

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

AMERICAN TOWER CORPORATION ("ATC") 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
MANCHESTER, CONNECTICUT

DOCKET NO. 453

April 1, 2015

APPLICANTS'
POST HEARING BRIEF

Respectfully Submitted,

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PRELIMINARY STATEMENT

American Tower Corporation (“ATC”) 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. 453. The Application addresses the public need for a new tower facility in northeastern Manchester so that FCC licensed wireless carriers may provide reliable commercial and emergency communications services for the benefit of residents and visitors, and along state and local roads in the Town of Manchester and in the adjacent communities of Bolton and Vernon. As set forth in detail in the Application, ATC secured a lease with Gerald W. Reid at 701 Lydall Street to locate a facility on the 64 acre vacant parcel of land currently consisting of a small quarry operation and hay fields (the “subject property”). Throughout the proceedings in this Docket, ATC’s and AT&T’s witnesses 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 there are no known practical or feasible alternatives and that there are no significant adverse environmental impacts associated with the project which outweigh the public need for reliable wireless services in northeastern Manchester and portions of Bolton and Vernon. 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. In this case, AT&T experiences gaps in coverage along Vernon Street, Lydall Street, Meadowbrook Drive, State Highway 85 (Lake Street), residential neighborhoods and other local roads in this area of northeastern Manchester and portions of northwestern Bolton and southwestern Vernon. Applicants' Ex. 1. pp. 4-9, Attachment 1. AT&T's RF engineers established a site search area (S2020) based on its documented gaps in coverage. Applicants' Ex. 1. pp. 4-9, Attachment 1, Applicants Ex. 4, Answers 6-9. The proposed facility will provide reliable service in AT&T's network in this area of the State that includes thousands of residents and areas along Vernon Street, Lydall Street, Meadowbrook Drive, State Highway 85 (Lake Street), and other local roads and areas. Applicants' Ex. 1. pp. 4-9, Attachment 1, Applicants' Ex.4, Answer 8, Applicants' Ex.8, Attachment 2.

These needs are fundamentally due to the absence of any existing tower infrastructure or other wireless facility siting opportunities in this part of the State which is characterized by a mix of residential parcels, municipal water department property, conservation lands and recreation areas. The municipal water department property to the south is lower in elevation than the subject property and contains significant wetlands. The Risley Reservoir located to the east is used for recreational purposes. Applicants' Ex. 1. pp. 10-11, Attachment 2, Applicants' Ex.4, Answer 21.

After AT&T identified this particular search area, it assigned the search for a suitable site to ATC. Applicants' Ex. 1, pp. 10-11, Attachment 2. After review of existing infrastructure, including the existing communications towers on Box Mountain Road, ATC and AT&T determined that the subject property was the only available and feasible location for providing service. The subject property is a suitable location as it is a larger parcel and at a higher elevation than surrounding residential parcels. Moreover, it is undeveloped and does not require tree removal or significant excavation and grading for the proposed facility. Applicants' Ex. 1, pp. 10-11, Attachment 2.

II. Technical Consultation with Town of Manchester

ATC 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, pp. 2-3.

A Technical Report for the proposed Facility was provided to the Town of Manchester, as well as the Towns of Vernon and Bolton as part of the C.G.S. 16-50/ municipal consultation process. The Town of Manchester Planning & Zoning Commission requested a presentation at their August 4, 2014 meeting. No comments, suggestions or alternatives were provided by the Town at the meeting. Follow up with the Manchester Town Planner subsequent to the public meeting revealed that the Town had no preferences and no official comment on the proposed Facility. No comments or suggestions were provided by the Town of Bolton or the Town of Vernon. Applicants' Ex. 1, pp.18-19, Attachment 10, Applicants' Bulk Filing.

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

The proposed Facility is designed as a self-supporting monopole tower 104' in height. Applicants' Ex. 1, Attachment 4. AT&T would install up to twelve (12) panel antennas at a centerline height of approximately 100' AGL along with additional equipment used in providing 3G UMTS and 4G LTE services. Applicants' Ex. 1, Attachment 4. The tower will accommodate antennas of other federally licensed wireless carriers. Applicants' Ex. 1, Attachment 4.

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 for shared use by tenants at the facility site. Applicants' Ex. 1, Attachment 4, Applicants Ex. 4, Answer 10. 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. 1, Attachment 4.

Vehicle access to the proposed Facility would extend from Lydall Street over the existing 850' wide dirt access drive on the property, then along a proposed 12' wide gravel drive approximately 730' to the tower compound. Applicants' Ex 1, Attachment 4. Site utilities are proposed to extend underground along the eastern side of the access drive from existing SNET utility pole #1441 at Lydall Street. Applicants' Ex 1, Attachment 4.

The Applicants submitted responses to Siting Council pre-hearing interrogatories on December 18, 2014 and February 23, 2015. Applicants' Ex. 4 & 8. On December 29, 2014, the Applicants submitted Supplemental Information including the Vernal Pool Evaluation concluding that the proposed facility will not result in adverse impacts with

the implementation of a seasonal restriction and a vernal pool protection plan. Applicants' Ex. 5.

A field visit, balloon float and public hearing were scheduled by the Council and held at Lincoln Center Hearing Room, 494 Main Street, Manchester, CT on January 20, 2015. 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. 7. At the January 20, 2014 hearing, intervenor status was granted to State Representative Kelly Luxenberg and State Senator Steve Cassano. The evidentiary hearing was continued to March 3, 2015 in New Britain.

On February 23, 2015, the Applicants submitted Supplemental Information including additional visual information with photosimulations of a silo designed facility, drawings depicting an alternative facility location on the subject property as discussed at the January 20th hearing, RF frequency/license and drive test data and a copy of the Applicant's Section 106 consultation submission to the State Historic Preservation Office ("SHPO"). Applicants' Ex. 9. The continued evidentiary hearing was closed on March 3, 2015.

IV. Public Hearings

On January 20, 2015, the Applicants raised a balloon at the Site and the Siting Council conducted a viewing of the Site and surrounding area. Weather conditions in the morning were generally favorable with sustained winds in the afternoon. Overall, visibility was good. Libertine, Tr. 3/3/15, 1:00pm, p.148. At the January 20, 2015 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 subject property. After cross-examination by the Siting Council, the Applicants' witnesses answered questions from intervenors Representative Luxenberg and Senator Cassano.

A presentation of the proposed facility was provided at the 7:00pm public hearing evening session. Manchester Mayor Jay Moran and Representative Luxenberg made comments at the start of the public hearing followed by members of the public in attendance.

At the continued evidentiary hearing on March 3, 2015, the Applicants' panel of witnesses provided additional testimony regarding the lack of feasible siting options for providing reliable service to this area as well as testimony regarding an alternative location on the subject property. The testimony regarding the alternative location included evaluation of a location approximately 200' south of the original location.

POINT I

A PUBLIC NEED CLEARLY EXISTS FOR A NEW TOWER FACILITY IN NORTHEASTERN MANCHESTER

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 demonstrate the need for a new tower facility to provide reliable commercial wireless services to homes and the traveling public in northeastern Manchester and portions of the adjacent communities of Bolton and Vernon. Applicants' Ex. 1, Attachment 1, Applicants' Ex. 4 Answers 7, 8 & 9, Applicants Ex. 9 Attachment 3.

The record in Docket 453 also demonstrates that the subject parcel is uniquely situated at a higher elevation than the surrounding area to allow wireless service to extend along Vernon Street, Lydall Street, Meadowbrook Drive, State Highway 85 (Lake Street) and other local roads and areas including the Risley Reservoir recreation area. The record also establishes that a 104' AGL tower is needed to reasonably serve the public from the Site for AT&T. Applicants' Ex. 1, Attachment 1; Applicants' Ex. 4, Answer 9. The need for reliable wireless service in this area was expressed in some comments at the January 20th public hearing. Tr. 1/20/15, 7:00pm, pp.112, 117-121, 133.

The Applicants submit that the public need for a new tower facility in this area to provide commercial wireless 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 Manchester, Bolton and Vernon. Applicants Ex. 1, pp. 10-11, Attachment 2. This area of Manchester is characterized by a mix of residential parcels, municipal water department property including the Risley Reservoir which is used for recreational purposes, and land trust holdings, all of which present challenges to locating a suitable site. The evidence and testimony in this proceeding demonstrate that existing telecommunications sites could not be used by AT&T to provide reliable service to this area. Applicants' Ex. 1, pp.10-11, Attachment 2,

Applicants' Ex. 8, Answer 1. In addition, the evidence established that locating a facility on the land trust property would not fulfill AT&T's coverage objectives and that the Land Trust was not willing to lease space on its holdings around Risley Reservoir. Applicants' Ex. 8, Answers 2 & 3.

As demonstrated by the evidence in this Docket, no other viable alternatives for wireless facility siting were identified by the Town. Applicants' Ex.1, pp. 18-19, Attachment 2, Applicants' Ex. 8, Answer 3. It is respectfully submitted that there is no better known site for a tower needed to serve this area of the State.

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.

For the proposed location, it is anticipated that the proposed facility will be visible year-round above the trees from just 50+/- acres or less than approximately 1.0% of the 8,042 acre Study Area. Applicants' Ex.1, Attachment 8 (Visibility Analysis). Leaf off seasonal views between the trees will be approximately 198 additional acres of the study area. As demonstrated in the Visibility Analysis, in general, year-round views are primarily limited to areas on and abutting the host property and extending generally north including portions of neighborhoods to the east and west along Tufts Drive and Deer Run Trail. Applicants' Ex.1, Attachment 8. The closest occupiable structure to the proposed Facility at the original location is a residence located approximately 452' from the proposed Facility. Chasse, Tr. 1/20/15 3:00pm, pp.64-65, 72.

The testimony in the record indicates that an alternate location on the subject parcel approximately 200' to the south, outside of the 100' vernal pool buffer area, balances visibility from areas to the north and to the east. Libertine, Tr. 3/3/15, 1:00pm, p. 161.

With respect to stealth design options, the evidence and testimony demonstrate that a silo design is the most appropriate option for this area should a stealth design be warranted. Libertine, Tr. 1/20/15, 1:00pm, pp. 22-25. Due to the construction considerations for silo designed facilities, a silo facility would extend to 120' in height to accommodate co-location. Chasse, Tr. 1/20/15, 1:00pm, pp. 26-28, Applicants' Ex. 9, Attachment 1.

There are no schools or commercial day care facilities located within 250' of the subject property. Applicants' Ex.1, Attachment 8.

The evidence demonstrates that the proposed Facility at the original location or the alternate location will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood or community. 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

One wetland area was delineated within 200' of the proposed site development area. This wetland area transitions into an artificially created open water pond containing interior 'cryptic' style vernal pool habitat. Applicants Ex. 1, Attachment 6, Applicants' Ex. 5. The proposed facility will not result in direct impacts to the wetland or vernal pool. Applicants Ex. 1, Attachment 6, Applicants' Ex. 5.

One point of the existing road that will be upgraded to a gravel surface is located approximately 17 feet from the 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 disturbance than the proposed access drive which utilizes an existing driveway. Thus, use of the existing driveway will result in less impact. Applicants' Ex. 1, Attachment 6. Gustafson, Tr. 3/3/15, 1:00pm pp. 178-181. Utilities will be routed to avoid direct wetland impacts. Applicants' Ex. 1, Attachment 6.

The testimony establishes that an alternate location on the subject parcel approximately 200' south of the original location would avoid disturbance to the 100-foot buffer area of the vernal pool. Gustafson, Tr. 3/3/15, 1:00pm p. 168.

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.

b. Habitat Assessment and Wildlife

As demonstrated in the record, ATC's 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 and consultation with DEEP, it was determined that there is the potential for the presence of a State-listed eastern box turtle. The DEEP recommended that construction activities take place during the hibernation period from October 1 through April 1 or, if construction is undertaken between April 1st through September 30th, that protection measures be implemented. ATC will comply with this recommendation. Applicants' Administrative Notice Item #1.

In addition, the proposed location and alternate location on the subject property will avoid impacts to the 100' vernal pool buffer area. Gustafson, Tr. 3/3/15, 1:00pm p. 168. The Applicants will implement a seasonal restriction and vernal pool protection plan during construction plans to avoid adverse impacts to the vernal pool resources. Applicants' Ex. 5.

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 location of the Facility includes use of the existing dirt driveway a distance of approximately 350', then along a proposed 12' wide gravel driveway a distance of approximately 730' to the tower compound. Applicants' Ex. 1, Attachment 4. The access for the alternate location, approximately 200' south of the proposed location, would also utilize the existing dirt driveway a distance of approximately 350', then along a new 12' wide gravel driveway a distance of approximately 530' to the tower compound. Applicants' Ex. 9.

Modest grading and clearing is required for the Facility, with no tree removal. Underground utilities will be routed on the eastern side of the access drive and will be positioned to avoid direct wetland impacts. Applicants' Ex.6, Paynter, Tr. 1/20/15 3:00pm p.31, Gustafson, Tr. 1/20/15 3:00pm p.58. 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. 18, Applicants' Ex. 4.

The Applicants respectfully submit that the proposed improvements at the subject property 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 subject property will comply with all public health and safety requirements. Applicants Ex. 1, Attachment 7. 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.

The evidence in this Docket demonstrated that the relatively low height of the proposed facility will 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' Administrative Notice Item #2. 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 thousands of residents. 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. 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 subject property to avoid, to the extent practicable, any impacts on the natural environment, including wetlands and vernal pool resources. Further, the Applicants will incorporate additional protective

measures related to potential Eastern Box Turtle habitats and vernal pool resources 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 453.

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:

The Honorable Kelly Luxenberg
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The Honorable Steve Cassano
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Dated: April 1, 2015



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cc: Blake Paynter, American Tower Corporation
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