

**CONNECTICUT SITING COUNCIL**  
**DOCKET NO. 438**

IN THE MATTER OF:

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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 IN  
VOLUNTOWN, CONNECTICUT

APPLICANT'S POST-HEARING BRIEF

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## EXECUTIVE SUMMARY

On May 10, 2013, 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 one of two locations in the Town of Voluntown, Connecticut (the “Palmer Pond Facility”). The proposed Palmer Pond Facility would provide for reliable wireless service along significant portions of Route 49, and local roads in the area, to residential and commercial land uses in the area and to significant portions of the Pachaug State Forest where such service does not currently exist.

### **Facility Description**

At the first alternative site, Cellco proposes to construct a 130-foot monopole tower in the northwest portion of a 30-acre parcel at 596 Pendleton Hill Road (“Site 1”). At the second alternative site, Cellco proposes to construct a 150-foot monopole tower in the southeast corner of a 261-acre parcel at 53 Gallup Road (“Site 2”). Cellco would install up to fifteen (15) antennas at the top of the approved tower. The top of Cellco’s antennas would extend to an overall height of 133 feet above ground level at Site 1 and 153 feet above ground level at Site 2. Cellco would also install a 12’ x 30’ shelter on the ground near the base of the approved tower. The shelter would house Cellco’s radio equipment and a back-up generator. Cellco will utilize a diesel-fueled generator at Site 1 and a propane-fueled generator at Site 2.

Access to Site 1 would extend from Pendleton Hill Road along a new gravel driveway a distance of approximately 905 feet to the cell site. Access to Site 2 would extend from Gallup

Road along a new gravel driveway a distance of approximately 80 feet to the cell site.

**Public Need**

Within five (5) miles of the alternative Palmer Pond Facility locations, Cellco maintains one existing cell site (Griswold East), two approved, but not yet activated, cell sites (Bailey Pond and Voluntown) and two proposed cell sites (Wyassup Lake and North Stonington East). After all of these cell sites are activated, however, Cellco will still maintain significant coverage gaps along Route 49 in central Voluntown. These gaps total 4.3 miles at cellular frequencies, 5.4 miles at PCS frequencies, 4.3 miles at LTE frequencies and 6.0 miles at AWS frequencies.

The proposed Site 1 facility will provide reliable wireless service to a 4.9 mile portion of Route 49 and an overall area of 9.6 square miles at 850 MHz (cellular) frequencies; a 4.67 mile portion of Route 49 and an overall area of 9.53 square miles at 1900 MHz (PCS) frequencies; a 4.9 mile portion of Route 49; and an overall area of 9.9 square miles at 700 MHz (LTE) frequencies; and a 4.0 mile portion of Route 49 and an overall area of 7.4 square miles at 2100 MHz (AWS) frequencies.

The proposed Site 2 facility will provide reliable wireless service to a 4.5 mile portion of Route 49 and an overall area of 9.36 square miles at 850 MHz (cellular) frequencies; a 4.2 mile portion of Route 49 and an overall area of 8.95 square miles at 1900 MHz (PCS) frequencies; a 4.5 mile portion of Route 49 and an overall area of 9.54 square miles at 700 MHz (LTE) frequencies, and a 4.0 mile portion of Route 49 and an overall area of 7.1 square miles at 2100 MHz (AWS) frequencies.

## **Nature of Probable Impacts**

### **Site 1**

The record contains ample evidence to support a finding that the Site 1 facility would not have a significant adverse impact on the environment. Cellco has presented evidence that, the location and development of the Site 1 facility will have no effect on historic properties in the area; will not adversely impact federal or State listed, threatened or endangered species or State species of special concern; will not have any direct or indirect impact on wetlands and watercourses near the cell site; will not be considered to be an obstruction or hazard to air navigation and, therefore, will not require any FAA marking or lighting; and will operate well within safety limits established by the FCC for radio frequency emissions.

The overall area where some portion of the proposed Site 1 facility tower would be visible year round (above the tree line), is limited to approximately 153-acres, approximately 1.9 percent of the two mile radius study area (8,042-acres). Most of the areas of potential year-round visibility occur over undeveloped farm land and low lying marsh areas. Areas where seasonal views are anticipated comprise an additional 140-acres. There are no residences within 1,000 feet of the Site 1 facility.

Likewise, the record contains ample evidence to support a finding of no significant adverse environmental effect for the Site 2 facility. Cellco has presented evidence that, the location and development of the Site 2 facility will have no effect on historic properties in the area; will not adversely impact federal or State listed, threatened or endangered species or State species of special concern; will not have any direct or indirect impact on wetlands and watercourses near the subject site; will not be considered to be an obstruction or hazard to air navigation and, therefore, will not

require any FAA marking or lighting; and will operate well within safety limits established by the FCC for radio frequency emissions.

The overall area where some portion of the proposed Site 2 facility tower would be visible year round (above the tree line), is limited to approximately 267-acres, approximately 3.32 percent of the two mile radius study area (8,042-acres). Most of the areas of potential year-round visibility occur over open farm land. Areas where seasonal views are anticipated comprise an additional 60-acres. There are no residences within 1,000 feet of the Site 2 facility.

### **Public Input**

Cellco commenced its local input process by meeting with the Town of Voluntown's First Selectman on February 6, 2013. At the request of the Town, Cellco hosted a public information meeting on March 12, 2013, at Voluntown Town Hall. Notice of this meeting was sent to Site 1 and Site 2 abutters and was published in the *Norwich Bulletin*. The Town of Voluntown emergency service providers and Quinnebaug Valley Emergency Communication Inc. have expressed interest in sharing either the Site 1 or Site 2 towers.

### **Conclusion**

The unrefuted evidence in the record clearly demonstrates that there is a need for the proposed Palmer Pond Facility and that the environmental impacts from either the Site 1 or Site 2 alternative facility locations would be minimal when balanced against that need.

## **I. INTRODUCTION**

On May 10, 2013, 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 “Palmer Pond Facility”) at one of two alternate locations in the central portion of the Town of Voluntown, Connecticut. (Cellco Exhibit 1 (“Cellco 1”). The first alternative facility would consist of a 130-foot tower on an approximately 30-acre parcel at 596 Pendleton Hill Road (“Site 1”). The second alternative facility would consist of a 150-foot tower on a 261-acre parcel at 53 Gallup Road (“Site 2”). Cellco currently experiences significant gaps in wireless service (PCS and cellular coverage) along portions of Route 49 and local roads in central Voluntown, residential and commercial land uses in the area, as well as significant portions of the Pachaug State Forest. 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. (Cellco 1).

## **II. PROCEDURAL BACKGROUND**

The Council conducted an evidentiary and public hearing on the Application on July 9, 2013. (July 9, 2013 Transcript (“Tr.”), p. 3). Prior to the afternoon session of the hearing, the Council and its staff visited the Site 1 and Site 2 facility locations. At the Council’s request, Cellco caused a balloon with a diameter of approximately four (4) feet to be flown at a height of 130 feet at Site 1 and a height of 150 feet at Site 2 during the site visit. (Cellco 1; Tr., pp. 21-23).

This Post-Hearing Brief and attached Proposed Findings of Fact are 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. (Tr., p. 99). 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 wireless services in the 850 MHz (cellular), 1900 MHz (PCS), 700 MHz (LTE) and most-recently 2100 MHz (AWS) frequency ranges throughout Connecticut.<sup>1</sup> Cellco’s proposed Palmer Pond Facility is designed to fill significant coverage gaps along Route 49 and the surrounding area in central portions of Voluntown. These gaps exist between Cellco’s existing Griswold East cell site, its approved Bailey Pond and Voluntown cell sites and its proposed North Stonington East and Wyassup Lake cell sites. (Cellco 1, pp. 2-3 and 8-9). Cellco began searching for an appropriate location for a facility to resolve these wireless service problems in May of 2009. (Cellco 1, Tab 9). 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 Site 1 or Site 2 that Cellco does not already share or plan to 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

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<sup>1</sup> As of the date of this filing Cellco has not deployed and is therefore not yet operating its AWS service in or around the Voluntown area. (Tr., pp. 18-19, 30-32).



of the facility could be reduced to the greatest extent possible. (Cellco 1, pp. 11-12, Tab 9 and Tab 10). After investigating and evaluating eleven (11) different properties, Cellco selected the Site 1 and Site 2 alternative locations for the Council's consideration.

B. Local Contacts

On February 6, 2013, Cellco representatives met with Voluntown First Selectman Ronald Millovitsch regarding the proposed Palmer Pond Facility. (Cellco 1, p. 21; Cellco 3). At this meeting, Mr. Millovitsch received copies of technical information summarizing Cellco's plans to establish a telecommunications facility at either the Site 1 and Site 2 locations (the "Technical Report"). (Cellco 1.d.). At the request of the Town, Cellco hosted a public information meeting at Voluntown Town Hall on March 12, 2013. Notice of this meeting was sent to owners of property that abut the parcels on which the Site 1 and Site 2 facilities would be located and was published in the *Norwich Bulletin*. (Cellco 1, p. 21, Tab 9; Cellco 2).

C. Tower Sharing

Consistent with its practice, Cellco regularly explores opportunities to share its facilities with other wireless service providers. During the course of its meeting with municipal officials in Voluntown, and during the Council's hearing on this matter, Cellco agreed to provide access to the tower, at no cost, to the Town's emergency service providers and the Quinebaug Valley Emergency Services, both of whom expressed an interest in sharing the tower. Cellco would also agree to make ground space in the facility compound available, if needed. (Cellco 1, p. 12; Tr., pp. 68-69).

D. The Palmer Pond Facility Proposal

1. Site 1

The Site 1 facility would be located within a 50' x 50' fenced compound in the northwest portion of an approximately 30-acre parcel at 596 Pendleton Hill Road, owned by Benjamin and Byron D. Gallup. (Cellco 1, Tab 1). At Site 1, Cellco would construct a 130-foot tall monopole tower and install fifteen (15) panel-type antennas on low-profile platforms at a centerline height at 130 feet above the finished grade of the site compound. The top of the Site 1 antennas would extend above the top of the proposed tower to a height of approximately 133 feet. Vehicular access to Site 1 would extend from Pendleton Hill Road along a new gravel driveway a distance of 905 feet. Utility service to Site 1 would extend underground from existing service along Pendleton Hill Road. (Cellco 1, pp. 2-3, Tab 1; Tr., p. 11).

2. Site 2

The Site 2 facility would be located within a 50' x 50' fenced compound in the southeast portion of an approximately 261-acre parcel at 53 Gallup Road, also owned by Benjamin and Byron D. Gallup. (Cellco 1, Tab 2). At Site 2, Cellco would construct a 150-foot tall monopole tower and install fifteen (15) panel-type antennas on low-profile platforms at a centerline height at 150 feet above the finished grade of the site compound. The top of the Site 2 antennas would extend above the top of the proposed tower to a height of approximately 153 feet. Vehicular access to Site 2 would extend from Gallup Road along a new gravel driveway a distance of 8 feet. Utility service to Site 2 would extend from existing service along Gallup Road. (Cellco 1, pp. 3-4, Tab 2).

At either alternative location, Cellco would install a 12' x 30' 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 back-up generator would be installed inside a segregated room in Cellco's equipment shelter for use during power outages and periodically for maintenance purposes. At Site 1, Cellco would install a diesel-fueled generator. At Site 2, the generator would be fueled by propane. A 1,000 propane tank would also be installed within the Site 2 facility compound. All facility improvements would be surrounded by an 8-foot high security fence and gate. (Cellco 1, pp. 2-4, Tab 1 and Tab 2).

#### **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 a Palmer Pond 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. (Council Adm. Notice 4). More recently, President Obama issued Presidential Proclamation 8460, in which “cellular phone towers” were identified as critical infrastructure vital to national security. (Cellco 1; Council Adm. Notice 11).

Cellco currently experiences gaps in wireless service along Route 49 in central portions of Voluntown between its existing Griswold East, its approved Bailey Pond and Voluntown cell sites and its proposed Wyassup Lake and North Stonington East cell sites. (Cellco 1, Tab 7).

These 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 customers. The Palmer Pond Facility described above would provide coverage along Route 49, and local roads in the area, to residential and commercial land uses in the area, and to significant portions of the Pachaug State Forest. (Cellco 1, Tab 7).

As the Council is aware, Cellco holds licenses to provide PCS, cellular, LTE and most-recently AWS services in New London County, Connecticut and proposes to operate these frequencies at the Palmer Pond Facility.<sup>2</sup> (Cellco 1). The wireless 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, LTE and eventually AWS antennas at an approved Palmer Pond Facility, Cellco can ensure that it has the capacity available to meet the growing demand of its customers for wireless voice and data services and support the communications needs of local, regional and State emergency service providers. (Cellco 1).

The record contains ample, written evidence and testimony that a 130-foot tower at Site 1 or a 150-foot tower at Site 2 would allow Cellco to achieve its coverage objectives and maintain high quality wireless telecommunications service without interruption from dropped calls and interference. (Cellco 1, Tab 7; Tr., pp. 27-28 and 52-53). The approved Palmer Pond Facility would be incorporated into a network design plan intended to provide Cellco customers with reliable wireless service along Route 49, and local roads in the area, to residential and commercial land uses, and throughout significant portions of the Pachaug State Forest in the central Voluntown.

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<sup>2</sup> As discussed at the July 9, 2013 hearing, Cellco may delay the installation and operation of its AWS frequencies at the Palmer Pond cell site and other cell sites in the area until network capacity needs justify its deployment. (Tr., pp. 18-19 and 30-32).

(Cellco 1, Tab 7).

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the Site 1 and Site 2 facilities and particularly the following factors:

1. Natural Environment and Ecological Balance

a. Site 1

The proposed development of the Site 1 facility has eliminated, to the extent possible, impacts on the natural environment. All Site 1 facility improvements would be located within a 50' x 50' fenced compound. Access to Site 1 would extend from Pendleton Hill Road along a new gravel driveway a distance of approximately 905 feet to the cell site. (Cellco 1, Tab 1; Tr., p. 11). Preliminary estimates indicate minimal grading (284 cubic yards of fill and 97 cubic yards of cut) would be required to improve the Site 1 facility compound and access driveway. Cellco does not anticipate the need for any blasting to construct the Site 1 facility. (Cellco 1, Tab 1; Cellco 4, Responses 9 and 11). No trees, greater than 6" diameter at breast height ("dbh"), will need to be removed to construct the Site 1 compound and access road. (Cellco 1, Tab 1). Overall, Site 1 facility development would have a negligible environmental impact. No evidence to refute this conclusion was presented to the Council.

b. Site 2

The proposed development of the Site 2 facility has also eliminated, to the extent possible, impacts on the natural environment. All Site 2 facility improvements would be located within a 50' x 50' fenced compound. Access to Site 2 would extend from Gallup Road along a new gravel driveway a distance of approximately 80 feet to the cell site. (Cellco 1, Tab 2). Preliminary estimates indicate minimal grading (429 cubic yards of fill and 192 cubic yards of

cut) would be required to improve the Site 2 facility. Cellco does not anticipate the need for blasting to construct the Site 2 facility. (Cellco 1, Tab 2; Cellco 4, Responses 9 and 11).

Construction of the site compound and access road will require clearing of approximately 29 trees (26 within the site compound and 3 along the access driveway) 6” or greater dbh. (Cellco 1, Tab 2). Overall, the Site 2 facility development would have a negligible environmental impact.

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 either the Site 1 or Site 2 facility would be minimal or nonexistent.

First, the potential for either the Site 1 or Site 2 facility towers to fall does not pose an unreasonable risk to health and safety. The approved tower would be designed and built to meet Electronic Industries Association (“EIA”) standards. Other than Cellco’s proposed equipment shelter, there are no structures within the tower setback radius of either tower location. The tower setback radius of the Site 1 tower would remain entirely on the 30-acre parcel at 596 Pendleton Hill Road. The nearest off-site residence is located approximately 1,167 feet to the south of the Site 1 facility compound at 614 Pendleton Hill Road. This parcel is a direct abutter to 596 Pendleton Hill Road. (Cellco 1, Tab 1; Cellco 4, Q. 14).

The fall zone radius of the Site 2 tower would extend beyond the property line to the south, onto the Gallup Road right of way and across Gallup Road onto additional property owned by Benjamin and Byron D. Gallup. The nearest off-site residence is located approximately 1,500 feet to the southwest of the Site 2 facility at 54 Gallup Road. (Cellco 1, Tab 2).

Second, worst-case potential public exposure to RF emission at the nearest point of uncontrolled access (the base of the tower) would be 18.18% of the FCC standard at Site 1 and 13.20% of the FCC standard at Site 2. Power density levels would drop off rapidly as distance from the tower increases. (Cellco 1, Tab 1, p. 8 and Tab 2, p. 8).

Both the Town of Voluntown emergency service providers and Quinnebaug Valley Emergency Communications Inc. have expressed an interest in sharing either the Site 1 or Site 2 facility towers. Space would be provided to these emergency service entities at no charge. Providing wireless service along Route 49 and local roads in the area and to recreational areas in the Pachaug State Forest, is critical to the local and regional public safety service providers. (Cellco 1, p. 12; Tr., pp. 68-69).

Overall, the nature and extent of potential, adverse public health and safety impacts resulting from construction and installation of either the Site 1 or Site 2 facility would be minimal or nonexistent. The public safety benefits, however, would be substantial. No evidence to refute these conclusions 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 a particular search area. Cellco currently shares, is approved to share or intends to share all of the existing tower structures within five (5) miles of the Site 1 and Site 2 facility locations. No existing non-tower structures of suitable height exist in the central portions of Voluntown. (Cellco 1, Tab 9;



Tr., pp. 28-29).

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 may be reduced to the greatest extent possible. Cellco explored the use of eleven (11) possible alternative sites in the central Voluntown area and selected the Site 1 and Site 2 locations to present to the Council. (Cellco 1, Tab 9).

The Site 1 facility location is surrounded by active agricultural lands, State forest, a commercial saw mill operation and low density residential areas. The Site 1 facility, in the northerly portion of a 30-acre parcel, is adequately buffered from nearby residences, the closest of which is located 1,167 feet to the south. (Cellco 1, Tab 1, Tab 7 and Tab 9). The Site 2 facility location is in a heavily-wooded portion of a 261-acre parcel surrounded by active agricultural land, portions of the Pachaug State Forest, and low density residential development. The closest residence to the Site 2 facility tower is approximately 1,500 feet to the southwest. (Cellco 1, Tab 2, Tab 7 and Tab 9).

Cellco submitted a Visibility Analysis (the “Visual Report”) prepared by All-Points Technology Corporation (“APT”) as a part of the Application. Prior to preparing its report, APT conducted a balloon float at Site 1 and Site 2, and field reconnaissance to assess visibility of both alternative structures. This APT work was completed in February 2013, when leaves were off area trees, so that the full extent of visual impact could be evaluated. (Cellco 1, Tab 10).

APT determined that top portions of the proposed Site 1 facility tower would be partially visible above the tree canopy from approximately 153-acres, approximately 1.9 percent of the two mile radius (8,042-acre) study area. Areas where seasonal views are anticipated comprise an

additional 140-acres, a majority of which occurs over open farm land in the vicinity. (Cellco 1, p. 15, Tab 10). The top portions of the Site 2 facility tower would be partially visible above the tree canopy from approximately 267-acres, 3.32 percent of the two mile radius (8,042-acre) study area. Areas where seasonal views are anticipated comprise an additional 60-acres, a majority of which occurs over open farm land in the vicinity. (Cellco 1, p. 15, Tab 10).

#### 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 and its consultants, the Deputy State Historic Preservation Officer determined that no historic properties will be affected by the development of a telecommunications facility at either Site 1 or Site 2. (Cellco 7). 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 on the 596 Pendleton Hill Road or 53 Gallup Road properties that would be adversely impacted by development of the Site 1 or Site 2 facilities. The Site 1 facility is surrounded by active agricultural land to the south and east and a portion of the Pachaug State Forest to the north and west. The Site 1 tower would not be visible from hiking trails in the Pachaug State Forest to the north and west of Site 1.<sup>3</sup> The Site 2 facility tower will not be visible from any hiking trails in the Pachaug State Forest. Both the Site 1 and Site 2 towers would,

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<sup>3</sup> Portions of the Site 1 tower would be visible from a trail spur that extends from the State Forest to Pendleton Hill Road. (Cellco 1, Tab 10).

however, provide wireless and emergency service communications service to significant portions of the State Forest where service does not exist today. (Cellco 1, pp. 14-15, Tab 7, Tab 10; Tr., pp. 52-53).

6. Forests and Parks

There is no State or local forests or park land that will be adversely impacted by the proposed Site 1 or Site 2 facility towers. (Cellco 1, Tab 10). Both the Site 1 and Site 2 facility towers would provide enhanced wireless and emergency service communication services to significant portions of the Pachaug State Forest in Voluntown, where today, no such service is available. (Cellco 1, Tab 1, Tab 2, Tab 7; Tr., pp. 52-53). No evidence to refute this conclusion was presented to the Council.

7. Air and Water Quality

a. Air Quality.

Under normal operating conditions, the Cellco equipment at either Site 1 or Site 2 would generate no air emissions. During power outage events and periodically for maintenance purposes, Cellco would utilize a diesel-fueled generator at Site 1 or a propane-fueled generator at Site 2 to provide emergency back-up power. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3b, Cellco's back-up generator is exempt from general permitting requirements for external combustion units and satisfies the permit by rule criteria established by the Connecticut Department of Energy and Environmental Protection ("DEEP") Bureau of Air Management. (Cellco 1, p. 22; Tr., pp. 53-54).

b. Water Quality.

The proposed Palmer Pond Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private waste water disposal system.

Dean Gustafson, Professional Soil Scientist with APT, conducted a field investigation and completed a Wetlands Inspection Report (the “Wetlands Report”) for the Site 1 and Site 2 facility locations. According to the Wetlands Report, the closest wetland areas are located approximately 950 feet northwest of the Site 1 facility and approximately 160 feet to the north of the Site 2 facility. As long as proper erosion control measures are installed, maintained and monitored during construction, Cellco is confident that the development of either Site 1 or Site 2 will not result in any adverse impacts to nearby wetland resources. (Cellco 1, pp. 20-21, Tab 13). No 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 Site 1 and Site 2 facilities from the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Connecticut Department of Energy and Environmental Protection (“DEEP”). The USFWS has determined that there are no federally-listed or proposed, threatened or endangered species or critical habitat known to occur in Voluntown. (Cellco 1, Tab 11). According to the DEEP, there are four (4) Special Concern Species that may occur in the vicinity of the Site 1 and Site 2 facility locations. (Cellco 1, Tab 12; Cellco 6). These species include the Pink Sallow Moth, the Eastern Box Turtle, the Red Bat and the Silver-Haired Bat.

Cellco’s consultant completed a survey of the development areas, including the area within 200 feet of the Site 1 and Site 2 facility locations and determined that there is no habitat in this area suitable to support the Pink Sallow Moth. This survey was submitted to the DEEP for review. In response, the DEEP concluded that neither tower site would negatively impact the Pink Sallow Moth. (Cellco 1, Tab 12; Cellco 6). Cellco also submitted suggested guidelines for the protection

of the Eastern Box Turtle. With adherence to these guidelines, Cellco does not anticipate any adverse impacts on this species. (Cellco 1, Tab 12; Cellco 6).

The Red and Silver-Haired Bats are “tree roosting” bats and could be impacted by tree clearing activity. DEEP recommended that Cellco restrict construction activity at Site 1 and Site 2 to the period between September and May. Cellco will comply with this restriction if the Council approves the Site 2 facility location. Cellco has asked DEEP to modify its findings as they relate to Site 1 by eliminating the seasonal restriction recommendation. As stated above, no tree clearing activity will occur at the Site 1 location. As such, no impacts to the tree roosting habitat is anticipated. (Cellco 1, Tab 12; Cellco 6; Tr., pp. 36-43).

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 Site 1 and Site 2 alternative sites, 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 Site 1 and Site 2 facilities would have minimal impacts on scenic values in the area. (Cellco 1, Tab 11). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of a Palmer Pond 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 either alternative site can be further mitigated by the sharing of the facility. Cellco intends to design either alternative tower so that it could be shared by other carriers. (Cellco 1). Cellco has also agreed to provide access to the tower, at no cost, to the local and regional emergency service providers in the area. (Cellco 1, Tr., pp. 68-69).

In sum, the potential environmental impacts from either the proposed Site 1 or Site 2 facilities 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 a Palmer Pond 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,  
CELLCO PARTNERSHIP d/b/a VERIZON  
WIRELESS

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