

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

HOMELAND TOWERS LLC ("HOMELAND") AND
NEW CINGULAR WIRELESS PCS, LLC ("AT&T")
APPLICATION FOR CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED FOR THE CONSTRUCTION,
MAINTENANCE AND OPERATION OF A
TELECOMMUNICATIONS TOWER FACILITY IN
SALISBURY, CONNECTICUT

DOCKET NO. 452

DECEMBER 31, 2014

APPLICANTS'
POST HEARING BRIEF

Respectfully Submitted,

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PRELIMINARY STATEMENT

Homeland Towers, LLC ("Homeland Towers") and New Cingular Wireless PCS, LLC ("AT&T") (together the "Applicants"), by their attorneys Cuddy & Feder LLP, respectfully submit this post-hearing brief in support of their application ("Application") for a Certificate of Environmental Compatibility and Public Need ("Certificate") in Docket No. 452. The Application addresses the uncontroverted public need for a new tower facility in eastern Salisbury so that FCC licensed wireless carriers and the Town of Salisbury's Police and Fire Departments may provide reliable commercial and emergency communications services for the benefit of residents and visitors at homes, recreational facilities, the Salisbury School, and along state and local roads in the Town of Salisbury. As set forth in detail in the Application, Homeland Towers secured a lease with the Salisbury School at 250 Canaan Road (State Route 44) for a location on the school campus currently improved with a maintenance garage, athletic fields and wooded areas (the "Site"). Throughout the proceedings in this Docket, AT&T officials provided data, testimony and otherwise responded to questions from the Siting Council and staff that address the public need for reliable wireless services and new tower infrastructure in this part of the state. The Applicants respectfully submit that the Site is uniquely situated for a tower facility needed to serve the public, there are no known practical or feasible alternatives and there are no significant adverse environmental impacts associated with the project which outweigh the public need for reliable wireless services in eastern Salisbury. As such, the Applicants submit that the project meets the statutory criteria set forth in Section 16-50p of the Connecticut General Statutes

("C.G.S.") for approval and are requesting a Certificate for the proposed tower facility to meet the public need for wireless services in this area of the state.

STATEMENT OF FACTS

I. AT&T's Service Objectives & Site Search

AT&T's radiofrequency ("RF") engineers establish site search areas where new wireless facilities are needed to address the public's inability to reliably access its wireless network. Homeland Towers also initiated its own site search based on its understanding of the need for reliable wireless service in the area. In this case, AT&T experiences gaps in coverage in Salisbury along State Route 44 (Canaan Road) and local roads and areas in eastern Salisbury. Applicants' Ex. 1. pp. 4-9, Attachment 1. AT&T's RF engineers established a site search area (S4073) for Salisbury based on its documented gaps in coverage. Applicants' Ex. 1. pp. 4-9, Attachment 1, Applicants Ex. 3, Answer 1. The proposed facility in eastern Salisbury will provide reliable service in AT&T's network to a section of Town that includes hundreds of residents, the population of the Salisbury School and several thousand acres of areas along State Highway 44, Taconic Road, Spring Lakes Road and other local roads and areas in eastern Salisbury. Applicants' Ex. 1. pp. 4-9, Attachment 1, Applicants' Ex.3, Answers 28 & 31. The proposed Facility will also provide reliable service to the recreation area of Twin Lakes. Applicants' Ex. 1. pp. 4-9, Attachment 1, Applicants' Ex. 3, Answer 12. In addition to AT&T, the Town of Salisbury identified a need for reliable wireless services in this area of Town as well as a need for emergency communication service and the Town will use

the Facility to fulfill that need. Dresser, Tr. 12/14/14 3:00pm, p.6; Rice, Tr. 12/4/14 7:00pm, pp.102-103.

These needs are fundamentally due to the absence of any existing tower infrastructure or other wireless facility siting opportunities in this part of Salisbury which is characterized by significant changes in topography, single family residential structures and forested lands.

Both Homeland Towers and AT&T conducted site searches in this area for a site suitable to provide the needed service dating back several years. As part of its search, Homeland Towers collaborated with Town officials and identified the Salisbury School location as an available and feasible site for providing service. Applicants' Ex. 1, p. 11, Attachment 2.

II. Technical Consultation with Town of Salisbury

As the Council is aware, Homeland Towers is a company that specializes in the development of tower infrastructure needed to serve a community's communications needs and often works closely with commercial wireless carriers and where possible, municipal and public safety agencies. Applicants' Ex. 1, p. 2. See also, CSC Dockets 441, 445 and 451. As part of Homeland Towers' site search, it engaged in discussions with Town officials, who suggested the Salisbury School property due to its large acreage and location. Review of the school property revealed that it was available and would meet AT&T's needs for providing reliable wireless service to this part of the state. Applicants' Ex. 1, p. 11, Attachment 2.

A Technical Report for the proposed Facility at the Salisbury School was provided to the Town as part of the C.G.S. 16-50/ consultation process. Follow up with

Town Officials subsequent to the Technical Report filing revealed that the Town had no preferences and no official comment on the proposed Facility. Applicants' Ex. 1, p.20, Attachment 11, Applicants' Bulk Filing.

III. Certificate Application, Parties & Intervenors & Pre-Hearing Filings

The proposed Facility is designed as a self-supporting monopole tower 150' in height, designed as a monopine with faux branches at the top extending approximately 7' for an overall height of 157' AGL. Applicants' Ex. 4. AT&T would install up to twelve (12) panel antennas at a centerline height of approximately 146' AGL along with additional equipment used in providing 3G UMTS and 4G LTE services. Applicants' Ex. 4. The tower will accommodate antennas of other federally licensed wireless carriers and emergency/municipal communications equipment. Applicants' Ex. 4; Vergati, Tr. 12/4/14 3:00pm, pp.29-31.

An associated AT&T equipment shelter would be installed at the tower base on a concrete pad within a compound together with provisions for a fixed diesel back-up power generator. Applicants' Ex. 4. The compound will include space for equipment of other carriers and will be enclosed by an eight (8) foot tall chain link fence. Applicants' Ex. 4.

Vehicle access to the Facility would extend from Canaan Road over the existing 24' wide access drive on the property, then along an existing gravel access drive and then along an existing logging trail that will be upgraded to a gravel surface to the compound. The distance along the existing gravel access drive and logging trail is approximately 510'. Applicants' Ex 4. Site utilities are proposed to extend underground

along the north side of the access drive from existing on-site electrical and telephone service. Applicants' Ex 4; Chasse, Tr. 12/4/14 3:00pm p.21.

In response to a submitted petition, the Siting Council granted party status to the Town of Salisbury. The Applicants submitted responses to Siting Council pre-hearing interrogatories on November 19 and November 25, 2014. Applicants' Ex. 3 & 5. On November 19, 2014, the Applicants submitted Supplementary Information detailing a shift in the facility location approximately 107' to the southwest in accordance with the results of a cultural resource evaluation to avoid impacts to an isolated area containing cultural resources. Applicants' Ex. 4; Libertine, Tr. 12/4/14 3:00pm, pp. 59-61. Representatives for the Applicants posted a sign by the roadway entrance of the Site noticing the public of the application and hearing date with instructions on obtaining more information. Applicants' Ex. 6. A field visit, balloon float and public hearing were scheduled by the Council and held at 27 Main Street, Salisbury, CT on December 4, 2014. The hearing was closed on that same day.

IV. Public Hearings

On December 4, 2014, the Applicants raised a balloon at the Site and the Siting Council conducted a viewing of the Site and surrounding area. Weather conditions were generally favorable and after one balloon replacement in the early morning, the balloon was aloft during the site visit and it remained at its full height for the afternoon. Libertine, Tr. 12/4/14, 3:00pm, p.15. At the evidentiary hearing, the Siting Council heard comprehensive testimony from the Applicants' panel of witnesses on the need for the facility, lack of other reasonable alternative sites and any environmental effects associated with construction of a tower at the site.

A presentation of the proposed facility was provided to a modestly attended 7:00pm public hearing evening session with approximately 4 speakers, all of whom spoke in favor of the proposed Facility and expressed a need for reliable wireless service in this part of Salisbury for the safety of the community. The Siting Council closed the public hearing and the evidentiary hearing after the Town was given the opportunity to present evidence and cross-examine all witnesses.

POINT I
A PUBLIC NEED CLEARLY EXISTS
FOR A NEW TOWER FACILITY IN EASTERN SALISBURY

Pursuant to Connecticut General Statutes ("C.G.S.") Section 16-50p, the Council is required to find and determine as part of any Certificate application, "a public need for the proposed facility and the basis for that need". C.G.S. §16-50p(a)(1). In this Docket, AT&T provided coverage analyses and expert testimony that clearly demonstrates the need for a new tower facility to provide reliable commercial wireless services to homes, the Salisbury School, recreational areas and the traveling public in eastern Salisbury. Applicants' Ex. 1, Attachment 1. The Town's emergency management director spoke at the public hearing and identified the need for both commercial wireless service improvements and their own communications needs in this area of Salisbury. Rice, Tr. 12/4/14 7:00pm, pp. 102-103.

The record in Docket 452 also demonstrates that this Site is uniquely situated at an elevation and location that would allow wireless service to extend along State Route 44 and other local roads and areas including the Salisbury School and Twin Lakes. The record also establishes that a 150' AGL tower is needed to reasonably serve the public from the Site for AT&T. Applicants' Ex. 1, Attachment 1; Applicants' Ex. 3, Answer 22.

Moreover, the Town and other wireless carriers like Verizon that have indicated their interest in the project. Rice, Tr. 12/4/14 7:00pm, pp. 102-103; Vergati, Tr. 12/4/14, 3:00 pm, pp.29-30. Indeed, given the terrain and difficulty in finding suitable facility sites in this area, AT&T's witness testified that a lower tower height would reduce coverage to areas that may not be covered by future infrastructure. Lavin, Tr. 12/4/14, 3:00pm pp.31-32.

The Applicants submit that the public need for a new tower facility in this area to provide both commercial wireless and public safety communication coverage where adequate and reliable coverage does not exist today is simply not contested in this Docket.

POINT II

THERE ARE NO EXISTING STRUCTURES OR OTHER VIABLE ALTERNATIVE SITES FOR SITING THE PROPOSED WIRELESS FACILITY

The Applicants submitted evidence that there are no existing structures for providing reliable service to this area of Salisbury. Applicants Ex. 1, pp. 11-12, Attachment 2. The search for a site included investigations by both Homeland Towers and AT&T over several years. This area of Salisbury is characterized by significant ranges in ground elevation, conservation property and single family development, all of which present challenges to locating a suitable site. As demonstrated by the evidence in this Docket, no other viable alternatives for wireless facility siting were identified by the Town. Applicants' Ex.1, p. 20, Attachment 2. It is respectfully submitted that there is no better known site for a tower needed to serve this area of Salisbury.

POINT III
THE TOWER FACILITY PRESENTS
NO SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS

Pursuant to C.G.S. Section 16-50p, the Council is required to find and determine as part of a Certificate application any probable environmental impact of a facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forest and parks, air and water purity and fish and wildlife. The Applicants respectfully submit that while some impacts will be associated with the proposed facility, such impacts will have no significant environmental effects on the resources listed in Section 16-50p of the General Statutes and clearly do not outweigh the public need for the facility as proposed in this Docket.

I. Potential Visual Effects

The Applicants respectfully submit that the evidence and testimony in this proceeding, as summarized below, demonstrates that visibility of the proposed facility will not result in a significant adverse visual impact or have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood. It is anticipated that the proposed facility will be visible year-round above the trees from just 138+/- acres or less than approximately 2.0% of the 8,042 acre Study Area. Applicants' Ex.1, Attachment 8 (Visibility Analysis). Leaf off seasonal views between the trees will be approximately 343 acres or approximately 4.2% of the study area. As demonstrated in the Visibility Analysis, in general, year-round views are primarily limited to the host property as topography and the heavily wooded area serve to obscure, partially or totally, views of the tower from most locations in the study area. Applicants' Ex.1, Attachment 8. AT&T's witness testified that the shift in the facility location to accommodate the results

of the resource evaluation did not impact the results of the Visibility Analysis. Libertine, Tr. 12/4/14 3:00 pm, pp.27-28.

Some distant views of the proposed monopine tower are anticipated from Lake Washinee and limited seasonal views are expected from some locations on the eastern-most trails within the Edith Scoville Memorial Sanctuary. However, these views are not significant. No views are expected from the Appalachian Trail. Applicants' Ex. 1, Tab 8, Applicant's Ex. 3, Answer 51. The closest occupiable structure to the proposed Facility is the school maintenance garage located approximately 775' from the proposed Facility. Chasse, Tr. 12/4/14 3:00pm, p.29.

The evidence demonstrates that the proposed Facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood or community. Applicants' Ex. 1, Attachment 8. As such, the tower facility will not have a predominant or significantly adverse visual effect in this part of the state.

II. Potential Impacts to the Natural Environment

As clearly established in this Docket, impacts to the natural environment from the proposed facility are not significant.

a. Wetlands, Watercourses, and Floodplains

The Site currently supports two wetland areas. One point of the existing woods road that will be upgraded to a gravel surface is located approximately 8 feet from nearest wetland flag. The record included evidence that while an alternative access route further from the wetland is available, the alternative route would result in a larger area of tree removal and greater disturbance to forested uplands. Applicants' Ex. 1, Attachment 6. Thus, the proposed access drive and use of the existing disturbed

access was deemed the more appropriate route. Applicants' Ex. 1, Attachment 6. Overall, the construction and operation of the proposed Facility will not have a significant impact on wetlands or water quality and drainage will be appropriately managed on-site. Applicants' Ex. 1, Attachment 6; Applicants' Ex. 4.

b. Habitat Assessment and Wildlife

As demonstrated in the record, the Applicants consultants have conducted thorough evaluations of the Site and consulted with the Connecticut Department of Energy and Environmental Protection ("DEEP") for review as well. Upon review of the Site in relation to the Natural Diversity Database, it was determined that there is the potential for the presence of a State-listed bat species. The DEEP recommended that construction activities take place during the hibernation period from November 1 through March 30. Homeland Towers will comply with this recommendation. Applicants' Ex. 1, p.14, Attachment 9; Gustafson, Tr. 12/4/14, 3:00 pm, pp.23-25.

In addition, the DEEP also advised that the site may be a suitable habitat for the long-eared bat which is slated for Federal Listing. AT&T's witness testified that the protection measures that Homeland Towers will implement for the state listed species will be equally protective of the long-eared bat species. Applicants' Ex. 1, p.14-155, Attachment 9; Gustafson, Tr. 12/4/14 3:00 pm, pp.23-25.

Accordingly, the project will have no significant adverse impacts to wildlife or wildlife habitat.

c. Clearing, Grading and Drainage Assessment

The access for the proposed Facility includes use of the existing access drive which includes a paved portion and a gravel portion as well as use of an existing

logging road. Applicants' Ex.4. Some minimal grading and clearing is required for the Facility. The approximate total area of disturbance is 16,700 SF and approximately 35 trees 6" DBH or larger will need to be removed. The site shall require approximately 500 CY of cut for utility trenching, approximately 30 CY and approximately 215 CY of crushed stone for the compound and access drive. Applicants' Ex.4; Chasse, Tr. 12/4/14, 3:00 pm, p.12. Underground utilities will be routed on the northern side of the access drive, further from the wetlands. Chasse, Tr. 12/4/14 3:00pm p.21. As noted, the Facility design will incorporate all appropriate sediment and erosion control measures in accordance with the Connecticut Soil Erosion Control Guidelines, as established by the Council of Soil and Water Conservation Applicants' Ex. 1, p. 20, Applicants' Ex. 4. The Applicants respectfully submit that the proposed improvements at the Site and engineering features incorporated into the design will not result in any significant adverse environmental impacts to the surrounding area and will allow for safe access to and development of the facility.

III. Other Environmental & Neighborhood Considerations

A tower facility at the location proposed will comply with all public health and safety requirements. Applicants Ex. 3, Answer 42. Additionally, since the Facility will be unmanned, there will be no substantial impacts from traffic on area roadways, sanitary waste, or material impact on air emissions. As noted in the proceedings in this Docket, due to the identification of a culturally sensitive isolated area near the proposed facility location, additional field investigations were performed and resulted in the shift of the tower facility approximately 107' to the southwest to avoid any impacts to cultural resources. Applicants' Ex. 3; Answer 52; Libertine, Tr. 12/4/14, 3:00 pm, pp.60-62.

The evidence in this Docket demonstrated that trees, topography and camouflaging will serve to limit and obscure localized views of the tower in the nearby area. Further, review of historic resources data indicates that no sites listed on the National Register of Historic Places are located within the viewshed of the proposed Facility. Applicants' Ex. 1, p.15, Attachment 10. As such, the Council should find and determine that the Facility as proposed will not have any historic, cultural or adverse visual impacts on the neighborhood.

CONCLUSION

The Applicants have demonstrated a public need for the proposed tower Facility presented in this Docket. The public need for the proposed tower is significant as it is needed to support commercial wireless service for hundreds of residents and enable provision of Town emergency communications services. The public need for the tower Facility is not controverted by any party to the proceeding and there are no known practical or feasible alternatives to a tower at the Site in question. Indeed, the Town and all public comment indicated the critical need for reliable wireless services in this part of Salisbury. The Applicants' evidence demonstrates the importance of this proposed tower Facility needed to serve the public which has experienced gaps in reliable services since the advent of modern day wireless communications.

While there are some limited environmental effects associated with the proposed facility, the Applicants established that the effects will not have any significant adverse impact. The Applicants designed the tower facility on the Site to avoid, to the extent practicable, any impacts on the natural environment, including wetlands and cultural

resources. Further, the Applicants have incorporated additional protective measures related to potential bat habitats at the facility Site.

As such, upon any balancing of environmental effects associated with the proposed facility as required by statute, the scales quickly tip in favor of the established public need for the tower facility to serve the public. For the reasons set forth in this brief and as more fully evidenced by the record in this Docket, a Certificate should be issued for the facility proposed in Docket 452.

CERTIFICATE OF SERVICE

I hereby certify that on this day, an original and fifteen copies of the foregoing was sent electronically and by overnight delivery to the Connecticut Siting Council with copy to:

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Dated: December 31, 2014



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