

**STATEMENT OF ATTORNEY CHRISTOPHER B. FISHER
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**Regarding Raised House Bill No. 447
AN ACT MODERNIZING THE STATE'S TELECOMMUNICATIONS LAWS**

**Before the Committee on Energy and Technology
March 20, 2012**

Proposal:

Raised House Bill No. 447 makes various changes to statutes regulating the provision of telecommunications services in the state and the siting of wireless facilities.

Comments:

I am a Connecticut resident and attorney licensed to practice in the state. I have represented companies that construct, own and operate personal wireless service facilities in Connecticut since 1995. I routinely appear before the Siting Council, municipal zoning and other agencies that regulate the siting of wireless infrastructure in the state. I support Sections 13 through 19 of the Raised Bill, all of which address wireless facility siting in Connecticut.

Section 13 of the Raised Bill would amend Section 16-50p(a)(1)(C) of the Public Utility Environmental Standards Act ("PUESA") to require the Siting Council to decide applications for "cell towers" within 150 days of receipt, unless such time frame were extended on consent of an applicant. The statute would reduce the current statutory time frame for a decision by 30 days. This would be consistent with federal law which requires any state or local application for a tower used in the provision of personal wireless services to be decided within 150 days of receipt by the agency. *Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B)*, 24 F.C.C.R. 13994, 14015-16, ¶ 32 (2009), *City of Arlington v. FCC*, No. 10-60039 (5th Cir. Jan. 23, 2012) (upholding the validity of the *Declaratory Ruling*). Currently, the Siting Council administers its timing for decisions on tower applications in a manner that is overall consistent with federal law. As such, this change would simply bring PUESA into conformance with federal law regarding the timing for decisions on wireless facility tower applications. Section 16-50p(b)(1) of PUESA would also be amended to clarify the "public need" for state tower facilities (i.e. state agency towers) and "cell towers" in a manner consistent with state and federal law.

Sections 14-18 of the Raised Bill would amend several statutes that, expressly or by interpretation, prohibit most forms of state agency or "cell" tower infrastructure from being sited in a state park or on most water company watershed lands. As state and commercial wireless networks have expanded to provide public safety or wireless services in more rural residential areas of the state, there have been Siting Council dockets where members of the public have requested the potential use of such lands as an alternative to other proposed tower sites on private property as part of providing service in a community. Generally, due to the overall size of such land holdings by the state or a water company and unoccupied nature of tower facilities, public comments have been received by the Siting Council that a tower site should be located in a state park or on water company watershed land and that it would not have an overall aesthetic impact,

be further removed from residents in the area as compared to a proposed tower site alternative and service could be provided from such locations. Currently, state parks, forests and Class I and II watershed lands are eliminated from consideration as a matter of state law. If various prohibitions that are incorporated into current state law were changed, state agencies (e.g. state police) and “cell tower” applicants would be allowed to consider such properties as potential alternative sites and pursue lease agreements and approvals from various state agencies. State oversight agencies such as DEEP, DPH and the Siting Council would still be fundamentally charged with protecting the environment and would maintain the discretion to deny the proposed use of state parks or watershed lands from tower siting on a case by case basis.

Section 19 of the Raised Bill would require the development of standardized procedures for the leasing of state owned land for development of any wireless facilities. This would include towers, rooftop facilities, distributed antenna systems, in-building networks and other means by which wireless services are delivered. In 2011, the President emphasized in his State of the Union Address the importance of bringing wireless coverage to virtually all Americans and of ensuring that Americans have access to the latest high speed technologies:

Within the next 5 years, we will make it possible for businesses to deploy the next generation of high-speed wireless coverage to 98 percent of all Americans. This isn't just about faster Internet or fewer dropped calls. It's about connecting every part of America to the digital age. It's about a rural community in Iowa or Alabama where farmers and small business owners will be able to sell their products all over the world. It's about a firefighter who can download the design of a burning building onto a handheld device, a student who can take classes with a digital textbook, or a patient who can have face-to-face video chats with her doctor.

Barack H. Obama, President of the United States, State of the Union Address, Congressional Record, H460. To that end and just last month, Congress passed the *Middle Class Tax Relief and Job Creation Act, Pub. L. 112-96* (“Tax Relief Act”). Section 6409(c) of the Tax Relief Act includes a very similar piece of federal legislation with respect to access to federal properties for wireless facility siting.