



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

Web Site: [www.ct.gov/csc](http://www.ct.gov/csc)

Hearing Program

Docket No. 463A

Tuesday, November 1, 2016

3:00 p.m.

East Lyme Town Hall, Upper Meeting Room

108 Pennsylvania Avenue, Niantic, Connecticut

### I. Opening by Council

A. Statement read by Chair.

B. Comments by Public Official(s) (if any)

C. Motions

1. Applicants Motion for Protective Order, dated October 31, 2016

D. Administrative Notice taken by Council

### **FEDERAL**

1. OFFICE OF ENGINEERING AND TECHNOLOGY, FEDERAL COMMUNICATIONS COMMISSION, QUESTIONS AND ANSWERS ABOUT BIOLOGICAL EFFECTS AND POTENTIAL HAZARDS OF RADIOFREQUENCY ELECTROMAGNETIC FIELDS, OET BULLETIN NO. 56 (August 1999),  
*available at* [http://www.fcc.gov/Bureaus/Engineering\\_Technology/Documents/bulletins/oet56/oet56e4.pdf](http://www.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet56/oet56e4.pdf)
2. OFFICE OF ENGINEERING AND TECHNOLOGY, FEDERAL COMMUNICATIONS COMMISSION, EVALUATING COMPLIANCE WITH FCC-GUIDELINES FOR HUMAN EXPOSURE TO RADIOFREQUENCY ELECTROMAGNETIC FIELDS, OET BULLETIN NO. 65 (August 1997),  
*available at* [http://www.fcc.gov/Bureaus/Engineering\\_Technology/Documents/bulletins/oet65/oet65.pdf](http://www.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet65/oet65.pdf)
3. Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, Federal Communications Commission's Report and Order, 62 Fed. Reg. 3232 (September 12, 1997),  
*available at* <http://www.epa.gov/fedrgstr/EPA-AIR/1997/January/Day-22/ga1350.htm>
4. Telecommunications Act of 1996, as amended, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.), *available at* [http://clerk.house.gov/library/reference-files/PPL\\_TelecommunicationsAct\\_%201996.pdf](http://clerk.house.gov/library/reference-files/PPL_TelecommunicationsAct_%201996.pdf)
5. FEDERAL COMMUNICATIONS COMMISSION, WARNING, ALERT AND RESPONSE NETWORK ACT, Pub. L. No. 109-437, 120 Stat. 1936 (2006), (codified at 47 U.S.C. §332(d)(1)) (2006),  
*available at* <http://transition.fcc.gov/pshs/docs/emergency-information/cmas-warn-act.pdf>
6. Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 615-615b (2010).

7. Enhance 911 Act of 2004, as amended, 47 U.S.C. § 942 (2010).
8. Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 Wireless Facilities Deployment (2012), *available at* <http://www.gpo.gov/fdsys/pkg/PLAW-112publ96/pdf/PLAW-112publ96.pdf>.
9. Actions That May Have a Significant Environmental Effect, for Which Environmental Assessments (EAs) Must be Prepared, 47 C.F.R. § 1.1307 (2010).
10. Radiofrequency Radiation Exposure Limits, 47 C.F.R. § 1.1310 (2010).
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12. Presidential Order No. 13616, Accelerating Broadband Infrastructure Development, 77 Fed. Reg. 119 (June 14, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-15183.pdf>
13. Division of Migratory Bird Management, United States Fish & Wildlife Service, United States Department of the Interior, *Service Interim Guidelines, Communications Tower Siting, Construction, Operation and Decommissioning Recommendations* (last updated June 10, 2014), *available at* <http://www.fws.gov/midwest/endangered/section7/telecomguidance.html>
14. National Park Service, United States Department of the Interior, *National Register of Historic Places* (July 2010), *available at* <http://www.nps.gov/history/nr/research/index.htm>
15. FEDERAL AVIATION ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION, OBSTRUCTION MARKING AND LIGHTING, ADVISORY CIRCULAR AC70/7460-1K (February 2007), *available at* [https://ocaaa.faa.gov/ocaaa/external/content/AC70\\_7460\\_1K.pdf](https://ocaaa.faa.gov/ocaaa/external/content/AC70_7460_1K.pdf).
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17. FEDERAL COMMUNICATIONS COMMISSION, Public Notice – Wireless Telecommunications Bureau Offers Guidance on Interpretation of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, DA 12-2407, January 25, 2013, *available at* [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-12-2047A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-12-2047A1.pdf)
18. Connecting America: The National Broadband Plan, Federal Communications Commission (2010), *available at* <http://www.broadband.gov/plan/>.
19. FEDERAL COMMUNICATIONS COMMISSION, Text-to-911: Quick Facts & FAQs, June 2013, *available at* <http://www.fcc.gov/guides/text-911-quick-facts-faqs>.
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**STATE**

**Connecticut Siting Council**

21. STATE OF CONNECTICUT SITING COUNCIL, STATEWIDE PLAN FOR WIRELESS TELECOMMUNICATIONS COVERAGE, Revised February 2014, *available at* <http://www.ct.gov/csc/lib/csc/pendingproceeds/2013telcomplan-pub.pdf>
22. STATE OF CONNECTICUT SITING COUNCIL, TELECOMMUNICATIONS FACILITIES: AN ILLUSTRATED PRIMER ON THE SITING OF FACILITIES WITHIN CONNECTICUT AND THROUGHOUT THE NATION, VERSION II, *available at* [http://www.ct.gov/csc/lib/csc/csc\\_tower\\_3\\_07.pdf](http://www.ct.gov/csc/lib/csc/csc_tower_3_07.pdf)
23. STATE OF CONNECTICUT SITING COUNCIL, STATEWIDE TELECOMMUNICATIONS COVERAGE DATABASE, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=895&Q=248312&cscNav=|>
24. **DOCKET NO. 67** - SNET CELLULAR, INC. CERTIFICATE FOR FACILITIES TO PROVIDE CELLULAR TELEPHONE SERVICE ON SCOTT ROAD IN EAST LYME. RECORD AND FINAL DECISION.
25. **DOCKET NO. 160** – DEPARTMENT OF PUBLIC SAFETY, DIVISION OF STATE POLICE APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A TELECOMMUNICATIONS FACILITY IN EAST LYME, CONNECTICUT. RECORD AND FINAL DECISION.
26. **DOCKET NO. 432** – FEASIBILITY STUDY OF BACK-UP POWER REQUIREMENTS FOR TELECOMMUNICATIONS TOWERS AND ANTENNAS PURSUANT TO PUBLIC ACT 12-148, *AVAILABLE AT* <HTTP://WWW.CT.GOV/CSC/CWP/VIEW.ASP?A=962&Q=511254&PM=1>
27. **DOCKET NO. 442** – NEW CINGULAR WIRELESS PCS, LLC CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A TELECOMMUNICATIONS FACILITY LOCATED AT 284 NEW CANAAN AVENUE, NORWALK, CONNECTICUT. MEMORANDUM FROM SITING COUNCIL ACTING EXECUTIVE DIRECTOR TO PARTIES AND INTERVENORS, DANIEL FORREST AND TODD LEVINE OF SHPO, DATED FEBRUARY 11, 2014.
28. **DOCKET NO. 463** – AMERICAN TOWERS, LLC AND NEW CINGULAR WIRELESS PCS, LLC APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A TELECOMMUNICATIONS FACILITY LOCATED AT EAST LYME TAX ASSESSOR PARCEL ID 29.0 45, 351A BOSTON POST ROAD, EAST LYME, CONNECTICUT. RECORD AND FINAL DECISION.
29. **PETITION NO. 1152** - NEW CINGULAR WIRELESS PCS, LLC PETITION FOR A DECLARATORY RULING THAT NO CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED IS REQUIRED FOR THE PROPOSED INSTALLATION OF A TEMPORARY TELECOMMUNICATIONS FACILITY LOCATED AT EAST LYME TAX ASSESSOR MAP 30, LOT 1, ANCIENT HIGHWAY, EAST LYME, CONNECTICUT.
30. **TS-T-MOBILE-045-060929** - OMNIPOINT COMMUNICATIONS, INC. REQUEST FOR AN ORDER TO APPROVE TOWER SHARING AT AN EXISTING TELECOMMUNICATIONS FACILITY LOCATED AT 63 SCOTT ROAD, **EAST LYME**, CONNECTICUT.

31. **EM-CING-045-071025** – NEW CINGULAR WIRELESS PCS, LLC NOTICE OF INTENT TO MODIFY AN EXISTING TELECOMMUNICATIONS FACILITY LOCATED AT 2 SCOTT ROAD, **EAST LYME**, CONNECTICUT.
32. **EM-CING-045-130103** – NEW CINGULAR WIRELESS PCS, LLC NOTICE OF INTENT TO MODIFY AN EXISTING TELECOMMUNICATIONS FACILITY LOCATED AT 2 SCOTT ROAD, **EAST LYME**, CONNECTICUT.
33. **EM-T-MOBILE-045-140908** – T-MOBILE NORTHEAST LLC NOTICE OF INTENT TO MODIFY AN EXISTING TELECOMMUNICATIONS FACILITY LOCATED AT 2 SCOTT ROAD, **EAST LYME**, CONNECTICUT.
34. STATE OF CONNECTICUT SITING COUNCIL ENERGY/TELECOMMUNICATIONS REGULAR MEETING MINUTES, SEPTEMBER 29, 2016.

***Department of Energy and Environmental Protection***

35. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, 2005 COMPREHENSIVE WILDLIFE CONSERVATION STRATEGY, 2015 REVISION, *available at* [http://www.ct.gov/deep/cwp/view.asp?a=2723&q=329520&depNav\\_GID=1719#Review](http://www.ct.gov/deep/cwp/view.asp?a=2723&q=329520&depNav_GID=1719#Review)
36. CONNECTICUT COUNCIL ON SOIL AND WATER CONSERVATION, STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, CONNECTICUT GUIDELINES FOR SOIL EROSION AND SEDIMENT CONTROL, DEP BULLETIN 34 (May 2002, last revised September 2007), *available at* [http://www.ct.gov/dep/cwp/view.asp?a=2720&q=325660&depNav\\_GID=1654](http://www.ct.gov/dep/cwp/view.asp?a=2720&q=325660&depNav_GID=1654)
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39. PLANNING AND STANDARDS DIVISION, BUREAU OF WATER MANAGEMENT, CONNECTICUT DEPT. OF ENERGY AND ENVIRONMENTAL PROTECTION, WATER QUALITY STANDARDS, (Surface Water Quality Standards Effective December 17, 2002 and Ground Water Quality Standards Effective April 12, 1996), *available at* [http://www.ct.gov/dep/lib/dep/water/water\\_quality\\_standards/wqs.pdf](http://www.ct.gov/dep/lib/dep/water/water_quality_standards/wqs.pdf)
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43. Letter from Elizabeth Brothers, Assistant Director, State of Connecticut Department of Environmental Protection, to Christopher B. Fisher, Esq., Attorney, Cuddy & Feder, LLP (Aug. 10, 2009), *available at* [http://www.ct.gov/csc/lib/csc/pendingproceeds/docket\\_376/do376-20090817-depcommentadminnotice.pdf](http://www.ct.gov/csc/lib/csc/pendingproceeds/docket_376/do376-20090817-depcommentadminnotice.pdf)
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#### **Department of Transportation**

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#### **Other State Agencies**

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54. Final Report of the Two Storm Panel, January 9, 2012, *available at* [http://www.governor.ct.gov/malloy/lib/malloy/two\\_storm\\_panel\\_final\\_report.pdf](http://www.governor.ct.gov/malloy/lib/malloy/two_storm_panel_final_report.pdf).
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## **TECHNICAL**

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### **ENVIRONMENTAL**

65. RICHARD M. DEGRAAF & DEBORAH D. RUDIS, *NEW ENGLAND WILDLIFE: HABITAT, NATURAL HISTORY, AND DISTRIBUTION* (University of Massachusetts Press, 1983), *available at* <http://www.treesearch.fs.fed.us/pubs/4148>
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### **MAPS**

69. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Natural Diversity Database Map for the Town of East Lyme*, last updated June 2016, *available at* <http://www.depdata.ct.gov/naturalresources/endangeredspecies/nddbpdfs.asp>
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71. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Northern long-eared bat areas of concern in Connecticut to assist with Federal Endangered Species Act Compliance*, last updated February 1, 2016, available at [http://www.ct.gov/deep/lib/deep/endangered\\_species/images/nleb\\_approved2\\_16.pdf](http://www.ct.gov/deep/lib/deep/endangered_species/images/nleb_approved2_16.pdf)
  72. UNIVERSITY OF CONNECTICUT, CONNECTICUT ENVIRONMENTAL CONDITIONS ONLINE, *Connecticut Critical Habitats and Open Space*, last updated November 28, 2012, available at <http://cteco.maps.arcgis.com/home/item.html?id=a1bf59798c5b45a98aeab97dafd60b9>
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  74. STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION, *Connecticut Official State Tourism Map*.
  75. National Audubon Society, *Connecticut Important Bird Areas*, available at <http://netapp.audubon.org/iba/state/US-CT>
  76. Mail-A-Map Street Map, East Lyme, available at <http://mailamap.com/street-maps>
  77. United States Geological Survey, Connecticut Topographic Map Collection (Niantic Quadrangle), available at [http://magic.lib.uconn.edu/topographic\\_maps.html](http://magic.lib.uconn.edu/topographic_maps.html)
- E. State Agency comments
1. Department of Transportation, dated November 13, 2015
  2. Department of Public Health, Drinking Water Section, dated December 1, 2015
- F. Municipal comments
- G. Telecommunications Carrier Comments
1. Comments from Cellco Partnership d/b/a Verizon Wireless, dated November 16, 2015
  2. Comments from Cellco Partnership d/b/a Verizon Wireless, dated October 18, 2016



II. Appearance by Applicant

Applicant: American Towers, LLC and New Cingular Wireless PCS, LLC

Representative: Christopher B. Fisher, Esq.  
Cuddy & Feder LLP

A. Administrative Notice.

B. Exhibits for Identification.

1. Application for a Certificate of Environmental Compatibility and Public Need filed by American Towers, LLC and New Cingular Wireless PCS, LLC, received October 6, 2015, and attachments and bulk file attachments including:

Bulk file exhibits:

- a. Town of East Lyme Plan of Conservation and Development, amended through December 7, 2010
  - b. Town of East Lyme Zoning Regulations, amended through July 9, 2015
  - c. Town of East Lyme Zoning Map
  - d. Town of East Lyme Inland Wetlands and Watercourses Regulations, revised through April 11, 2011
  - e. Technical Reports (Site A) (Site B) to the Town of East Lyme, dated June 5, 2015
  - f. Town of East Lyme Public Information Meeting Power Point Presentation, dated July 29, 2015
  - g. Redacted lease agreement, received October 6, 2015
2. Applicant's Responses to Council Interrogatories, received December 4, 2015
  3. Applicants Affidavit of Sign Posting, received December 4, 2015
  4. Applicant's Pre-Filed Statement of Facts, received December 8, 2015
  5. Applicant's Affidavit of Publication, received December 8, 2015
  6. Witness Resumes, received December 8, 2015
    - a. Kelly Wade Bettuchi
    - b. Kevin Mason
    - c. Dan Bilezikian
    - d. Jennifer Young Gaudet
    - e. Camilo A. Gaviria
    - f. Harry Rocheville
    - g. Dean Gustafson
    - h. Martin Lavin
    - i. Michael Libertine
  7. PowerPoint Presentation for December 15, 2015 Public Comment Session, received December 8, 2015
  8. Applicant's Supplemental Visibility Analysis, received December 9, 2015
  9. Applicant's Supplemental Information, received January 19, 2016
  10. Applicant's Responses to BHISO's Interrogatories, received January 19, 2016
  11. Applicant's Amended Application, dated September 13, 2016
  12. Applicant's Affidavit of Publication on Amended Application, dated September 13, 2016
  13. Applicant's Responses to Council Interrogatories, dated October 25, 2016

14. Applicant's Affidavit of Sign Posting, received October 25, 2016
15. Witness Resumes, received October 25, 2016
  - a. Dan Bilezikian
  - b. Camilo A. Gaviria
  - c. Harry Rocheville
  - d. Martin Lavin
  - e. Michael Libertine
16. Applicant's Power Point Presentation for November 1, 2016 Public Comment Session, received October 25, 2016

C. Swear Witnesses

1. Dan Bilezikian, Site Acquisition Specialist, SAI Communications, Inc.
2. Camilo A. Gaviria, P.E., Centek Engineering, Inc.
3. Harry Rocheville, P.E., Centek Engineering, Inc.
4. Martin Lavin, C-Squared Systems.
5. Michael Libertine, LEP, Director of Siting and Permitting, All-Points Technology Corporation, P.C.

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Town of East Lyme (Attorney Collins)
3. BHSO Community Conservancy (Mr. Tooker)

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III. Appearance by Party: Town of East Lyme

Representative: Tracy M. Collins, Esq.  
Waller, Smith & Palmer, P.C.

A. Administrative Notice.

B. Exhibits for Identification.

1. Town of East Lyme request for Party and CEPA Intervenor Status, dated November 19, 2015, and attached Exhibit A
2. Town of East Lyme's Responses to BHSO's Interrogatories, dated January 19, 2016
3. Town of East Lyme's Letter of No Objection, dated October 24, 2016

C. Swear Witnesses

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicant
3. BHSO Community Conservancy (Mr. Tooker)

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- IV. Appearance by Party: BHSO Community Conservancy
- Representative: Craig Tooker
- A. Administrative Notice.
- B. Exhibits for Identification.
1. BHSO Community Conservancy request for Party and CEPA Intervenor Status, dated December 8, 2015
  2. BHSO Community Conservancy's Responses to Council Interrogatories, dated January 15, 2016
- C. Swear Witnesses
- D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.
- E. Cross Examination.
1. Council
  2. Applicant
  3. Town of East Lyme (Attorney Collins)
- V. Closing by Connecticut Siting Council.