

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

APPLICATION OF NORTH ATLANTIC TOWERS, LLC
and 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 TOWER FACILITY
AT ONE OF TWO SITES: 171 SHORT BEACH ROAD,
BRANFORD, OR 82 SHORT BEACH ROAD,
EAST HAVEN, CONNECTICUT

DOCKET NO. 427

July 2, 2012

RESPONSES TO INTERVENOR SARAH PIERSON'S INTERROGATORIES

Q1. This proposed tower in East Haven is being put in a highly populated residential area where the houses are quite close together. If this tower were to fall would it hit any of these pre-existing buildings, homes or cause damage to home owners' property?

A1. *The facility will be designed not to fail per the applicable conditions and standards set forth in EIA/TIA 222-G: the Telecommunications Industry Association Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.*

Q2. Will you be able to see this structure from Long Island Sound/Farm River?

A2. *The proposed East Haven Fire Department facility will be visible from portions of the Farm River and the Long Island Sound. Please see the Visual Analysis Report included in Attachment 5c of the Application for more information.*

Q3. Westwoods Rd proposal in Branford was turned down because it is a recreational park. East Haven has two recreational parks in the immediate area, Farm River State Park and Greenway Trail, how come this has not been taken into consideration?

A3. *The Siting Council has taken administrative notice of an August 9, 2009 letter in which the State of Connecticut Department of Environmental Protection (now the Department of Energy & Environmental Protection DEEP) indicates that state law and DEP policy restricts leasing state park and forest lands for the development of wireless telecommunication facilities. Therefore, state park properties were not considered. For convenience, a copy of the August 9, 2009 letter is attached.*

Q4. What does within regulation mean as far as electromagnetic radiation?

A4. *The Federal Communications Commission (FCC) established rules and standards regulating radio frequency (RF) energy from FCC licensed antenna facilities. These rules and standards include Maximum Permissible Exposure (MPE) limits for transmitters. The FCC MPE limits are based upon those recommended by the National Council on Radiation Protection and Measurements (NCRP), developed by the Institute of Electrical and Electronics Engineers, Inc., (IEEE) and adopted by the American National Standards Institute (ANSI). These limits are listed in the FCC Office of Engineering and Technology (OET) Bulletin 56, which can be accessed at:*

http://transition.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet56/oet56e4.pdf

The Siting Council is preempted by Telecommunications Act of 1996 (TCA) from considering the environmental effects of radio frequency emissions as long as the applicant(s) demonstrate(s) compliance with the FCC's guidelines for radio frequency emissions. 47 USC §332(c)(7)(B). In fact, the Siting Council has taken administrative notice of the TCA and its preemption provisions with respect to environmental effects of radio frequency energy in this proceeding. The Applicants have demonstrated compliance with the FCC guidelines. Please see the C² Systems Reports included in Attachments 4B and 5B of the Application.

Q5. How much is too much radiation in a neighborhood?

A5. *The Siting Council is preempted by Telecommunications Act of 1996 (TCA) from considering the environmental effects of radio frequency emissions as long as the applicant(s) demonstrate(s) compliance with the Federal Communication Commissions' (FCC) guidelines for radio frequency emissions. 47 USC §332(c)(7)(B). In fact, the Siting Council has taken administrative notice of the TCA and its preemption provisions with respect to environmental effects of radio frequency energy in this proceeding. Given that the Siting Council is preempted from consideration of environmental effects of radio frequency energy on both humans and wildlife and that the Applicants have demonstrated compliance with applicable standards, this is not relevant to this proceeding.*

Q6. Are you 100% positive that this will have no health effects down the road? If it doesn't seem as though anyone is sure of this because cancer takes a long time to form and towers have not been around long enough to rule this out. So my question is, if this neighborhood ends up with health issues/cancer clusters/ etc will you be liable?

A6. *Please see Response No. 5.*

Q7. What will this do for the value of our homes? Will you be held liable for our financial losses?

A7. *Information related to property values is not relevant in this proceeding as this information is not within the Siting Council's jurisdiction and statutory review criteria as specified in Section 16-50p of the Connecticut General Statutes.*

Q8. What are the restrictions of having a cell tower next to a State Park?

A8. *The Applicants are unaware of any such restrictions. It is respectfully submitted the facility proposed in this Docket will provide the public benefit of wireless services for personal, business and emergency communication needs.*

Q9. What are the restrictions of having a cell tower next to town hiking trails?

A9. *The Applicants are unaware of any such restrictions. It is respectfully submitted the facility proposed in this Docket will provide the public benefit of wireless services for personal, business and emergency communication needs. Also as demonstrated in the Visual Evaluation Report for the East Haven Site (Site B) included in Attachment 5C of the Application, potential views from the Shoreline Greenway Trail will be limited.*

Q10. What are the restrictions of having a cell tower near a historical site such as the East Haven/Branford trolley?

A10. *As set forth in the Application, North Atlantic Towers consulted with the Connecticut State Historic Preservation Officer (SHPO) for both the Branford Site and the East Haven Site. For the Branford Site, the SHPO issued a "no effect" determination, a copy of which is included in Attachment 4D of the Application. For the East Haven Site, consultation with the SHPO resulted in a reduction of the height of the proposed facility to avoid impacts to the Branford Electric Railway District, which encompasses the Shoreline Trolley Museum and the electric rail line right-of-way and the rolling stock of historic railway cars. SHPO's no adverse effect determination for the East Haven Site is included in Attachment 5D of the Application.*

Q11. Why don't you use your resources and finances to research a less intrusive manner of getting cell reception instead of a 100ft + towers in the middle of neighborhoods that could potentially cause multiple problems to the surrounding residents?

A11. *Please see the Application, specifically Sections III.C, Technological Alternatives, Section IV, Site Selection and Tower Sharing and Attachments 1, 2 and 3 for details regarding the Applicants' public need for the proposed Facility, the site selection process and the review of the feasibility of alternative technologies.*

Q12. How many residents would be affected in the East Haven site compared to the Branford site?

A12. *With respect to visibility, as set forth in the visual evaluation reports included in Attachments 4C and 5C of the Application, it is estimated that approximately 35 residential properties could have views of at least portions of the proposed East Haven (Site B) facility year-round and approximately 36 additional properties could achieve views of the facility through the trees when the leaves are off the trees. In the case of the Branford (Site A) location, year-round views of the facility may be achieved from approximately 54 residential properties and an additional 29+ properties could have views through the trees during "leaf-off" conditions. It*

should be noted that the visibility analyses conducted for the candidates included an assessment of visibility from "residential" properties. The term "residential" property may include undeveloped or agricultural land, forested tracts with some clearing, and/or parcels with non-residential structures. Potential visibility on a residential property does not necessarily mean that views would be achieved from within residential dwellings, exterior decks, porches or patios that might be located on these properties. It may be possible to view portions of the structure from within certain locations of those shaded areas depicted on the viewshed maps, indicating potential visibility, but not necessarily from all locations within those shaded areas.

Q13. How many residents in the East Haven site compared to the Branford site would directly see this tower from their homes?

A13. Please see Response No. 12 above. An assessment of visibility from within residential homes cannot be conducted for obvious logistical reasons (these are located on private properties and not accessible to field personnel). However, using a combination of computer modeling, including assessor's parcel data, and field observations allow a fair representation of those residential properties that might be expected to have views of at least portions of the structure.

Q14. What is the zoning for a 103ft structure in a residential area? If zoning does not apply, why?

A14. Pursuant to Section 16-50x(a) of Connecticut General Statutes ("CGS"), the Siting Council has exclusive jurisdiction over wireless telecommunications facilities. Review and approval by the Siting Council of the Applicants' proposed Facility in this proceeding are "in lieu of all certifications, approvals, and other requirements of state and municipal agencies...." CGS Section 16-50x(a). As such, no local land use, zoning, wetland or other permits are required for the Applicants' proposed Facility and such regulations are merely guidance.

Q15. Explain electromagnetic energy in its entirety?

A15. It is respectfully submitted that this question is too broad and furthermore that the environmental effects of radio frequency emissions is not relevant given that the Siting Council is preempted from by Telecommunications Act of 1996 (TCA) from considering the environmental effects of radio frequency emissions as long as the applicant(s) demonstrate(s) compliance with the Federal Communication Commissions' (FCC) guidelines for radio frequency emissions. 47 USC §332(c)(7)(B). Please see Responses No.s 4 and 5 above.

Q16. If this is supposed to be a "public need" then how come the public that it affects most doesn't have a say in it?

A16. For the purposes of this proceeding, "public need" is defined as a gap in wireless service for which the Applicant seeks to provide coverage. It is respectfully submitted that AT&T has demonstrated a gap in service in this area of East Haven and Branford and that one of the facility sites proposed in this Application will provided needed service.

Q17. Will the wildlife be interrupted considering there are hiking trail, woods and a state park directly behind it?

A17. *Neither of the proposed Sites will adversely impact wildlife. Upon review, the Connecticut Department of Energy & Environmental Protection (DEEP) determined that neither of the proposed Sites will impact any extant populations of Federal or State Endangered, Threatened or Special Concern Species. For the East Haven Site (Site B), a copy of DEEP's determination is included in Attachment 5D. For the Branford Site (Site A), a copy of the DEEP's determination is included in the Applicants' Supplemental Submission dated July 2, 2012.*

Q18. I know the Audubon Society was fighting cell towers in State parks, have they been notified of this tower being proposed so close to a State Park? What about migrating birds in the park? I provided a picture of one of the nesting bird directly behind the tower in the state park.

A18. *The Applicants have not notified the Audubon Society. CGS Section 16-501(b) sets forth the requirements for service and notice for Certificate Applications. Please see Section II and Attachments 7 and 8 of the Application for confirmation of compliance with the service and notice requirements of CGS §16-501(b). In addition, the Siting Council issues notice of the public hearing.*

Q19. How far is the proposed tower from D.C. Moore Elementary School? Is there any zoning limitations for towers and schools?

A19. *The proposed facility at the East Haven Site is located approximately 3,300' from the D.C. Moore Elementary School (82 Elliott Street, East Haven). With respect to zoning requirements, please see Response No. 14 above.*

Q20. I have heard the grounds behind the fire house have been used for dumping for years. Is this ground sturdy enough to hold a 103ft structure?

A20. *If the Site B facility is approved, the foundation for the proposed tower will be designed during the Development & Management (D&M) process when a geotechnical analysis and subsurface investigation will be conducted. The results of these analyses will be used for the foundation design. Based on a preliminary review that has been completed for the East Haven Site (Site B), it is anticipated that the foundation can be designed to support the proposed facility.*

CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of the foregoing was sent electronically and by overnight mail to the Connecticut Siting Council and:

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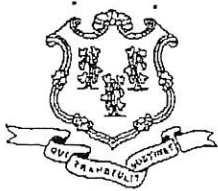
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Dated: July 2, 2012


Lucia Chiochio

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STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



August 10, 2009

RECEIVED
AUG 13 2009
CONNECTICUT
SITING COUNCIL

Christopher B. Fisher
Cuddy & Feder
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601

Re: Development of Wireless Telecommunication Tower Facilities
State Forests and Parks

Dear Mr. Fisher:

This letter is in response to your letter dated June 4, 2009 and sent to me on behalf of your client New Cingular Wireless PCS, LLP ("AT&T"). Your letter requests "written confirmation of DEP's interpretation of State law as it relates to the leasing of state forest and park properties for purposes of developing wireless communications tower facilities by entities like AT&T."

I can confirm that it is DEP's interpretation of the statutes, and our policy that state park and forest lands not be leased for the purpose of developing wireless communications tower facilities.

As you may know, the Department of Environmental Protection is the State of Connecticut agency responsible for the acquisition of lands for the beneficial use and enjoyment of the public, and protection of the state's valuable natural resources. Open space land is purchased as additions to the State's system of parks, forests, wildlife, fisheries and natural resource management areas. The DEP acquires land that represents the ecological diversity of Connecticut, including natural features such as rivers, mountainous areas, coastal systems and other natural areas, in order to ensure the conservation of such land for recreational, scientific, educational, cultural and aesthetic purposes. Development of these lands for communications tower facilities with access driveways, necessary ancillary maintenance buildings, and secured fall zones is inconsistent with the purpose for which these lands have been acquired.

Your letter cited two Connecticut Statutes; CGS Sec. 23-25, and Sec. 26-3b. You correctly point out in your letter that CGS 23-25 permits, in certain circumstances, the Commissioner to grant leases for public purposes "to any public authority" for any portion of any state forest or state park if said commissioner finds that "such purposes are not in conflict with park or forest purposes." Our understanding of this statute is that it does not apply to your situation because your client, AT&T, is not a public authority, and therefore does not meet the basic criteria established by the statute. Furthermore, as stated above, wireless communication tower facilities do conflict with park and forest purposes.

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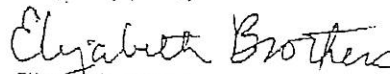
Christopher B. Fisher

The second law you referenced, CGS Sec. 26-3b, does give the Commissioner of Environmental Protection the authority, subject to the approval of the State Properties Review Board, to rent property in its custody or control when he deems "that it would be in the interest of the state." In addition, CGS Sec. 26-3 states "said commissioner may, with the approval of the Attorney General, grant rights-of-way or other easements.....If said commissioner finds that such purposes are not in conflict with the public interest..." These statutes allow the Commissioner, along with the State Properties Review Board and the Attorney General's office, discretion in determining if there is a public benefit to be derived by granting an easement and if such a grant would conflict with the current use or protection of the property. Again, the development of state lands with communication towers does conflict with the purposes for which these lands have been acquired, therefore it is unlikely that the Commissioner of Environmental Protection would approve such an easement.

Finally, the DEP does have a Directive concerning the development of state land for communication towers. The directive was published June 9, 1992, and is entitled "Communications Towers – Land Use – DEP Properties." The directive states that "The principal goals in the management of Connecticut's properties which are under the direct control of the Department of Environmental Protection is to protect and preserve special examples of Connecticut's landscape, to provide public access and recreational opportunities compatible with the preservation goal and/or to develop and maintain a healthy forest cover from a multiple use standpoint. As such, only those uses which are compatible with these goals should be allowed." The Directive goes on to state that some radio towers within state property may be required and that five radio tower sites currently exist on state property and that these sites may be available for occupancy. A copy of this directive is attached for you convenience. The procedure for requesting space on those towers is outlined in the directive as well.

I hope this provides some assistance in clarifying the DEP's position concerning development of communication tower facilities on state land. If you have any additional questions or we can be of further assistance, please feel free to contact me directly at 860-424-3086 or via email to elizabeth.brothers@ct.gov.

Very truly yours,



Elizabeth Brothers
Assistant Director