

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY FLORIDA PARTNERS LLC
d/b/a NORTH ATLANTIC TOWERS APPLICATION
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR A TELECOMMUNICATIONS FACILITY
AT 62-64 CODFISH HILL ROAD IN THE
TOWN OF BETHEL, CONNECTICUT

DOCKET NO. 458

Date: AUGUST 13, 2015

APPLICANT'S POST HEARING BRIEF

Executive Summary

On March 19, 2015, Florida Tower Partners LLC d/b/a North Atlantic Towers ("North Atlantic Towers") filed an application (the "Application") with the Connecticut Siting Council (the "Council") for a Certificate of Environmental Compatibility and Public Need ("Certificate") for the construction, maintenance and operation of a wireless telecommunications facility ("Facility") at one of two locations on an approximately 49-acre parcel at 62-64 Codfish Hill Road (the "Property") in the Town of Bethel. The Bethel Facility will provide reliable wireless service to existing gaps in portions of Bethel, western Newtown, and northern Redding, as well as offer significant capacity relief to several surrounding cell sites operating beyond their current capacity limits.

Facility Description (Site 1):

North Atlantic Towers proposes to construct a 120-foot monopole tower in the eastern wooded portion of the Property ("Site 1") with Cellco Partnership d/b/a Verizon Wireless ("Verizon") antennas mounted at a centerline of 120 feet. The Facility at Site 1 would sit within a 10,000 square foot area leased by North Atlantic Towers. The tower

would also host the equipment of three additional wireless carriers as well as Town emergency services, if needed. Verizon's 12 x 26 foot equipment shelter would be located within the compound area, with space reserved for the equipment of three additional carriers. An eight foot high chain link fence would secure the equipment at the Facility. Vehicle access to Site 1 would be along approximately 1,650 feet of improved and unimproved areas of the Property; both areas would be graveled and graded. Subject to the approval of the utilities, utility connections would extend along approximately 1,650 foot route from Codfish Hill Road to the Site 1 compound.

Alternative Facility Location (Site 2):

In an effort to address the Town of Bethel's (the "Town") request that the Facility be more centrally located on the Property, North Atlantic Towers filed an alternative site ("Site 2"). The 150-foot Facility at Site 2 would be located in the central portion of the Property, as requested by the Town, with Verizon antennas mounted at a centerline of 150 feet. All other features would remain identical to Site 1 except for vehicular and utility access. Vehicular access would be along an approximately 860 foot route of improved and unimproved areas of the Property; both areas would be graveled and graded. Subject to the approval of the utilities, utility connections would extend along an approximately 860 foot route from Codfish Hill Road to the Site 2 compound.

Need for the Facility:

This Docket contains ample evidence that the proposed Bethel Facility will provide reliable wireless service to existing coverage gaps in Bethel, western Newtown,

and northern Redding. Furthermore, the proposed Bethel Facility will provide significant capacity relief as several of Verizon's surrounding cell sites are operating beyond their current capacity. The Bethel Facility would be optimized to relieve Verizon's Bethel alpha sector of its current Bethel site, as well as to limit interference with adjacent sites.

Nature of Probable Impacts:

The Docket contains substantial evidence to support a finding by the Council that the Bethel Facility at either Site 1 or Site 2 would not have a significant adverse impact on the environment as the location and development of the sites: (1) will neither effect historic nor archaeological resources in the area; (2) are not within the vicinity of national parks or forest; (3) are neither designated a wilderness area nor located in any areas identified as a wildlife area or preserve; (4) will neither affect public health nor safety; (5) will not impact wetlands; and (6) will not have any significant visual impacts.

Conclusion:

The evidence in the Docket clearly satisfies the criteria of Conn. Gen. Stat. § 16-50p(a)(3) because: (1) there is a need for coverage and capacity relief in the area surrounding the proposed Bethel Facility; (2) the proposed Bethel Facility satisfies this need; (3) there are no other viable alternatives; and (4) the environmental impacts from the proposed Bethel Facility would be minimal when balanced against the well-established need.

I. INTRODUCTION

Florida Tower Partners LLC d/b/a North Atlantic Towers (“North Atlantic Towers”) filed an application (the “Application”) with the Connecticut Siting Council (the “Council”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, maintenance and operation of a wireless telecommunications facility (“Facility”) at one of two locations on an approximately 49-acre parcel at 62-64 Codfish Hill Road (the “Property”) in the Town of Bethel. Application, 1-2. The proposed Bethel Facility will provide reliable wireless service to existing gaps in portions of Bethel, western Newtown, and northern Redding, as well as offer significant capacity relief to several surrounding cell sites operating beyond their current capacity limits. These wireless service issues must be resolved for carriers to continue to provide high-quality, uninterrupted, and reliable services.

II. PROCEDURAL BACKGROUND

North Atlantic Towers filed the Application with the Council on March 19, 2015. In its original application, North Atlantic Towers proposed to construct a 150 foot monopole tower at Site 1 and a 170-foot monopole tower at Site 2. New Cingular Wireless PCS, LLC (“AT&T”) intervened and intended to locate at the 150 foot level on Site 1 or the 170 foot level on Site 2.

Notice of North Atlantic Tower’s intent to file the Application was mailed to all abutting property owners on March 4, 2015, and was published in the *Danbury News-Times* on March 4, 2015 and March 5, 2015. Application 6-7, Exhibits C and D to Application. Representatives for North Atlantic Towers posted a sign on the roadway

noticing the public of the application and hearing date and location. Applicant's Exhibit 2.

There are two interveners to this proceeding: Codfish Hill Environmental Trust ("CHET") and Verizon. AT&T also intervened in this matter but withdrew for financial reasons despite having a continued need for the Bethel Facility.¹ Letter from Dan Laub to the Council, dated June 26, 2015; 7/14/15 Transcript at 71-72.

On June 2, 2015, the Council conducted an evidentiary hearing and an evening public hearing on the Application. 6/2/15 Transcript at 4-5. The hearing was continued and completed on July 14, 2015 (collectively hereinafter the "Hearing").

On June 2, 2015, as prescribed by the Council, two red balloons² were flown at Site 1 and Site 2 from approximately 7:45 am to 6:00 p.m. 6/2/15 Transcript at 26-27; 7/15/15 Transcript at 14-15. Previously, North Atlantic Towers conducted similar balloon floats for Site 1 on November 30, 2013 and for Site 2 on January 17, 2014 under favorable conditions. 7/14/15 Transcript at 28; Exhibit I for Site 1 at 3; Exhibit I for Site 2 at 3.

Pursuant to Council direction and Section 16-50j-31 of the Regulations of the Connecticut State Agencies, North Atlantic Towers files this post-hearing brief analyzing the criteria set forth in Conn. Gen. Stat. § 16-50p(a)(3) and addressing issues raised during the course of this proceeding.

III. FACTUAL BACKGROUND

¹ Following AT&T's withdrawal from this proceeding, North Atlantic Towers modified the height of the proposed Facility from 150 feet to 120 feet at Site 1, and from 170 feet to 150 feet at Site 2.

² The balloons measured about four (4) feet in diameter and were flown at the height of 150 feet at Site 1 and 170 feet at Site 2 (as proposed at that time).

A. Site Selection Process.

North Atlantic Towers is a wireless infrastructure provider that uses its knowledge of the wireless carriers' networks and/or specific information from the individual carriers to develop new wireless facilities where a need has been demonstrated. Application at 18; Exhibit H at 1. When it is clear that a new tower facility will be required to provide coverage and reliable service, North Atlantic Towers pursues a site search for a new tower. Id. In performing its site search, North Atlantic Towers consults with wireless carrier radiofrequency engineers to identify geographic areas where a new tower facility will be required for the provision of coverage and/or capacity in the carriers' networks. Id.

Through this collaborative process, North Atlantic Towers became aware that wireless coverage in eastern Bethel, Newtown, and the surrounding area suffers due to the lack of existing wireless facilities or structures suitable for co-location in this area. Exhibit G to Application at 4, 6-7; see also Verizon Interrogatory Responses dated May 26, 2015 at No. 5; Verizon Supplemental Interrogatory Responses dated July 7, 2015 at No. 5. Current coverage gaps in these areas inhibit call quality and/or obstruct high speed data services offered. Application, 16-17. Capacity problems exacerbate the situation, as neighboring facilities have been exhausted. Exhibit H at 1; see also 7/14/15 Transcript 100-101, 107-108; Verizon Interrogatory Responses dated July 7, 2015, No. 2-3. As a result, and in consultation with AT&T, North Atlantic Towers began a site search in this area in June, 2010.³ Application at 18.

³ AT&T conducted its own site search prior to North Atlantic Towers, identifying no existing structures or reasonable locations for a new tower facility.

North Atlantic's site search consisted of two discrete phases, both of which used a four-mile radius search ring around the Bethel Facility to ascertain potential sites and facilities: (1) existing facilities and (2) feasible alternative sites. After concluding that none of the nine (9) existing facilities within the search ring offered feasible solutions, North Atlantic Towers conducted a search for new tower sites. Exhibit H to Application at 1. That search included independent reviews by North Atlantic Towers and AT&T, and field work conducted by consultants for both entities. Application at 17. As thoroughly explained in Exhibit H, North Atlantic Towers determined that none of the fourteen (14) sites within its search ring were feasible for a variety of reasons, including but not limited to: environmental characteristics, potential environmental effects, nearby residential character of the area, radio frequency capabilities, and property owners' willingness to make the property available for telecommunications development. Application at 17; Exhibit H at 1.

B. Consultation with Town of Bethel Officials.

On June 28, 2013, North Atlantic Towers submitted a cover letter and technical report to the First Selectman, the Honorable Matt Knickerbocker, proposing Site 1 as the Facility location. Application at 34; Exhibit O to the Application.

On July 25, 2013 representatives of North Atlantic Tower and AT&T met with First Selectman Knickerbocker, Land Use Director Steven Palmer, and Assistant Zoning Official and Inland/Wetlands Agent Beth Cavagna to engage in the municipal consultation meeting. Application at 34. At that time, supplemental site search information was provided. Id. During that meeting, Mr. Palmer requested that the

access road be relocated from its proposed location and North Atlantic Towers agreed to do so. Id.

The Town requested a public information meeting which was held on December 5, 2013. Id. After that meeting, Mr. Palmer sent a letter dated December 16, 2013 indicating that if the Facility was to be located on this Property the Town wanted it to be more centrally located on the Property. Id.; Exhibit O. Specifically, Mr. Palmer indicated that the “Town strongly recommends a centralized location on the subject property such as the one shown on the plan entitled ‘Bethel CT1155 . . . dated April 12, 2011’.” Id. Mr. Palmer included a plan in his correspondence, a copy of which was provided in Exhibit O of the Application. As a result of the Town’s recommendation, the Applicants also filed Site 2 in its Application in the approximate location desired by the Town.

Finally, counsel for Applicant North Atlantic Towers met with Mr. Palmer and Ms. Cavagna on January 22, 2015 to inform the Town regarding the status of the proposed filing of the Application, update the Town on the inclusion of Site 2 in the Application (as a direct result of the Town’s request for a more centrally located site on the Property), and provide plans that reflected this new location. Mr. Palmer was pleased with the location of Site 2, and indicated that if the Facility were to be located on this Property he would support the approval of Site 2.

C. Tower Sharing.

If approved, North Atlantic Towers will design the Bethel Facility to accommodate four (4) wireless carriers, as well as municipal emergency communications at no cost to the Town. Application at 19. Design details are delineated in Exhibits E and F to the Application, including the revised plans filed July 7, 2015.

D. The Bethel Facility.

As amended by its July 7, 2015 filing, North Atlantic Towers proposes to construct a 120-foot monopole tower in the eastern wooded portion of the Property ("Site 1") with Cellco Partnership d/b/a Verizon Wireless ("Verizon") antennas mounted at a centerline of 120 feet.⁴ Application at 2; Revised Site 1 Plans filed July 7, 2015; 7/14/15 Transcript at 67. The Facility at Site 1 would sit within a 10,000 square foot area leased by North Atlantic Towers. Application at 2. The tower would also host the equipment of three additional wireless carriers as well as Town emergency services, if needed. Id. Verizon's 12 x 26 foot equipment shelter would be located within the compound area, with space reserved for the equipment of three additional carriers. 7/14/15 Transcript at 96; Revised Site 1 Site Plans filed July 7, 2015. An eight foot high chain link fence would secure the equipment at the Facility. Application at 2. Vehicle access to Site 1 would be along approximately 1,650 feet of improved and unimproved areas of the Property; both areas would be graveled and graded. Id. Subject to the approval of the utilities, utility connections would extend along approximately 1,650 foot route from Codfish Hill Road to the Site 1 compound. Id.

In an effort to address the Town of Bethel's (the "Town") request that the Facility be more centrally located on the Property, North Atlantic Towers filed an alternative site ("Site 2"). Id. at 34-35. The 150-foot Facility at Site 2 would be located in the central portion of the Property, as requested by the Town, with Verizon antennas mounted at a centerline of 150 feet.⁵ Application at 2; Revised Site 2 Plans filed July 7, 2015; 7/14/15

⁴ Upon AT&T's withdrawal from this Docket, North Atlantic Towers submitted a Revised Site Plan dated July 7, 2015 reducing the height of the tower proposed at Site 1 from 150 feet to 120 feet.

⁵ The revised Site Plan dated July 7, 2015 reduces the height of the tower proposed at Site 2 from 170 feet to 120 feet.

Transcript at 67. All other features would remain identical to Site 1 except for vehicular and utility access. Application at 2. Vehicular access would be along an approximately 860 foot route of improved and unimproved areas of the Property; both areas would be graveled and graded. Id. Subject to the approval of the utilities, utility connections would extend along an approximately 860 foot route from Codfish Hill Road to the Site 2 compound. Id.

IV. ANALYSIS

To issue a certificate of environmental compatibility and public need (a “Certificate”), the Council must determine that: (1) there is a demonstrated need for the proposed facility; and (2) any probable environmental impacts are insufficient to preclude granting the application for the proposed facility. Conn. Gen. Stat. § 16-50p(a)(3). The testimony offered by North Atlantic Towers, both pre-filed and at the Hearing, as well as its submissions filed in support of this Application, unequivocally satisfies these criteria, thereby warranting a Certificate.

A. There is a Demonstrated Public Need for the Proposed Bethel Facility, as Recognized by Federal Law and Established by the Evidence Offered by North Atlantic Towers.

1. Federal Law Seeks to Maximize Wireless Access.

Federal law and policy seeks to maximize nationwide wireless access and foster wireless network growth, as promulgated in six (6) federal acts and orders.

First, the Telecommunications Act of 1996 (the “Telecommunications Act”) substantially increased public access to wireless services by removing barriers to provider-competition, promoting universal service at affordable rates and in all areas of

the United States, and enhancing the interconnectivity of users and vendors in light of the Telecommunications Act's proposed changes.

Second, the Wireless Communications and Public Safety Act of 1999 (the "Public Safety Act"), which designated 9-1-1 as the universal emergency assistance number for both landline and wireless telephone service, emphasized the importance of wireless communication access to improve public safety and generally reflected the federal government's ongoing commitment to maximizing the vast potential of wireless services.

Third, the New and Emerging Technologies 911 Improvement Act of 2008 (the "NET 911 Act"), which sought to accelerate a country-wide transition to a national IP-enabled emergency network and improve existing emergency services for individuals with disabilities, demonstrated the economic and safety benefits that the federal government anticipated from broadened wireless communications.

Fourth, the American Recovery and Reinvestment Act of 2009 (the "Recovery Act") recognized the importance of maximizing access to wireless services by: (1) providing \$7.2 billion to increase broadband access throughout the United States; (2) establishing the Broadband Technology Opportunities Program, awarding grants for the purposes of enhancing community broadband infrastructure, upgrading or constructing public computer centers, and increasing broadband access in areas that traditionally underutilized broadband services; and (3) developing a National Broadband Plan outlining strategic initiatives for the purpose of maximizing broadband access for every American.

Fifth, in June 2012, President Obama signed an executive order recognizing the need for improved broadband access across the United States, as well as seeking to accelerate the deployment of broadband on federal lands and reiterating the importance of uniform access to broadband and other wireless services.

Sixth, Section 6409 of the Middle Class Tax Relief Act, issued in February 2012, recognized the importance of promoting enhanced wireless services by requiring any state or local government to approve replacement or collation of equipment on an existing tower, so long as the physical dimensions of that existing tower were not substantially changed. By report issued on October 17, 2014 to clarify Section 6409, the FCC took “important steps...to promote the deployment of wireless infrastructure” by substantially reforming its rules to “make thousands of additional towers available for collocation, resulting in an enormous expansion in deployment opportunities for public safety operations and commercial wireless offerings.” FCC Wireless Infrastructure Report and Order issued October 17, 2014 at 2.

Collectively, this federal law and policy reflects a demonstrated need to maximize national wireless access and foster network growth – objectives furthered by the proposed Bethel facility.

2. Wireless Usage Statistics Demonstrate a Public Need to Maximize Wireless Access.

As wireless subscribers have exponentially increased, wireless data traffic has similarly expanded, thereby heightening the public need for optimal wireless access.⁶

For example, as of December 2012, an estimated 326.5 million individuals in the United States subscribed to a wireless provider, up from 315.9 million subscribers as of

⁶ These statistics are summarized herein and discussed in detail in the Application at p.14-16.

December of 2011.⁷ Teenage and elderly populations alike are drastically increasing wireless demands, as 69% of adults ages 65 and older own mobile phones (up from 57% in May 2010) and 78% of individuals ages 12-17 years own cell phones.⁸ As a result of this widespread subscription increase, wireless data traffic increased 69% from 2011 to 2012.⁹

Wireless services and data traffic have also drastically expanded in the public safety arena. For example, over 400,000 subscribers make E-911 or distress calls from their wireless device per day, up from 260,000 similar calls in 2007.¹⁰ Indeed, in a 30-day June 2013 Pew Study, 19% of individuals used their mobile device to get help in an emergency situation.¹¹ Therefore, nationwide statistics reveal a demonstrated need to maximize wireless access for personal and public safety purposes – objectives furthered by the proposed Bethel facility.

3. The Proposed Bethel Facility Will Remedy Coverage and Capacity Deficiencies in the Bethel Area.

The Docket contains extensive written evidence and testimony regarding the critical coverage deficiencies in Bethel, western Newtown, and northern Redding. Verizon Interrogatory Responses dated May 26, 2015 at No. 5; Verizon Supplemental Interrogatory Responses dated July 7, 2015 at No. 5; see also Application, 9, 16; and

⁷ CTIA, *CTIA's Semi-Annual Wireless Industry Survey Results, December 1985-December 2012*, http://www.ctia.org/media/industry_info/index.cfm/AID/10316 (last visited July 30, 2013).

⁸ Kathryn Zickuhr and Mary Madden, *Report: Seniors, Social Networking, Broadband: Older Adults and Internet Use* (June 6, 2012), <http://www.pewinternet.org/Reports/2012/Older-adults-and-internet-use.aspx> (last visited Aug. 6, 2013); Mary Madden et al., *Teens and Technology 2013 2* (Pew Research Center Internet & American Life Project) (2013).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Joanna Brenner, *Pew Internet: Mobile*, Pew Internet & American Life Project (June 6, 2013), <http://pewinternet.org/Commentary/2012/February/Pew-Internet-Mobile.aspx> (last visited Aug. 6, 2013).

Exhibit F to Application. Current coverage gaps in these areas inhibit call quality and/or obstruct high speed data services offered. Application, 16-17.

Specifically, Verizon “needs the proposed Bethel [facility] to fill significant gaps in service along portions of Routes 302 and 58 in Bethel and portions of western Newtown and northern Redding.” Verizon Interrogatory Responses at No. 5; Verizon Supplemental Interrogatory at No. 5. To resolve these existing coverage deficiencies, Verizon has provided extensive written evidence and testimony regarding the coverage and capacity benefits offered by the proposed Bethel Facility. Verizon Interrogatory Responses at No. 6; Verizon Supplemental Interrogatory Responses at No. 6.

Specifically, Attachment 1 to Verizon’s Supplemental Interrogatory Responses depicts the coverage benefits realized by both Site 1 and Site 2. For example, current gaps in wireless service along Route 302 range from 0.65 mile at 700 MHZ to 1.7 miles at 2100 MHZ. Verizon Supplemental Interrogatory Responses at No. 2. Along Route 58, the wireless service gaps range from 0.1 miles at 700 MHz to 0.65 miles at 2100 MHz. Id. Similar gaps exist along secondary roads and in residential areas around the Property. Id.

The proposed Bethel Facility will also support text-to-911 service – a service not currently available in Bethel -- as soon as the Public Safety Answering Point (“PSAP”) is capable of receiving text-to-911. Verizon Interrogatory Responses at No. 6; Verizon Supplemental Interrogatory Responses at No. 6.

Capacity will similarly improve, as Verizon plans to use 2100 megahertz antennas to pick up additional capacity as needed. 7/14/15 Transcript at 98-100. Cellco’s adjacent Bethel site has been operating beyond its existing capacity limits for

over a year, resulting in reduced reliability in service. Verizon Supplemental Interrogatory Responses at No. 3. As such, the proposed Facility, in conjunction with other existing and planned facilities in and around Bethel and Newtown, are necessary to provide functional wireless services to people living in and traveling through this area of the state.

During its participation as an intervener in this docket AT&T also identified significant coverage gaps in its wireless service in the areas of eastern Bethel and adjacent areas of Newtown, including not limited to: Codfish Hill Road, Dodginton Road, Putnam Park Road, Sugar Street, Wolfpits Road, and Taunton Hill Road Application, 9, 16; and Exhibit F to Application. The Radio Frequency ("RF") Engineering Report provided in the Application further describes and depicts these well-documented coverage gaps. Exhibit G to Application at 4, 6-7. Current coverage gaps in these areas inhibit call quality and/or obstruct high speed data services offered. Application, 16-17. AT&T further indicated that additional coverage in this area was necessary for AT&T subscribers to connect to Emergency 911 Services. Technical Report, 4. In its withdrawal letter dated June 26, 2015, AT&T indicates that it "continues to have a need for new infrastructure to provide reliable service in eastern Bethel and the adjacent area of Newtown" and that "AT&T would use the proposed facility, if approved, in the future." Letter from Dan Laub to the Council, dated June 26, 2015.

4. Viable Alternatives to the Proposed Bethel Facility Do Not Exist.

The Docket also contains extensive written evidence and testimony demonstrating that no viable alternative to the proposed Bethel Facility exists, as there are neither (1) existing facilities, nor (2) feasible alternative sites. First, North Atlantic

Towers and AT&T determined that no existing suitable facilities or structures suffice. Application, 17. North Atlantic Towers conducted a search for existing towers and structures within a four-mile radius of the proposed Bethel Facility, determining that none of the nine (9) “communications towers and facilities located within four miles of the coverage to the area targeted for service by the proposed facility.” Exhibit H at 1. Furthermore, Verizon RF engineer, Ryan Ulanday, identified all the existing adjacent sites on which Verizon was co-located and testified that Verizon is already operating at full capacity in the Bethel area, and cannot upgrade or expand an existing site. 7/14/15 Transcript 100-101, 107-108; Verizon Interrogatory Responses at No. 2-3.

Second, both North Atlantic Towers and AT&T conducted independent searches for viable alternative sites. Application at 17. Specifically, North Atlantic Towers conducted a search for viable alternatives sites with a four-mile radius of the proposed Bethel Facility, determining that none of the fourteen (14) sites within its search ring were feasible for a variety of reasons, including but not limited to: environmental characteristics, potential environmental effects, radio frequency capabilities, and property owners’ willingness to make the property available for telecommunications development. Application at 17; Exhibit H at 1. Each potential site was deemed impracticable, as delineated in detail in Exhibit H. Id.; see also 6/2/15 Transcript at 35.

The site search undertaken by North Atlantic Towers is equally applicable to Verizon’s potential location in this area for many of the same reasons that AT&T and North Atlantic Towers rejected them, including but not limited to, unwilling landowners, limited ground space, small parcel size, potential environmental effects, etc. 7/14/15 Transcript 91-93; Application, Exhibit H.

Notably, neither the Town nor CHET failed to identify *any* other viable, available alternative for a wireless facility. First Selectman Knickerbocker indicated that he “expressly rejected proposing alternate locations . . .”. 6/2/15 Transcript at 15. CHET neglected to offer *any* evidence or testimony on this issue, utterly failing to refute North Atlantic Tower’s extensive expert evidence.

B. The Proposed Bethel Facility Will Have No Significant Environmental Effects.

To issue a Certificate, the Council must determine that probable environmental impacts— including the natural environment, ecological balance, public health and safety, forests and parks, air and water purity, historic and recreational values, and fish, aquaculture, and wildlife— will have no significant environmental effects. Conn. Gen. Stat. § 16-50p(a)(3). The testimony offered by North Atlantic Towers unequivocally satisfies these statutory criteria, thereby warranting a Certificate.

1. The Bethel Facility Will Not Result in a Significant Adverse Visual Impact nor have a Substantial Effect on the Scenic Quality of the Surrounding Area.

North Atlantic Towers’ visibility analyses, pre-filed testimony, and extensive expert testimony demonstrate that the visibility of the proposed Bethel Facility will neither result in a significant adverse visual impact nor have a substantial adverse effect on the aesthetics or scenic quality of the area surrounding the proposed Facility.

As repeatedly observed in this Docket, the Property is densely populated with mature vegetation and tall tree canopy, thereby limiting visibility. Tree canopy covers nearly 6,644 acres of the 8,041 acres of the visibility analysis’ study area, equating to 82% coverage. Application at 21; Exhibit I, Visibility Analysis dated February 2014

("Exhibit I") at 2. This tree canopy is exceptionally tall, as they are "approaching exceeding over 100 feet in that area." 6/2/15 Transcript at 41.

Using even the most conservative of estimates,¹² both of the proposed sites will have limited visibility. At Site 1, the proposed Bethel Facility will be partially visible year-round from just 77 acres – less than 1.0% of the total Study Area. Revised Visibility Analysis¹³ at 2. Similarly, at Site 2, the proposed Bethel Facility will be partially visible year-round from just 139 acres – less than 1.7% of the total Study Area. Revised Visibility Analysis at 3. Seasonable visibility is similarly limited.¹⁴ See Id. In general, visibility is limited to select nearby properties or elevated locations at a distance. Exhibit I for Site 1 at 7; Exhibit I for Site 2 at 7. Moreover, visibility is partial at best, as the proposed Bethel Facility "does not eclipse the actual treetops" in the vast majority of locations and is intermittently visible through the trees. 6/2/15 Transcript 22-23, 31-32; 7/14/15 Transcript at 47. A painted pole to blend in with the trees might further camouflage the Bethel Facility. 6/2/15 Transcript at 31-32; 7/14/15 at 55.

The nearest school or daycare is located about 1.25 miles from the proposed Bethel Facility, well beyond the 250 foot statutory requirement. Application at 21-22; Exhibit I for Site 1 at 7; Exhibit I for Site 2 at 7.

There are no scenic roadways located within the Study Area. Furthermore, neither site is visible from the trail systems at the Collis P. Huntington State Park, located approximately 0.75 miles to the southeast. Visibility Analysis at 2.

¹² The visibility analyses used a "purposefully low average tree canopy of 50 feet." Id. at 2.

¹³ The Revised Visibility Analysis provided on July 7, 2015 submitted by North Atlantic Towers modified the Visibility Analysis submitted as Exhibit I to the Application by reducing the heights of the towers proposed at Site 1 from 150 feet to 120 feet, and at Site 2 from 170 feet to 150 feet. Exhibit I predicted slightly higher visibility, with 120 acres at Site 1 (1.4% of the total Study Area) and 162 acres at Site 2 (less than 2% of the total Study Area). Application at 22; Exhibit I for Site 1 at 6; Exhibit I for Site 2 at 6.

¹⁴ Areas of seasonal visibility comprise 321 additional acres for Site 1 and 264 additional acres for Site 2. Id.

Notably, CHET failed to offer any expert report or testimony as to visibility. North Atlantic Tower's extensive testimony and expert analysis establishes the proposed Bethel Facility will not significantly affect the scenic quality of the surrounding area or have a significant adverse environmental impact.

2. The Bethel Facility Will Not Significantly Affect Public Health and Safety.

The Docket contains uncontested evidence that the proposed Bethel Facility will not significantly affect public health and safety. Verizon's Worst-case General Power Density calculations establishes that the worst-case potential exposure would be well below the established FCC standards – 20.99% of the applicable Maximum Permissible Exposure (MPE) at Site 1, and 15.71% of the MPE at Site 2. Verizon Supplemental Interrogatory Responses, Attachment 2.

Moreover, the proposed Bethel Facility would be monitored and secure. An eight (8) foot high chain link fence would secure the equipment housed within the compound area. The site would be monitored 24 hours a day, 7 days week from a remote location. Application at 23. These security measures, combined with the remote location of the proposed Bethel Facility, unequivocally satisfy the public health and safety considerations established by Conn. Gen. Stat. § 16-50p(a)(3).

3. The Bethel Facility Will Not Significantly Affect the Natural Environment in the Codfish Hill Area.

North Atlantic Towers has offered extensive evidence demonstrating that the proposed Bethel Facility will not significantly affect the natural environment factors described in Conn. Gen. Stat. § 16-50p(a)(3).

a. Historic Properties, Structures, and Buildings.

The proposed Bethel Facility will not impact historic properties, structures, buildings, or objects. Application at 24; Pre-filed testimony of Michael Libertine dated May 26, 2015 at A2 (“the referenced property is not located within a historic district; in fact, no such districts or resources (listed on or eligible for listing on the National Register of Historic Places) are located proximate to the area”); Exhibit L of Application, NEPA Compliance Review dated January 27, 2015 (“Exhibit L”) at 5. Specifically, on May 29, 2015, the Office of State Archaeology issued a letter that Sites 1 and 2 “do not appear to retain any archaeological integrity” and concluded that “the project will have no effect on the state’s cultural resources.” Exhibit L to Application. Similarly, on September 8, 2014, SHPO issued a letter concluding that “no historic properties will be affected by this project.” (emphasis in original). *Id.*

North Atlantic Towers also consulted with six Native American Indian tribes, all of whom confirmed that they do not have any interests that would be impacted by the Bethel Facility. Application at 27. Those six (6) tribes include: the Delaware Nation, the Mohegan Indian Tribe, the Keweenaw Bay Indian Community, the Mashantucket Pequot Tribe, the Lac Vieux Desert Chippewa Indians, and the Narragansett Indian Tribe. The Tribal Consult is attached to Appendix C of Exhibit L to the Application.

b. Protected Land and Designated Environments.

Neither site will affect protected land or designated environments. There are no national parks or forests within the vicinity of proposed Bethel Facility. Application at 24; Technical Report at Section 3, National Resource Review (“National Resource Review”) at 1-2.

Furthermore, the proposed Bethel Facility will neither be located within a floodplain nor within wetland limits. Application at 24, Exhibit L at 6; 7/14/15 Transcript at 48; National Resource Review at 2. As such, no wetlands will be impacted. 7/14/15 Transcript at 48; Application at 32-33; Exhibit N to Application. North Atlantic Towers offered expert testimony on this issue, wherein Mr. Gustafson testified that “based on the limits of wetlands shown in [North Atlantic Towers’] mapping, no habitats or potential harmful habitats were observed within this study area.” 7/14/15 Transcript at 43. Furthermore, Mr. Gustafson’s Wetland Investigation Report concluded that “no direct impacts to wetlands are associated with the proposed North Atlantic Towers development.” Exhibit N to Application at 9. Indeed, neither site will result in temporary or permanent impacts to wetland resources, so long as sedimentation and erosion controls are implemented. Id.; Application at 26.

Finally, a graded gravel road will provide access to both sites, wherein drainage swales will be used to mitigate runoff to create patterns and volume nearly identical to that currently existing. 6/2/15 Transcript at 45-46; Exhibit E of Application, Site Plans revised to January 30, 2015 (“Exhibit E”) at C-C11B; Exhibit F of Application, Site Plans revised to January 30, 2015 (“Exhibit F”) at C1A. Apart from minimal clearing and grading, the remainder of the site will remain unchanged. Technical Report at 13.

c. Wildlife and Wilderness.

Neither site is designated as a wilderness area nor located in any areas identified as a wildlife area, wildlife preserve, or in a USFW National Wildlife Refuge. Application at 23-24; National Resource Review at 2. The proposed Bethel Facility would not affect threatened or endangered species or designated critical habitats. Id. Specifically, the

Bethel Facility will not impact migratory bird species, as: (1) neither site is proximate to an Important Bird Area; (2) both sites comply with USFWS Guidelines for minimizing impacts on birds; and (3) the Facility height would not be above 200 feet, would not include guy wires, and would not require lighting. Application at 25; Avian Resources Evaluation attached as Exhibit M to Application. North Atlantic Towers will implement protection strategies and protocols (documented in Appendix C of the NEPA Report) during construction activities to protect State Special Concern species eastern box turtle and wood turtle. Exhibit L to Application.

Notably, CHET failed to offer *any* expert testimony or analysis as to any of the above-referenced natural environment considerations.¹⁵

C. The Benefits of the Bethel Facility Far Exceed Any Potential Impact, Thereby Warranting Application Approval.

Pursuant to Conn. Gen. Stat. § 16-50p(a)(3), the evidence in the Docket clearly establishes that any probable environmental impacts resulting from the Bethel Facility are insufficient to deny North Atlantic Tower's Application. Any limited impacts associated with the Application are outweighed by its substantial public benefits, thereby warranting Council approval.

As demonstrated above, occasional and limited views in the immediate area are the primary potential adverse impacts resulting from the proposed Bethel Facility. See supra at pages 19 - 21. There are also limited distant views. These limited aesthetic impacts are unquestionably outweighed by the public benefit derived from the Bethel

¹⁵ CHET exclusively relies on administrative notice of the agricultural exemption under wetland regulations. 6/2/15 Transcript at 92. The agricultural exemption is inapplicable, as "[t]he landowners are not growing any crops, raising livestock or using the property for any agricultural uses." North Atlantic Towers' Responses to CSC'S Request for Additional Information dated July 7, 2015 at A5. It is also inapplicable as the CSC's jurisdiction is exclusive regarding these matters.

Facility – specifically the coverage and capacity benefits. See supra at pages 15 – 17. These views can be ameliorated by the design of the Facility, should the Council determine that this is an appropriate docket in which to order visual mitigation.

Accordingly, the potential benefits of the Bethel Facility far exceed any potential aesthetic impact, thereby justifying the issuance of a Certificate.

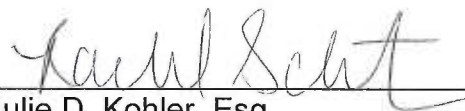
V. CONCLUSION.

Based on the overwhelming uncontroverted evidence in the record, North Atlantic Towers has established that there is a demonstrated need for the Bethel Facility and that the limited environmental impacts associated with the Application would be outweighed the public benefits. North Atlantic Towers therefore respectfully requests that a Certificate issue for the proposed Facility.

Respectfully Submitted,

**FLORIDA TOWER PARTNERS LLC
d/b/a NORTH ATLANTIC TOWERS**

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CERTIFICATION

I hereby certify that on this day a copy of the foregoing was sent by electronic mail and regular mail, postage prepaid, to all parties and interveners of record, as follows:

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