

**Testimony of
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Opposition to Connecticut Senate Bill 568
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Before the Connecticut Joint Energy and Technology Committee

Co-Chair Doyle, Co-Chair Reed, and members of the Committee, on behalf of CTIA-The Wireless Association®, the trade association for the wireless communications industry, I write to respectfully express our opposition regarding Senate Bill 568. Senate Bill 568 would require the Connecticut Siting Council “to (1) convene a public hearing regarding the siting of a new facility or proposed change, improvement or replacement of an existing facility” and also to “evaluate at least three alternative sites prior to granting an applicant's certificate of environmental compatibility and public need for a facility.” We believe Senate Bill 568 is unnecessary and redundant and will result in delays and administrative burdens at the Connecticut Siting Council. Furthermore, this legislation is also counter to the policy direction at the federal and state level and at the Connecticut Siting Council.

In Connecticut, in order for wireless carriers to construct new wireless facilities or update existing wireless facilities, there are three general processes a carrier may pursue:

- **New Wireless Tower Facility** – Under current Connecticut law, when there is demand and need to construct a new wireless tower facility, the wireless carrier can apply for a certificate of environmental compatibility and public need. Pursuant to Connecticut General Statutes Section 16-50m, the Connecticut Siting Council (“Council”) is required to hold a public hearing for these certificate applications. As such, the public hearing requirement in Senate Bill 568 duplicates existing Connecticut law and is unnecessary.
- **Low Impact Facilities** – Should a wireless carrier wish to install a new or expanded facility with a relatively low environmental impact, the carrier can file a petition for a declaratory ruling from the Council seeking a determination that the new or expanded “facility” would not have a substantial adverse environmental effect and, therefore, no certificate would be required. Similar to a full certificate proceeding as noted above, a petitioner is required to provide notice to neighboring property owners and municipal officials. In these cases, the Council has the discretion to schedule a public hearing if deemed necessary in evaluating the potential environmental effects

of the proposed facility. The public hearing requirement in Senate Bill 568 would eliminate this discretion, resulting in the imposition of a significant administrative burden to the Connecticut Siting Council and potential delays in consideration of the petition.¹

- **Modify Existing Facility** – A wireless carrier can also file a request to modify an existing facility in the form of an exempt modification or a tower-share application. The majority of these cases also constitute an “eligible facilities request” under Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012² and, more recently, the October 21, 2014 FCC Report and Order (FCC 14-153)³. Section 6409 and FCC Order 14-153 require that state and local governments “may not deny, and shall approve” these eligible facilities requests for tower and base station modifications and must occur within 60 days. Therefore, the public hearing requirement in Senate Bill 568 may be preempted by federal law for modifications to existing facilities that satisfy certain criteria and do not substantially change the physical dimensions of the tower or base station.

As outlined and described above, the provisions of Senate Bill 568 are unnecessary and would further create duplicative and redundant processes at the Connecticut Siting Council.

Secondly, the provision in Senate Bill 568 requiring the Council to evaluate at least three alternative sites is also problematic to the wireless industry. The three alternative site requirement in Senate Bill 568 is unnecessary and redundant as existing Connecticut law already provides for a robust process for considering alternative sites. As a matter of practice, applicants submit information for numerous alternative sites that were considered, evaluated, and in most cases, rejected by the applicant before an application is ever presented to the Council. Requiring, by statute, an arbitrary number of alternative sites for evaluation would only confuse and delay the current process for site selection at the Council.

As noted above, recent federal and state recognition of the importance of wireless infrastructure bears consideration by the Committee as well. In its National Broadband Plan, the Federal Communications

¹ See “The Digest of Administrative Reports to the Governor, Fiscal Year 2013-2014,” The Connecticut Siting Council, [http://www.ct.gov/csc/lib/csc/publications/2014anng\(final\).pdf](http://www.ct.gov/csc/lib/csc/publications/2014anng(final).pdf). The Council processed nearly 700 matters in 2013 and 2014. Senate Bill 568 would require a hearing for every one of these matters, undoubtedly resulting in a significant increase in the average amount of the Council’s time and expense spent on each matter.

² See Middle Class Tax Relief and Job Creation Act of 2012 § 6409(a) (A “state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of the tower or base station”) (“Middle Class Tax Relief Act § 6409(a)”), available at: <http://docs.house.gov/billsthisweek/20120213/CRPT-112hrpt-HR3630.pdf>.

³ See FCC 14-153, <http://www.fcc.gov/document/wireless-infrastructure-report-and-order>, last accessed 2/16/2015.

Commission (“FCC”) acknowledges that wireless infrastructure is critical for broadband deployment. The FCC’s National Broadband Plan states that wireless networks rely on site deployment, and that securing rights to infrastructure deployment “is often a difficult and time-consuming process that discourages private investment.”⁴ To expedite this process, the FCC established a “shot clock” requiring local governments to make final decisions on proposed wireless facilities on existing structures within ninety (90) days and on new tower proposals within one hundred fifty (150) days of receipt of a complete application.⁵ In February 2012, Congress acknowledged the critical role of timely wireless facilities deployment by requiring streamlined local government approval for such facilities on existing structures.⁶

Connecticut, too, has acknowledged the importance of expediting wireless broadband deployment. The Connecticut Siting Council is currently considering a declaratory rulemaking seeking local implementation of, and compliance with, Section 6409(a) of the Middle Class Tax Relief and Spectrum Act of 2012 and the FCC’s new deployment rules.⁷ CTIA is asking the Siting Council to ensure its proposed process is consistent with the provisions of the FCC’s rules and Section 6409(a) of the Act; particularly, the 60-day time period for states and localities to review eligible facilities applications submitted under Section 6409(a). The policy espoused by Senate Bill 568 is not only counter to the direction at the federal and state-level, but also counter to Connecticut’s own Siting Council.

The development of a sound wireless infrastructure in Connecticut is essential to enhancing public safety, deploying high speed broadband and generally facilitating an economy that relies on information technology. The Connecticut Siting Council’s recent actions serves as an acknowledgment of the importance of the deployment of wireless infrastructure. For all the reasons stated herein, we strongly urge the Committee to reject this legislation.

⁴ *Connecting America: The National Broadband Plan* at 127 (March 17, 2010), available at: <http://www.broadband.gov/plan/>.

⁵ See Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance (Nov. 18, 2009), available at: <http://apps.fcc.gov/ecfs/document/view?id=7020393456> . More recently, a federal court affirmed the FCC’s “shot clock,” concluding that the 90-day and 150-day timeframes were lawful and noting evidence by CTIA and others supporting the FCC’s conclusion that wireless service providers often face lengthy delays in the collocation and new wireless facility zoning applications. See *Arlington, TX vs. FCC*, No. 10- 60039 (Jan. 23, 2012), available at: <http://image.exct.net/lib/fefd167774640c/m/1/Shot+Clock+Order+CA5+Jan++23+2012.pdf> .

⁶ See Middle Class Tax Relief and Job Creation Act of 2012 § 6409(a) (A “state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of the tower or base station”) (“Middle Class Tax Relief Act § 6409(a)”), available at: <http://docs.house.gov/billsthisweek/20120213/CRPT-112hrpt-HR3630.pdf>.

⁷ See Comments of CTIA-The Wireless Association @ Before the Connecticut Siting Council, Petition No. 1133, February 10, 2015, http://www.ct.gov/csc/lib/csc/pending_petitions/petition_1133/pe1133-20150210_ctiacomments.pdf, last accessed 2/16/2015.

