesel-fueled back-up generator to provide emergency power to the Willington facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection (“DEP”) Bureau of Air Management prior to installation of the proposed generator. (Cellco 1 at 21).

b. Water Quality.

The proposed Willington Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private sewage system. Dean Gustafson, Professional Soil Scientist with VHB, Inc., conducted a field investigation and completed a Wetlands Delineation Report (the “Wetlands Report”) for the Willington Facility. According to the Wetlands Report, the closest wetland area is located more than 100 feet south of the Willington Facility.³ As such, development of the Willington Facility will not result in any adverse impacts to nearby wetland resources. (Cellco 1 at 11, Tab 11; Late File 1). No

³ Even with the shift of the compound as described in Late File Exh.1, the Willington Facility will continue to maintain a minimum 115 foot setback from the nearest wetland area to the south (Late File Exh.1).

evidence to refute these conclusions was presented to the Council.

8. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco received comments on the Willington Facility from the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Environmental and Geographic Information Center of the DEP. The USFWS has determined that there are no federally-listed or proposed, threatened or endangered species or critical habitat known to occur in the Willington Facility project area. Likewise, according to the DEP, there are no known extant populations of Federal or State Endangered, Threatened or Special Concern Species at the Willington Facility. (Cellco 1, Tab 11; Cellco 2).

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the Willington Facility, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts “are not sufficient reason to deny the Application.” Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from the proposed towers involves “scenic values.” As the record overwhelmingly demonstrates, the Willington Facility would have minimal impacts on scenic values in the area. (Cellco 1, Tab 10). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of the Willington Facility. Unlike many other types of development, telecommunications facilities do not cause indirect environmental impacts, such as increased traffic and related pollution.

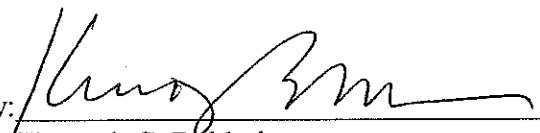
The limited aesthetic and environmental impacts of the proposed Willington Facility can be further mitigated by the sharing of the facility. Cellco has designed the 105-foot tower so that it could be shared by other carriers. (Cellco 1; Late File Exh. 1). During the course of its meeting with municipal officials in Willington and Mansfield, Cellco also agreed to provide access to the tower, at no cost, to the Town and to emergency service providers in the Town (TR 1. at 45).

In sum, the potential environmental impacts from the proposed Willington Facility would be minimal when considered against the benefits to the public. These impacts are insufficient to deny the Application. The site, therefore, satisfies the criteria for a Certificate pursuant to Connecticut General Statutes § 16-50p, and the Applicant's request for a Certificate should be granted.

V. CONCLUSION

Based on the overwhelming evidence in the record, the Applicant has established that there is a need for the proposed Willington Facility and that the environmental impacts associated with the Application would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application. Therefore, the Council should approve the Application as submitted.

Respectfully submitted,
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