

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

APPLICATION OF OPTASITE TOWERS LLC  
AND OMNIPOINT COMMUNICATIONS, INC.  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED FOR  
THE CONSTRUCTION, MAINTENANCE AND  
OPERATION OF A TELECOMMUNICATIONS  
FACILITY AT 52 STADLEY ROUGH ROAD,  
DANBURY, CONNECTICUT

DOCKET NO. 366

FEBRUARY 24, 2009

**APPLICANTS' OBJECTION TO CITY'S REQUEST FOR AN EXPEDITED ADDITIONAL  
HEARING AND RESPONSE TO THE CITY'S REQUEST FOR AN EXTENSION OF TIME  
TO FILE ANY POST HEARING BRIEF**

On behalf of the Applicants, we object to the City's request for an additional hearing in this Docket for the following reasons.

1) Section 16-50j-29 of the Siting Council's regulations provide that the Applicant has the right to **"open and close"** the presentation as part of the hearing and evidentiary process in any Docket. As such, the Applicant has the right to redirect its witnesses and rebut testimony by other parties and intervenors at the end of a evidentiary hearing process. Only the Applicant has this right to a final opportunity to present evidence on its case which is rooted in due process.

2) In this Docket, the Siting Council gave the City the option to submit a post hearing substantive filing regarding an "alternative multi-site solution". See post-hearing schedule. The City availed itself of this option by filing the post-hearing additional testimony of Mr. Comi.

3) To avoid any prejudice to the Applicants and also address their objection to the opportunity that was being given to the City for a post-hearing submittal of substantive evidence, a submittal that would not be subject to cross-examination regarding the contents thereof, the Siting Council gave the Applicants the option to submit any "responses" to the City's purported "alternative multi-site solution". See post-hearing schedule. The Applicants availed themselves of that opportunity.

4) The City now objects to the way in which the Applicants chose to respond to the City's own submission. The City does so by suggesting in their letter of today that the Applicants' recent submittal was somehow not in furtherance of the Council's "directives" despite the exact wording contained in the Council's post-hearing schedule which gave the Applicants the opportunity to respond to the City's submission, but required no specific submission by the Applicants. If anything, the Applicants could have "responded" to the City's "alternative multi-site solution" by asking the Council for a hearing to challenge further the City's submittal by Mr. Comi, but they elected not to do so. Instead they submitted their response and comments on the City's solution by noting further the inability to deploy DAS as assumed by Mr. Comi and challenging the City's technically unsupported conclusions. While certainly critical of the City's

submission by Mr. Comi, nothing in the Applicants' response to the City's submitted alternative multi site solution gives rise to the need for additional hearings.

5) Moreover, the City erroneously suggests in its letter that it somehow has a right to "defend" against the Applicants' submissions. Nothing in the Statutes or Council regulations gives a party, including the City, that right. Rather, and as noted above, such a right is uniquely held by applicants given their burden of administrative proof in dockets and as a matter of due process.

6) Ultimately, the City is free to argue the merits of the Applicants' case and its own perspective regarding alternatives as it sees fit in its brief which under the current schedule is due on March 5, 2009. Indeed, as the Council is aware, submission of a brief is an option not a right which the Council has given to both parties in this case. We see absolutely no prejudice nor has any been alleged by the City in keeping to the schedule agreed to by the City itself, particularly in light of the Applicants' willingness to forgo their right to cross-examine the substantive filing that was made by the City and Mr. Comi.

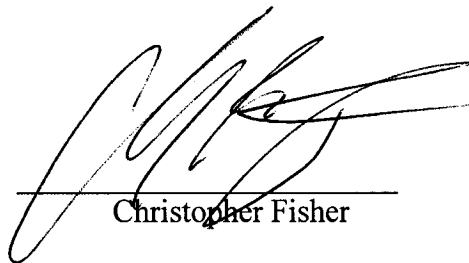
For all the foregoing reasons, we respectfully object to the City's request for an additional hearing and their request for an extension of time to file any brief in this Docket. Thank you for your consideration in this regard.

CERTIFICATE OF SERVICE

I hereby certify that on this day, an original and twenty copies of the Applicants Objection to the City of Danbury's Request for an Expedited-Hearing and Extension of Time to File any Brief were served on the Connecticut Siting Council by first class mail with an electronic copy sent via email and copy served by mail to:

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Dated: February 24, 2009



Christopher Fisher

cc: Charles Regulbuto  
Hans Fiedler