

From: [Rosenberg, Burt](#)
To: [Rosenson, Valerie](#)
Cc: [Cassone, Thomas](#)
Subject: LU31.032: Land Use Committee - Approval of 5G Agreement - AT&T and Verizon
Date: Thursday, September 14, 2023 1:34:24 PM
Attachments: [Email from Len Bucaj re PURA Docket 21-11-14.pdf](#)
[App of New Cinquar Wireless to Install Wireless Facilities Docket No. 21-11-14.pdf](#)
[State of CT - Application of New Cinquar Wireless PCS for Approval of Construction Plan.pdf](#)
[Docket No. 21-11-14 Response to Interrogatory ADJ-002.pdf](#)
[LFE2-A AT&T - Docket No 21-11-14 LFE-2 Sublight Engineering LFE2-A.pdf](#)

Val: Attached are 5 documents which I'm requesting that you provide to the members of the Land Use Committee in connection with the approval of the 5G Agreement with AT&T and Verizon on the 9-28 Agenda.

In the past, members of the Board have expressed reservations about the installation of 5G apparatus based upon concerns that the radio frequency (RF) radiation emitted by the equipment poses a threat to public health. The attached documents involve a PURA proceeding resulting from a claim of a Shippan Avenue resident that the installation of 5G apparatus on a non-City owned utility pole in front of his house threatened his health. The carrier presented measurements of RF radiation demonstrating that the emissions were far below permitted standards; PURA granted the carrier's application based upon this evidence.

I wish to submit these documents to the Committee to demonstrate that PURA takes vigorous measures to ensure the safety of 5G installations.

Thank you.

Burt
Cell: 203 912-0799

**STATE OF CONNECTICUT
PUBLIC UTILITIES REGULATORY AUTHORITY**

**APPLICATION OF NEW CINGULAR WIRELESS
PCS, LLC FOR APPROVAL OF A
CONSTRUCTION PLAN TO INSTALL WIRELESS
FACILITIES WITHIN THE PUBLIC RIGHT-OF-
WAY IN STAMFORD - STAMFORD 10**

DOCKET NO. 21-11-14

DECEMBER 22, 2021

**NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T
SUPPLEMENTAL INFORMATION - AT&T SITE ID: CRAN_RCTB_STMFD_010
STAMFORD, CONNECTICUT**

New Cingular Wireless PCS, LLC d/b/a AT&T (“AT&T”) respectfully submits this supplemental information in response to concerns raised by adjoining property owner (“APO”) Len Bucaj.

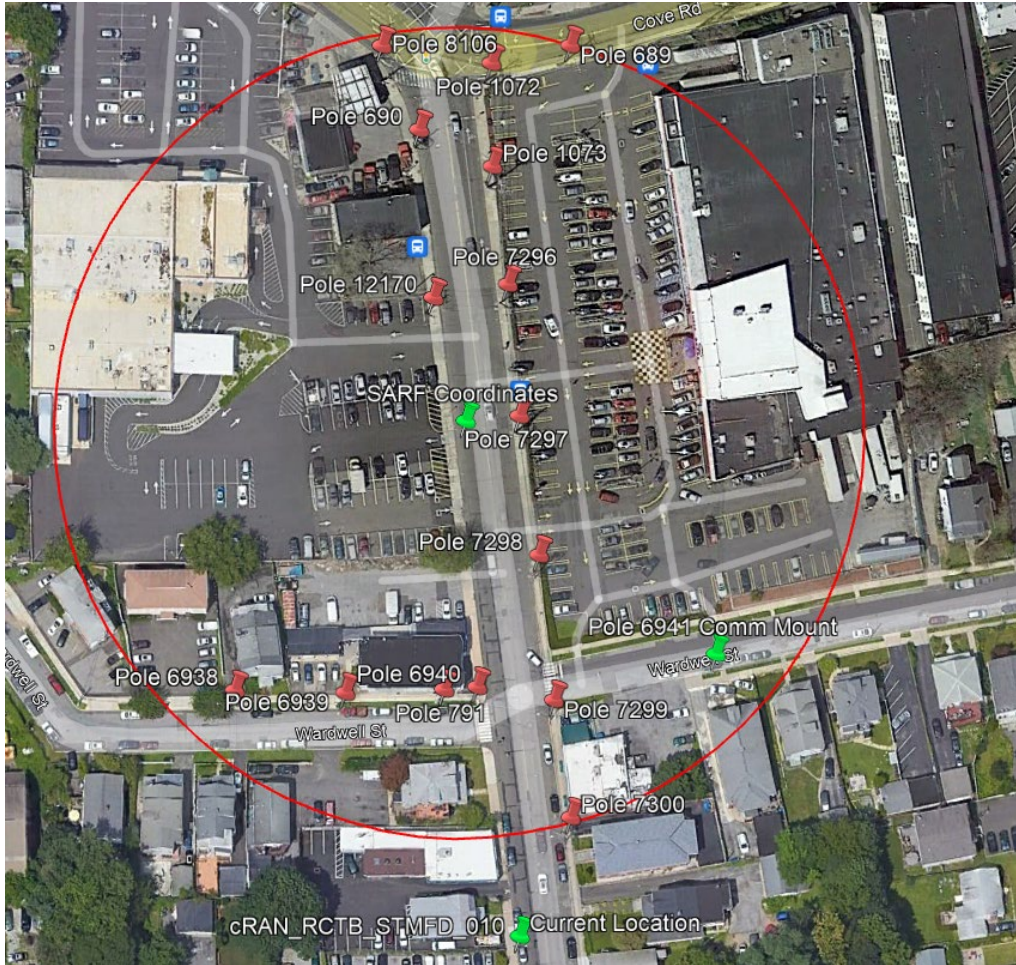
AT&T’s Need for the Small Cell Facility

AT&T has a need for the proposed small cell facility in the area to address AT&T’s coverage and capacity needs to provide reliable wireless services to the area near Eversource utility pole number 11749 and near 301 Shippan Avenue in Stamford, Connecticut. AT&T’s radio frequency engineers have used current network information, field testing and traffic data to determine where the network needs exist. This analysis is used with sophisticated propagation modeling to identify the exact locations where small cell facilities will best address those coverage and capacity issues.

Once AT&T’s radio frequency engineers determine a network need, AT&T then issues a search area to site acquisition professionals to survey the areas in and near the search area for available and feasible utility poles in the public rights of way. Not all utility poles are available and feasible. Utility poles may not be available due to: pole top primary lines; other attachments existing on a pole such as cable boxes, fire alarms, risers, transformers, switches, major electrical equipment, and existing conduits on the pole; the pole being a junction pole; or installation which would require tree removal or extensive trimming. The site acquisition professionals identify available and feasible pole locations and provide them to AT&T’s radio frequency engineers for final approval to address AT&T’s network needs.

Alternative Utility Poles in the Public Right-of-Way Considered and Eliminated

Below is an aerial image of the search area. The red circle superimposed on the aerial image below is a 300’ radius and represents the area within which AT&T needs to install a small cell wireless facility for network needs. The location of the existing utility poles within the 300’ radius is marked by pushpin images along with the corresponding utility pole numbers.



The following is an exhaustive list of the sixteen (16) other utility poles with pole numbers appearing within the 300' radius with the reason why the pole is not available or feasible for the small cell facility:

Pole 8106 - This utility pole at the corner of Shippan Avenue and Elm Street already supports major electrical equipment and a riser.

Pole 689 - This utility pole on Cove Road already supports major electrical equipment and a riser.

Pole 1072 - This utility pole at the corner of Shippan Avenue and Cove Road is a junction pole.

Pole 690 - This utility pole on Shippan Avenue already supports a riser.

Pole 1073 - This utility pole on Shippan Avenue already supports major electrical equipment.

Pole 7296 - This utility pole on Shippan Avenue is a junction pole.

Pole 12170 - This utility pole on Shippan Avenue already supports major electrical equipment.

Pole 7297 - This utility pole on Shippan Avenue already supports major electrical equipment.

Pole 7298 - This utility pole on Shippan Avenue already supports a transformer.

Pole 6938 - This utility pole on Wardwell Street already supports a transformer.

Pole 6939 - This utility pole on Wardwell Street already supports a transformer.

Pole 791 - This utility pole on Wardwell Street already supports major electrical equipment.

Pole 6940 - This utility pole on Wardwell Street already supports major electrical equipment.

Pole 7299 - This utility pole at the corner of Shippan Avenue and Wardwell Street is a junction pole.

Pole 7300 - This utility pole on Shippan Avenue already supports a transformer.

Pole 6941 - This utility pole on Wardwell Street is available for use, however, a top-mounted antenna is not allowed on this pole due to the existing primary power location. The highest available antenna height on utility pole 6941 is twenty-four feet (24') above ground level as opposed to thirty-six feet (36') above ground level on the proposed location on pole number 11749 near 301 Shippan Avenue. Pole 6941 was rejected by AT&T's radio frequency engineers due to the reduced coverage provided from the lower height.

As noted above, AT&T selected the only available and feasible utility pole in the search area to provide the necessary coverage and capacity.

Maximum Permissible Exposure

When APO Len Bucaj originally objected and withheld consent to AT&T's small cell facility, concerns regarding emissions were cited. AT&T submitted its maximum permissible exposure report to demonstrate compliance with the applicable FCC standards. AT&T's analysis provides a worst-case scenario using the method provided in the FCC Office of Engineering and Technology Bulletin No. 65 (OET Bulletin 65) (August 1997). AT&T's calculations represent radio frequency emissions at ground level. The theoretical calculations indicate that the MPE level for the proposed Facility would be 0.04388600% of the FCC's standard. AT&T shared this report and calculation with APO Len Bucaj.

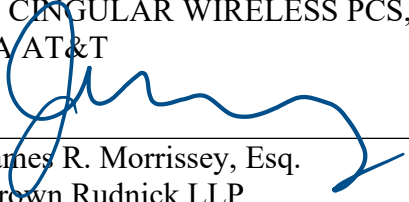
Conclusion

AT&T respectfully submits this supplemental information to address the concerns of APO Len Bucaj.

Respectfully submitted,

NEW CINGULAR WIRELESS PCS, LLC
D/B/A AT&T

By: _____



James R. Morrissey, Esq.
Brown Rudnick LLP
185 Asylum Street
Hartford, CT 06103
jmorrissey@brownrudnick.com
Its attorneys

CERTIFICATION

I hereby certify that a copy of the foregoing was sent to all participants of record on the 22nd day of December, 2021.

Flynn, Ermelinda

Subject: FW: Pura Docket 21-11-14 (utility pole 11749)

From: Len Bucaj <lenbucaj@gmail.com>
Sent: Friday, December 3, 2021 10:12 AM
To: DEEP-DL DPUC Group <DPUC.Group@ct.gov>
Cc: Sherry, David <David.Sherry@ct.gov>; Lopez, Thomas <Thomas.Lopez@ct.gov>; Lewis, Lisa <Lisa.Lewis@ct.gov>; Vincent Paquette <vpaquette@clinellc.com>; attsmallcell@centerlinecommunications.com
Subject: Pura Docket 21-11-14 (utility pole 11749)

Hello:

I've received a few notices re Pura - Docket 21-11-14

I object and have informed Pura directly including my original objection the beginning of the year.

There seems to be a few point of contacts so I am putting everyone on this email.

Find another utility pole on Shippan Ave that is not next to my house or in the residential area. There's some commercial property on the next block. I am willing to bring this all the way to court.

Thank you,
Len Bucaj
203.280.2038

Sent from my iPhone

Sent from my iPhone

Begin forwarded message:

From: Len Bucaj <lenbucaj@gmail.com>
Date: November 9, 2021 at 10:36:42 PM EST
To: Vincent Paquette <vpaquette@clinellc.com>
Cc: attsmallcell@centerlinecommunications.com
Subject: Re: CRAN_RCTB_STMFD_010 - Shippan Ave EME Report

Hi Vincent- I receive another notice and still object.

Sent from my iPhone

On Jun 3, 2021, at 9:28 AM, Len Bucaj <lenbucaj@gmail.com> wrote:

That's great to hear. I'll look out for the new notice - which I hope it gets sent.

Have a great summer!

Sent from my iPhone

On Jun 3, 2021, at 9:17 AM, Vincent Paquette
<vpayette@clinellc.com> wrote:

Hi Len, just wanted to circle back with you to let you AT&T is pausing activity at this location and will not be filing with PURA in the short term. AT&T will likely revisit this location toward the end of the year and will need to refile notice with adjacent property owners. In the event a new notice is sent, you will need to respond to that notice to voice an objection.

Enjoy your summer.

Vincent Paquette
Cell: 617-905-8575
vpayette@clinellc.com

From: Len Bucaj <lenbucaj@gmail.com>
Sent: Wednesday, May 19, 2021 5:54 PM
To: Vincent Paquette <vpayette@clinellc.com>
Subject: Re: CRAN_RCTB_STMFD_010 - Shippan Ave EME Report

Great; thank you.

Sent from my iPhone

On May 19, 2021, at 5:46 PM, Vincent Paquette
<vpayette@clinellc.com> wrote:

Hi Len, attached you'll find the completed RF emissions report that shows AT&T's proposed equipment to be compliant within the FCC guidelines. Should AT&T choose to continue with this location and file with PURA, we'll note your objection in the motion, and PURA will send you notice to request a formal hearing.

In the interim, please do not hesitate to call or email should you have any further questions.

Vincent Paquette
Cell: 617-905-8575
vpayette@clinellc.com

<CRAN_RCTB_STMFD_010_Emissions Analysis
Report_04.29.2021_FINAL.pdf>

New Cingular Wireless PCS, LLC d/b/a AT&T

**Witnesses: Matthew J. Butcher, PE
Jillian Francher
Kevin Breuer**

Docket No. 21-11-14

Page 1 of 2

Date Submitted: March 7, 2022

ADJ-002 Q: Reference AT&T's November 18, 2021 Application. p.2 and Attachment 2. Compliance with FCC Radio Frequency Exposure Rules Compliance (FCC Rule).

- (a) At what percent of the FCC standard does AT&T's radio frequency emission calculation indicate that the "worst case" MPE value would be at a position directly below the proposed facility on Pole No. 11749? Explain whether this value is in compliance with the FCC Rule?
- (b) How many feet is 294 Shippan Avenue away from the proposed facility on Pole No. 11749?
- (c) Based on the answer to (b) above, at what percent of the FCC standard does AT&T's radio frequency emission calculation indicate that the MPE level value would be at the 294 Shippan Avenue residence? Explain whether this value is in compliance with the FCC Rule?
- (d) Describe the actions, if any, that AT&T has taken to rule out other potential nearby pole locations and to determine that this location at Pole No. 11749 is needed for the proposed facility. If there other pole locations that are a feasible alternative to Pole No. 11749, identify those locations and explain why those locations have not been chosen for this proposed facility.

ADJ-002 A:

- (a) The emissions level immediately below the pole is miniscule because of the antenna pattern. The predicted peak MPE value at ground level is 0.1% which is a few feet away from Pole No. 11749. The proposed facility will be in compliance with the FCC Rule at the base of Pole No. 11749 and at all publicly accessible locations.
- (b) Based upon Google Earth, the residence at 294 Shippan Avenue is approximately eighty feet (80') from the proposed facility on Pole No 11749.
- (c) The predicted peak MPE level value at the residence at 294 Shippan Avenue is 0.3%, hundreds of times below the FCC standard. The proposed facility will be in compliance with the FCC Rule at the residence at 294 Shippan Avenue and at all publicly accessible locations.

New Cingular Wireless PCS, LLC d/b/a AT&T

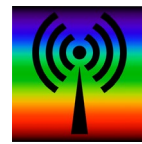
**Witnesses: Matthew J. Butcher, PE
Jillian Francher
Kevin Breuer**

Docket No. 21-11-14

Page 2 of 2

Date Submitted: March 7, 2022

- (d) By this reference, AT&T hereby incorporates the “Alternative Utility Poles in the Public Right-of-Way Considered and Eliminated” section of the Supplemental Information dated December 22, 2021 and submitted by AT&T to the Authority in this Docket 21-11-14. As provided in said Supplemental Information filing, AT&T reviewed all existing pole locations in the public right-of-way where AT&T has a need for coverage and capacity and concluded that Pole No. 11749 is the only feasible pole location to address that need.



Dkt. 21-11-14 (GBC) Stamford 10 Small Cell LFE-2

This letter report responds to a request for an exhibit LFE-2 from the March 10, 2022 Hearing on Docket Number: 21-11-14 Docket Title: Application of New Cingular Wireless PCS, LLC for Approval of a Construction Plan to Install Wireless Facilities Within the Public Right-of-Way – Stamford. This statement is based on information from the FCC, AT&T, or others and believed to be correct.

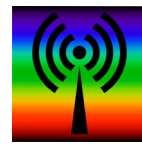
In summary, Radiofrequency (RF) exposure levels with respect to the Federal Communications Commission (FCC) Maximum Permissible Exposure (MPE) limit for the General Population from the nearby FM broadcast facilities are less than 3.1% of that limit. Levels from the proposed AT&T facility will be less than 0.5% at the home at 301 Shippan Ave and less than 0.3% at the home at 294 Shippan Ave. The proposed facility will comply with FCC regulations relating to human exposure to RF energy.

Nearby FM Stations RF Exposure Modeling

One FM station and three FM translators operate on a nearby tower.



The tower has an FCC ASR ID of [1045792](#) and is registered to Sacred Heart University, Incorporated with a location of 41-02-49.0 N 073-31-34.0 W and an overall height of 137.2m above ground level (AGL).



Dkt. 21-11-14 (GBC) Stamford 10 Small Cell LFE-2

The following FM broadcast facilities are registered on the tower:

Station Class	Callsign	Frequency (MHz)	Power (kW ERP)	Height (m AGL)
A	WEDW-FM	88.5	2.0 H. 1.8 V	124
FX	W288DL(FX)	105.5	0.01	125
FX	W211AI(FX)	90.1	0.25	88.4
FX	W276DY(FX)	103.1	0.15	102

A modeling was performed using the FCC FM Model¹ for WEDW with worst case assumptions on the number of elements (one), EPA Type (1), and ignoring the fact that the antenna is directional with orientation northwest. Based on those assumptions the peak predicted level at ground level is 2.5% of the FCC's MPE for the General Population.

For the translators (Class FX) a modeling was also performed combining all stations with worst case assumptions on the Frequency (90.1 MHz), number of elements (one), EPA Type (1), total power (0.45 kW), height (88.4m), and ignoring the fact that all the antennas except for W288DL are directional with orientation between northwest and north. Based on those assumptions the peak predicted level at ground level is 0.6% of the FCC's MPE for the General Population.

Combining these two assessments indicate a total of 3.1% of the MPE limit. Because the stations are independent with different antenna systems resulting in peak levels at different locations and the modeling assumptions are overly conservative, actual ground level exposure will be much less.

Adjacent Home RF Exposure Modeling

In the hearing this engineer was asked to provide predicted RF exposure levels at two homes in proximity to the proposed utility pole node.

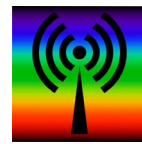
- 301 Shippan Ave is the closest structure to the pole, approximately 30 feet to the northwest.
- 294 Shippan Ave is across the street and approximately 80 feet from the utility pole node.

This RF exposure assessment is based on power density modeling and a comparison with whole body exposure limits set by the Federal Communications Commission (FCC) and codified in their rules². RF power density levels are calculated using the IXUS Modeler³. IXUS employs

¹ FCC DA 16-340 <https://www.fcc.gov/document/oet-announces-updates-fmmodel-software>

² 47 CFR § 1.1310 Radiofrequency radiation exposure limits, US Code of Federal Regulations

³ IXUS EMF Compliance Management Software version 4.2 (5) (Calculator 16.7) provided by Alphawave Mobile Network Products <http://www.ixusapp.com>.



Dkt. 21-11-14 (GBC) Stamford 10 Small Cell LFE-2

a synthetic ray tracing method for panel and omnidirectional antennas and a conservative cylindrical envelope method for microwave dish (parabolic reflector / aperture) antennas.

Levels are modeled to be 0.5% of in a line from zero to 30 feet above the base of the pole at a distance of 32 feet from the proposed node to assess exposure at the 301 Shippan Ave home. This range of heights represents the height of the structure.

Levels are modeled in a line from zero to 40 feet above the base of the pole at a distance of 80 feet from the proposed node to assess exposure at the 294 Shippan Ave home. This range of heights represents the worst case at any height at this distance.

The following illustrates the locations where modeling was performed.



Levels are predicted to be 0.5% and 0.3% of the FCC's MPE limit for the General Population respectively at 301 and 294 Shippan Ave.

Based on the conservative nature of this assessment, actual levels at these locations will be much less and levels inside the homes further attenuated.



Dkt. 21-11-14 (GBC) Stamford 10 Small Cell LFE-2

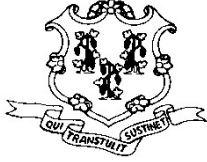
If you have any questions on these findings, please contact Sublight Engineering PLLC.

Respectfully submitted,

Matthew J Butcher, PE

matt@sublight.net

703.493.0549



STATE OF CONNECTICUT

**PUBLIC UTILITIES REGULATORY AUTHORITY
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051**

**DOCKET NO. 21-11-14 APPLICATION OF NEW CINGULAR WIRELESS PCS,
LLC FOR APPROVAL OF A CONSTRUCTION PLAN TO
INSTALL WIRELESS FACILITIES WITHIN THE PUBLIC
RIGHT-OF-WAY - STAMFORD**

April 6, 2022

By the following Commissioners:

Marissa P. Gillett
Michael A. Caron
John W. Betkoski, III

DECISION

I. INTRODUCTION

A. BACKGROUND OF THE PROCEEDING

By application dated November 18, 2021 (Application), New Cingular Wireless PCS, LLC d/b/a AT&T (AT&T or Company) requested the Public Utilities Regulatory Authority's (Authority or PURA) approval of a construction plan to install a small cell wireless telecommunications facility (Facility) on a utility pole within the public rights-of-way (PROW). Specifically, the Company requested approval to construct and attach radio and electrical service equipment to an existing utility pole (Pole No. 11749) in the PROW near 301 Shippan Avenue, Stamford, Connecticut. Application, p. 1.

B. CONDUCT OF THE PROCEEDING

On November 22, 2021, a Notice of Proceeding was issued by the Authority. The Authority issued interrogatories and received responses thereto. The Authority received pre-filed testimony (PFT) and exhibits from the objecting adjoining property owner, Len Bucaj. The Authority held noticed public hearings on March 10 and 17, 2022, via remote access. After the March 10, 2022 hearing, the Authority received five late-filed exhibits (LFE) that were the subject of the March 17, 2022 hearing. In a March 17, 2022 motion ruling, the Authority took administrative notice of two documents.

A Proposed Final Decision was issued on February 22, 2022. All Parties to this proceeding were given the opportunity to file written exceptions and present oral argument no later than 4 p.m. on February 30, 2022. On February 30, 2022, AT&T and the PURA Office of Education, Outreach, and Enforcement filed letters in lieu of written exceptions. The objecting adjoining property owner, Len Bucaj, did not file written exceptions and request oral argument. Oral arguments noticed and scheduled for April 1, 2022 were cancelled.

C. PARTIES

The Authority recognized the following as Parties to this proceeding: AT&T Mobility, 550 Cochituate Road, Suites 13 & 14, Framingham, MA 01701; Len Bucaj, 294 Shippan Avenue, #2 Stamford, CT 06902; the PURA Office of Education, Outreach, and Enforcement, Ten Franklin Square, New Britain, CT 06051; the Office of Consumer Counsel, Ten Franklin Square, New Britain, CT 06051; and the Commissioner of the Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106.

The Authority recognized the City of Stamford, Stamford Government Center, 888 Washington Blvd., 10th Floor, Stamford, CT 06902, as an Intervenor.

II. APPLICATION

A. COMPANY PROPOSAL

The purpose of the proposed installation is for the new small cell facility at Pole No. 11749 to work in conjunction with the existing nearby facilities installed in and around the City of Stamford. AT&T's radio frequency engineers identified this location due to the high traffic and data demands on AT&T's network in the area. The Facility will provide the necessary coverage and capacity to provide reliable wireless service. Application, pp. 2-3.

The proposed Facility will consist of one cylindrical antenna mounted on top of a replacement utility pole with necessary radio and electrical equipment mounted at lower positions on the utility pole. Application, p. 2. AT&T's Facility design will comply with all applicable National Electrical Safety Code design and construction standards and will satisfy the requirements of the utility pole owner Eversource. *Id.* Analysis performed shows the proposed facility complies with the Federal Communications Commission (FCC) radio frequency (RF) exposure rules, 47 C.F.R. §§ 1.1307(b)(1) – (b)(3), for the Maximum Permissible Exposure (MPE) limits. Application, Attachment 2.

B. ADJOINING PROPERTY OWNER OBJECTIONS

By letters dated December 18, 2021, AT&T sought the consent of all owners of property adjoining Pole No. 11749 and provided notice to the City of Stamford (City). Application, Sheet C-1 of the Plans in Attachment 1 and Attachments 3, 4 and 5. In response to the notice letters, Ms. Len Bucaj, an adjoining property owner at 294 Shippan Avenue, #2 Stamford, CT 06902, left AT&T a voice message and sent an email indicating that she withholds her consent. Application, p. 3. The voice message indicated that the objection is based upon issues pertaining to health effects relating to radio frequency emissions and the proposed location. In a written objection filed on December 3, 2021, Ms. Bucaj reiterated her objection requesting that AT&T find another utility pole on Shippan Avenue that is not next to her house or in the residential area and to locate it on some commercial property on the next block. At the hearing held on March 10, 2022, Ms. Bucaj restated her objection and asserted that alternate locations should be used for the Facilities instead of Pole No. 11749. Tr. 3/10/22, p. 78.

III. AUTHORITY ANALYSIS

A. LEGAL STANDARD

The General Statutes of Connecticut (Conn. Gen. Stat.) § 16-247h states:

The authority shall authorize any certified telecommunications provider to install, maintain, operate, manage or control poles, wires, conduits or other fixtures under or over any public highway or street for the provision of telecommunications service authorized by section 16-247c, if such installation, maintenance, operation, management or control is in the public interest, which includes but is not limited to, facilitating the efficient development and deployment of an advanced telecommunications infrastructure, facilitating maximum network interoperability and interconnectivity, and encouraging shared use of existing facilities and cooperative development of new facilities where legally possible and technically and economically feasible.

Under regulations promulgated by the Authority, “[n]o certified telecommunications company shall install, maintain, operate, manage, or control facilities under or over any public highway or street for the provision of telecommunications service without the approval of the [Authority].” Conn. Agencies Regs. § 16-247c-5(a).¹ All applications to construct telecommunications facilities in the PROW “shall be filed at least 90 days prior to the commencement of construction” and shall include: “(1) the specific location of the proposed facilities; (2) a detailed description of the proposed facilities, including (A) all applicable National Electric Safety Code design standards and (B) construction standards; (3) the purpose, intended use, and need for the proposed facilities; and (4) proposed specifications, plans and procedures to protect the public safety during the construction, operation and maintenance of the proposed facilities.” Conn. Agencies Regs. § 16-247c-5(b).

The authority shall grant or deny the application within 60 (sixty) days following receipt of the required information. Conn. Agencies Regs. § 16-247c-5(c).

In addition to seeking Authority approval in accordance with Conn. Gen. Stat. § 16-247h, applicants seeking to erect fixtures and apparatus in the PROW must also obtain the consent of property owners adjoining the proposed installation. Conn. Gen. Stat. § 16-234(f). In its Decision in Docket No. 07-03-34RE01, Application of the Cities

¹ In its Decision dated April 27, 2011, in Docket No. 08-06-19RE01, DPUC Investigation into the Deployment of Distributed Antenna Systems (DAS) in the Public Rights of Way in Connecticut – CPCN Requirement (CMRS Decision), the Authority deemed commercial mobile radio service (CMRS) providers to be certified telecommunications companies for purposes of Conn. Gen. Stat. § 16-247h and Conn. Agencies Regs. § 16-247c-5. AT&T is a CMRS and, therefore, is not required to have a Certificate of Public Convenience and Necessity (CPCN) to install facilities in the PROW.

of Bridgeport, Danbury, and Stamford for Declaratory Ruling Regarding the Safety of VRAD Boxes – Judgment on Stipulation (VRAD Decision), the Authority established the process for seeking the consent of adjoining property owners. The Authority determined that, under Conn. Gen. Stat. § 16-234(f), “adjoining property owners” (APO) included those residing within the 140-foot sight line of the relevant pole. See VRAD Decision, Section F, pp. 17–23. In addition, by correspondence dated August 19, 2009, the Authority appended a Form Notice Letter referenced in the VRAD Decision, which provides the standard information that must be included in letters sent to APOs. VRAD Decision, p. 22, fn. 28.

For a small cell antenna facility, such as this Facility proposed by AT&T, the Authority has determined that the “expansive permission” requirements of the VRAD Decision, which addressed “large, bulky cabinets that are in the line-of-sight,” were not necessary. See Decision dated June 2, 2017, in Docket No. 17-02-49, PURA Formalization of Small Cell Antenna Applicant Processes and Procedures to Construct Facilities in Connecticut’s Public Rights-of-Way, p. 4. Instead, the Authority requires that service providers “notify the immediate adjoining property owners in accordance with the specific language contained in Conn. Gen. Stat. § 16-234(f).” Id. The term “immediate adjoining property owners” includes property owners whose property is physically contiguous to the affected section of the PROW as well as property owners across the street from the affected section.

If an adjoining property owner withholds consent, the person or company seeking to install fixtures in the public right-of-way may seek the Authority’s approval in lieu of such consent. Conn. Gen. Stat. § 16-234(f). If, after a hearing, the Authority finds that public convenience and necessity so require, the Authority may authorize the installation. Id.

B. PUBLIC INTEREST AND PUBLIC CONVENIENCE AND NECESSITY

The Authority finds that the Facility is in the public interest because it increases the capacity of the existing telecommunications system by providing AT&T customers and emergency service providers with enhanced and more reliable telecommunications services; further, it does not represent a threat to public health and safety. Tr. 3/10/22, pp. 15-16. AT&T’s radio frequency engineers identified this location due to the high traffic and data demands on AT&T’s network in the area. The Facility will provide the necessary coverage and capacity to provide reliable wireless service. Application pp. 2-3; Tr. 3/10/22, pp. 15-16. In addition, and for the same reasons, the Authority finds that public convenience and necessity require the installation of the Facility notwithstanding the objections raised by Ms. Len Bucaj.

1. Public Health and RF Emission

The Authority finds that the RF emissions for the proposed installation at Pole No. 11749 will be below MPE limits as prescribed by the Federal Communications Commission (FCC).

AT&T had RF engineers conduct an analysis of the RF emissions from the Facility and compared the emissions to the current MPE limits as prescribed by the FCC Office of Engineering and Technology Bulletin No. 65 (Bulletin 65, August 1997 Cumulative Power Density Table). Application, Attachment 2; Interrog. ADJ-02; LFE-2. These standards for exposure to RF emissions from wireless telecommunications facilities were adopted pursuant to 47 C.F.R. § 1.1310.

Ms. Bucaj's original objection to the proposed Facility was premised on her belief that radiation from the antenna would negatively impact her family, especially her two young children. PFT 3/8/22, p. 3; Interrog. ADJ-01.

In Ms. Bucaj's PFT, she raised the concern that U.S. Circuit Court of Appeals for the D.C. Circuit in Environmental Health Trust, et al v. Federal Communications Commission, 9 F.4th 893 (D.C. Cir. 2021) recently scrutinized the FCC standards in a decision dated August 13, 2021 (D.C. Circuit Court Decision). See PFT 3/8/22, p. 3; Exhibit 3; Interrog. ADJ-01. During the hearing on March 10, 2022, Attorney Maker, on behalf of Ms. Bucaj, raised the same concern about the FCC standards again. Tr. 3/10/22 p. 31.

In its Decision dated April 5, 2017, in Docket No. 16-07-45, Application of Cellco Partnership d/b/a Verizon Wireless For Approval Of A Construction Plan To Install Wireless Facilities Within Certain Public Rights-Of-Way – Stamford SC1 CT, the Authority determined that the FCC has the sole legal authority for establishing and/or amending the RF emissions limits for wireless telecommunications equipment. The Authority also determined that 47 U.S.C. § 332(c) preempts the states from regulating the placement, construction, or modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emission to the extent that such facilities comply with FCC regulations. Id., pp. 7-8. Consequently, the Authority's review of RF emissions is limited to determining whether the RF exposure levels are within the standards prescribed by the FCC.

The Authority reviewed the D.C. Circuit Court Decision and has determined that it did not invalidate the current FCC RF exposure level standards. The issue before the D.C. Circuit Court was whether the FCC's 2019 final order declining to consider revising the RF exposure limits regulations was arbitrary and capricious. Env't'l Health Trust v. FCC, at 903. The Court remanded the issue back to the FCC to provide a reasoned explanation for why the FCC declined to proceed with a rulemaking to consider adopting a new standard. Id. at 914. As noted by the Court, the FCC has not proposed to alter its

guidelines. Id. The Authority finds that the existing RF exposure limits regulations were not set aside or overturned by the Court, and therefore, remain in effect, and are still valid and applicable in reviewing AT&T's application in this docket.

To demonstrate compliance with the FCC's allowable limits for general population exposure to RF emissions, the Company submitted the Radio Frequency Emissions Analysis Report (RF Report) as Attachment 2 to the Application. The RF analysis assumes that the antenna is transmitting at full power and that all of the RF energy from the Facility is directed towards the ground.

As described by the Company, the absolute worst-case maximum values were used for this analysis. The RF analysis submitted with the application demonstrates that the RF contributions measured to a person standing underneath the antenna, 36 feet away, would be 0.0439% of the MPE limits for each antenna. Application, Attachment 2, p. 7; Tr. 3/10/22, p. 18. As distance from the Facility increases, its signal power deteriorates considerably. Tr. 3/10/22, p. 34.

Ms. Bucaj's property at 294 Shippan Avenue, #2 Stamford, CT 06902 is 80 feet from the Pole No. 11749 where the Facility will be located. Interrog. ADJ-02(b); LFE-2, p. 2. At this distance, the RF exposure is estimated to be 0.3% of the MPE limit for this Facility. Interrog. ADJ-02(b); Tr. 3/10/22 p. 63; LFE-2, p. 1. In addition, at the hearing on March 10, 2022, AT&T noted that this is an omnidirectional antenna, meaning the RF levels are spread relatively evenly in all horizontal directions so when you angle down from the antenna, towards the ground, the amount of energy produced in that direction is much less. Tr. 3/10/22, p. 40.

AT&T's expert witness testified that the RF exposure on the ground anywhere around the proposed installation is less than one-tenth of 1 percent of the maximum permissible exposure limit, or about 1,000 times below that limit, and that the predicted exposure limit at 294 Shippan Avenue, using very worst-case exposure predictions, came out to 0.3 or three-tenths of 1 percent of the exposure limit. Tr. 3/10/22, pp. 62-63. At the nearest home, exposure would be less than one-half of 1 percent of the maximum permissible exposure limit. Id.² Consequently, the Authority finds that a person standing underneath the antenna on Pole No. 11749 and Ms. Bucaj's property at 294 Shippan Avenue will not be exposed to RF emissions approaching or in excess of the permissible limits.

Based on the evidence above, the Authority finds that the RF emissions for the Facility at Pole No. 11749 will conform to the standards established by the FCC.

² Ms. Bucaj did not present expert witness testimony to dispute the Company's expert witness' analysis and calculations presented in the Application and testified about at the hearings.

2. Alternate Pole Locations

Before deciding on using Pole No. 11749, the Company researched sixteen other poles for possible use. Supplemental Information Filing, 12/22/21. All alternate potential sites either did not create the signal coverage sought or had issues with meeting the technical specifications required for installing the Facility. Id.; Interrog. ADJ-02(d); Tr. 3/10/22, pp. 20-29.

During the hearing Ms. Bucaj suggested that poles shown in photographs in Exhibit 5 to her pre-filed testimony would have been better alternative locations for the antenna other than Utility Pole 11749. Tr. 3/10/22, p. 78. In addition, Ms. Bucaj suggested that poles near Cummings Park, shown in photos in Late-Filed Exhibit 5, should have been considered in the Company's supplemental information report. Tr. 3/10/22, p. 57. The Applicant determined, however, that the poles shown in photos in Exhibit 5 and Late-Filed Exhibit 5 were outside of the acceptable area needed for this Facility to provide the sought coverage improvements or were otherwise not viable poles, and therefore these poles could not be used. Tr. 3/10/22, p. 58; Tr. 3/17/22, pp. 8-11. The Company produced a list of 19 commercial locations within 800 feet of Pole No. 11749. LFE-1. During the Late File Exhibit hearing, the Company explained that of the 19 locations listed in LFE-1, 14 were within the target area. The Applicant determined that these 14 sites were not viable locations because the structures were not tall enough to provide adequate service. Tr. 3/17/22, pp. 6-7.

IV. FINDINGS OF FACT

1. AT&T identified a need for additional coverage and capacity relief in the vicinity of Pole No. 11749 to provide customers and emergency service providers with enhanced and more reliable wireless, voice, and data services.
2. The Facility will comply with the NESC construction standards and will meet the requirements of the incumbent electric company and pole owner.
3. AT&T plans to attach the antenna and associated radio and electrical service equipment to the Pole No. 11749.
4. Pole No. 11749 is owned by Eversource.
5. AT&T provided notice to the City of Stamford and all adjoining owners of property on December 18, 2021.
6. The FCC has adopted a standard for exposure to RF emissions from wireless telecommunications facilities like the Facility.

7. AT&T's RF emission calculation indicates that the "worst case" MPE value would be 0.0439% percent of the FCC standard at a position directly below the antenna. An MPE value at 80 feet away, the approximate distance to the 294 Shippan Avenue residence, is 0.3% of the FCC standard.
8. The maximum levels of RF emissions in publicly accessible locations in the vicinity of the Facility are below all applicable health and safety limits, including FCC emissions standards.

V. CONCLUSION AND ORDERS

A. CONCLUSION

The record demonstrates that AT&T requires additional coverage and capacity in the vicinity of near 301 Shippan Avenue, Stamford. The record further demonstrates that AT&T reasonably selected Pole No. 11749 as an optimal location for the Facility to serve this area. The Authority has considered the objections raised by Ms. Len Bucaj and finds that RF emissions from the Facility will comply with applicable FCC regulations. Consequently, the Authority finds that public convenience and necessity require the Authority to authorize the Facility in accordance with Conn. Gen. Stat. § 16-234(f), notwithstanding the Petitioner's objections.

B. ORDERS


For the following Orders, submit an electronic version through the PURA's website at www.ct.gov/pura. Submissions filed in compliance with the Authority's Order must be identified by all three of the following: Docket Number, Title and Order Number.

1. Prior to commencing construction of the Facility, the Company shall obtain pole attachment licenses from the pole owners and acquire all other applicable state and municipal permits.
2. No later than ten days after the completion of construction of the Facility, the Company shall provide the actual date of completion of the construction. In the event final construction deviates in any respect from that represented in this proceeding, AT&T shall describe all such differences in the filing.
3. No later than 60 days following the last date an antenna is in operation, the Company shall remove the Facility from the utility pole. Within 15 business days of removal of the Facility, the Company shall notify the Authority of its removal.
4. The approval to construct this Facility expires after 18 months of issuance of this Decision, unless extended by the Authority for good cause, upon request by the Company.

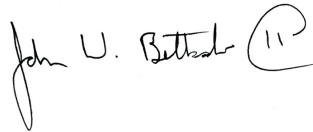
DOCKET NO. 21-11-14

**APPLICATION OF NEW CINGULAR WIRELESS PCS,
LLC FOR APPROVAL OF A CONSTRUCTION PLAN TO
INSTALL WIRELESS FACILITIES WITHIN THE PUBLIC
RIGHT-OF-WAY - STAMFORD**

This Decision is adopted by the following PURA Commissioners:



Marissa P. Gillett



John W. Betkoski, III



Michael A. Caron

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Public Utilities Regulatory Authority and the Department of Public Health, State of Connecticut, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.



Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority

April 6, 2022

Date