

1 TOWNSHIP OF CHATHAM BOARD OF ADJUSTMENT
MUNICIPAL BUILDING
2 58 Meyersville Road
Chatham Township, New Jersey
3 Thursday, October 29, 2015
Commencing at 9:20 p.m.
4

IN RE: 15-95-18.019
5 New Cingular Wireless PCS (AT&T) & T-Mobile
Northeast, LLC (T-Mobile)
6 300 Shunpike Road,
Block 95, Lot 18.01
7 Request for an additional twelve (12) month
extension of time.
8

9
10 M E M B E R S :

11 TONY VIVONA, BOARD CHAIRMAN
12 KATE KENNY, MEMBER
13 WILLIAM STYPLE, MEMBER
14 JON WESTON, MEMBER
15 TINA ROMANO, MEMBER
16 GREG BORSINGER, MEMBER
17 MICHAEL HYLAND, SECOND ALTERNATE MEMBER
18

19 A L S O P R E S E N T :

20 STEPHEN H. SHAW, ESQUIRE, BOARD ATTORNEY
21 KALI TSIMBOUKIS, RECORDING SECRETARY
22 ROBERT A. MICHAELS, BOARD PLANNER
23 JOHN RUSCHKE, PLANNING BOARD ENGINEER
24

25 Job No. CS2145430

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A P P E A R A N C E S :

PINILIS HALPERN, LLP
By: JUDITH FAIRWEATHER, ESQUIRE
160 Morris Street
Morristown, New Jersey 07960-4214
(973)401-1111
Attorneys for the Applicant

1 MS. FAIRWEATHER: Judy Fairweather on
2 behalf of AT&T Wireless. Rick Skolnick is here on
3 behalf of T-Mobile, and he may jump in at any time,
4 but we are going to explain to you why we need
5 another year. To my left is Alec Norris, who you
6 should know, licensed civil engineer, who has been in
7 front of you several times.

8 As you will recall, AT&T did receive
9 approval from this board to move back to PSE&G. Last
10 night, T-mobile was heard in Chatham Borough and they
11 received approval to go back to PSE&G. So, T-Mobile
12 has an application with the DEP and that has to be
13 processed. AT&T, once we pull the building permit or
14 PSE&G allows us to pull the building permit, we can
15 get started.

16 Alec is going to explain to you the
17 process with PSE&G and why we are asking for another
18 year.

19 (Alec Norris was sworn in.)

20 CHAIRMAN VIVONA: Give your name and
21 your qualifications, please.

22 MR. ALEC NORRIS: It is Alec, A-L-E-C,
23 Norris, N-O-R-R-I-S. I work for Dewberry Engineers.
24 I was in front of this board in -- I believe it was
25 April for the extension at the time and then I think

1 it was May or June for AT&T's approval. I have been
2 at Dewberry for approximately 15 years doing
3 telecom.

4 MS. FAIRWEATHER: You are licensed in
5 the State of New Jersey?

6 MR. ALEC NORRIS: That is correct.

7 MS. FAIRWEATHER: Alec, you meet with
8 PSE&G on behalf of the AT&T and the T-mobile sites
9 that your firm is handling?

10 MR. ALEC NORRIS: That is correct.
11 We meet once a month and discuss all the replacement
12 sites similar to this one.

13 MR. SHAW: Could you explain what that
14 meeting is or what the process is, who is there and
15 what is going on?

16 MR. ALEC NORRIS: Sure. It is usually
17 the second Tuesday of every month. It is
18 representatives from PSE&G, as well as the
19 engineers, me and another gentleman who represent
20 the carriers. And then there are representatives of
21 the carriers themselves. Tim, for example, he is
22 there ever month as well.

23 There is usually about 12 of us. We
24 discuss the status of all these replacement sites.
25 And so the AT&T and T-mobile applications that we

1 are here for tonight are a part of that whole
2 discussion.

3 MS. FAIRWEATHER: Alec, why do we need
4 to ask for another year?

5 MR. ALEC NORRIS: So, I know we were
6 here about six months ago and we told you we were
7 trying to get through the whole process and get
8 these built and we asked for six months at the time.
9 I know we got zoning approval through this board and
10 T-Mobile received zoning approval last night through
11 Chatham Borough. So, we are getting on to
12 construction drawing process.

13 Once we get the carriers to approve the
14 construction drawings for AT&T and T-Mobile, PSE&G
15 will review and approve them and then there are a
16 series of other things that need to happen. I know
17 we talked about this back in April too, but a series
18 of things need to be all in place before they will
19 be able to schedule the outage.

20 So, once they schedule this outage
21 through PJM and it is -- they can coordinate the
22 construction effort and get the new sites built.

23 MS. FAIRWEATHER: Alec, last time, we
24 explained that the outage not only goes through the
25 Board of Public Utility, but this company that is

1 responsible for the electricity in the northeast,
2 correct?

3 MR. ALEC NORRIS: Yes. PJM is the
4 company that, I guess, coordinates the whole outage
5 because it needs to be -- it is all part of the grid
6 system, so they have to coordinate it with all kinds
7 of other things going on. They can't do it in the
8 middle of summer, because once it hits 81 degrees,
9 they can't have an outage. And usually, it is
10 difficult in the middle of winter too. So, you are
11 talking about the times of the year when people are
12 expecting to use the most amount of electricity, I
13 guess.

14 MS. FAIRWEATHER: And PSE&G was
15 planning an outage in the spring with as many
16 carriers that have approval and then in the fall?

17 MR. ALEC NORRIS: Yes. What they were
18 hoping to do is once the first carrier has a
19 replacement site building permit, building materials
20 in their warehouse, all the things on the checklist
21 checked off, they were going to schedule an outage.
22 And then they were hoping that other carriers in the
23 meantime would get all their approvals in place and
24 be able to do a multitude at the same time.

25 So, as of right now, there are still

1 none -- none of the replacement sites are scheduled
2 for construction. We are hoping that sometime in
3 the next month or two, at least one of the sites
4 will be able to get to that point where an outage
5 will be scheduled. And then they will put on the
6 schedule -- let's say it takes -- let's say they put
7 in the schedule for March as an outage, then that
8 gives time between now and March for other carriers
9 to hopefully be able to piggyback the same outage.

10 MS. FAIRWEATHER: And we are hopefully
11 and planning on being on the spring outage. But in
12 case we are not, past 81 degrees they won't allow
13 any outages, so that knocks out the summer. So we
14 are asking for next December, just in case we miss
15 the spring, we can definitely make the fall,
16 correct?

17 MR. ALEC NORRIS: Yes. We are really
18 hoping that spring works out, at least for some of
19 these sites. And even if that doesn't work out, but
20 maybe it will work out for this one, this site, you
21 know, AT&T or T-Mobile, then the next window of
22 opportunity would be in the fall. So that is why we
23 are back asking for 12 months. That gives us two
24 windows of opportunity to try and hopefully get this
25 done.

1 MS. FAIRWEATHER: Not that you don't
2 want to see us in the spring again, but it gives us
3 the two outages.

4 CHAIRMAN VIVONA: So your extension is
5 already what, half up?

6 MS. FAIRWEATHER: It is up December 1.

7 CHAIRMAN VIVONA: All right. And this
8 is for the temporary pole that is on Shunpike?

9 MS. FAIRWEATHER: Yes.

10 CHAIRMAN VIVONA: And the borough has
11 nothing to do with us.

12 MS. FAIRWEATHER: But they did receive
13 their approval last night from the Borough, which
14 was good, T-Mobile did. So both of us have our land
15 use approval.

16 CHAIRMAN VIVONA: Do you have any
17 other temporary poles that are scheduled to be
18 swapped over in this time period?

19 MS. FAIRWEATHER: Throughout the whole
20 line? Not just in Chatham?

21 CHAIRMAN VIVONA: That affects us.

22 MS. FAIRWEATHER: No. For AT&T.

23 MR. ALEC NORRIS: In Chatham, I don't
24 think so.

25 CHAIRMAN VIVONA: Would you like to

1 hear from Mr. Kronk on T-Mobile?

2 CHAIRMAN VIVONA: No, because --

3 MS. FAIRWEATHER: Right, because it
4 is not about tonight.

5 CHAIRMAN VIVONA: Okay. Any
6 questions?

7 MR. JOHN RUSCHKE: It sounds like
8 there might be a situation where someone is going to
9 try and piggyback on you?

10 MR. ALEC NORRIS: Yes. What will
11 happen is when one of these sites gets through all
12 their approvals and they have a building permit and
13 all the construction material needed for
14 construction are in PS&G's warehouse and, you know,
15 a purchase order is in place for PSE&G to do the
16 tower work -- it is like a series of things that --
17 so, once we get through zoning, there are still all
18 these other things that need to fall into place.
19 So, once all these things are ready for one site,
20 then PSE&G will schedule the outage through PJM.

21 So, what they will do is -- let's say
22 it is for the Roseland-Metuchen line that this site
23 is on for AT&T. Then what they will do is they will
24 schedule that outage. Let's say they schedule it
25 for March, like the third, fourth week of March,

1 somewhere in there. And then that gives all the
2 other sites that are on the Roseland-Metuchen line
3 to piggyback, use that same timeframe for an outage.
4 Because they are going to try and make it for longer
5 than what one site would need for construction.

6 So, let's say they schedule it for a
7 two-week outage and then that gives a few months
8 leading up to that for other sites also on the
9 Roseland-Metuchen line to use the same outage to get
10 into construction.

11 MR. SHAW: How many temporary -- from
12 the Roseland to Metuchen line -- I assume it is a
13 whole line that they will be turning off?

14 MR. ALEC NORRIS: Yes. It is a big
15 effort on their part to coordinate --

16 MR. SHAW: So there are lots of
17 towers?

18 MR. ALEC NORRIS: Yes.

19 MR. SHAW: Do you have any idea how
20 many total towers are going to be going up on all of
21 these --

22 MR. ALEC NORRIS: You mean how many
23 of these towers are affected by it?

24 MR. SHAW: Yes.

25 MR. ALEC NORRIS: I do not know.

1 Roseland-Metuchen is a pretty popular line. It
2 could be 15.

3 MR. SHAW: Just a number. So, there
4 could be 15 other --

5 MR. ALEC NORRIS: Yes, but they
6 probably won't all be ready for the same outage.

7 MS. FAIRWEATHER: And they don't want
8 to have many outages. They would like to have few
9 outages. So they are basically stacking as many as
10 they can to try to fit each outage.

11 MR. HYLAND: How does the electricity
12 get to us?

13 MR. ALEC NORRIS: They will basically
14 turn off that line, but then other lines will pick
15 it up. They have a whole process in place to be
16 able to handle it.

17 MR. WESTON: I would like to make a
18 comment. I think the comment is probably not
19 directed at anyone in this room, but I am almost
20 certainly going to vote yes. I don't want you to
21 get nervous about that.

22 You know, to me, this is a lack of --
23 and again, I am not sure that the people I am
24 directing this is in the room or even care or know
25 we are here, but some years ago, this was first

1 presented to us. And based on the information
2 presented how long this duration would take, we
3 voted yes.

4 Obviously, I am not going to be funding
5 a protest from it. I am not unfamiliar with large
6 construction projects. I mean, this is not large
7 where I come from. I am not unfamiliar with dealing
8 with utilities and PSE&G. And this is certainly
9 something I would consider foreseeable, based on my
10 previous life.

11 I just think that it is a question to
12 be posed that -- I will throw it out to everyone in
13 the room. If you blew your project by three years
14 or four years and had to tell your boss, what would
15 they say? I know what my employers would have said
16 to me and it would probably be my last day of work
17 on the second or third try if they bought it at all.
18 And that said, what are you going to do?

19 But I think that the zoning board
20 shouldn't be taken as an automatic yes or else we
21 should set up an office that -- you know, put in
22 your two bucks, pick up the ticket and save us all
23 the time.

24 That is my comment.

25 MS. KENNY: I have to agree. You know,

1 we did have somebody here from the public that lived
2 across that complained about that location. I do
3 just feel for them, because she doesn't want to look
4 at that. She is not here tonight, but it is -- you
5 know, we said, oh, it is only going to be 12 months.

6 I know you are going to say that we are
7 at the beckon call of PSE&G, but at the end of the
8 day, this is what we have. It doesn't make you feel
9 good.

10 MR. ALEC NORRIS: I understand. It
11 is frustrating to me. It is definitely taking
12 longer than anticipated.

13 MS. FAIRWEATHER: It is frustrating
14 for every one. Trust me.

15 CHAIRMAN VIVONA: I think we have more
16 issues about the actual antenna by Robin Hood.

17 MS. KENNY: I know, but one person is
18 like -- could be ten people. There are people that
19 just don't want to come out. You know what I mean?
20 So, if it annoys you enough that you are willing to
21 leave your house, come out here and make a comment,
22 I don't know. There is nothing to do about it.

23 CHAIRMAN VIVONA: It is like selling a
24 bill of goods.

25 MS. KENNY: Almost. Yes, almost. And

1 then you have all these layers of responsibility.

2 MR. SHAW: I certainly think in
3 retrospect, instead of an original approval for two
4 years, they should have been looking for an original
5 approval of three years.

6 MS. KENNY: Yes. That was my
7 question. It is so far off.

8 MR. SHAW: Well, it was initially
9 off, because if you remember, we had a horrendous
10 winter. So they lost basically a season in the
11 construction end of the towers. So that was a delay
12 in -- I mean, it was two years. My recollection of
13 the testimony is it was going to be two years to do
14 the construction and get people up on board.

15 Unfortunately, there was no discussion
16 whatsoever about the need to turn off the grids --
17 this is certainly stuff that --

18 MS. KENNY: We will know for next
19 time.

20 MR. SHAW: We should have known that
21 two years was not long enough, given this process.
22 They would have asked for a longer period of time
23 and people would have understood what the time
24 period was rather than have them come back and be
25 misled. It is what it is.

1 MR. WESTON: I mean, the classic move
2 is, you sell a project by saying it will cost \$20
3 million and I can do it in four years. And then you
4 go, surprise, it is taking longer, it is costing a
5 couple million more. Well, I got the choice now,
6 I can walk away from all the promises I made, public
7 statements I have made, money I have spent, because
8 I won't spend another ten million, I am dumping 40.

9 I do have to say, I don't think that is
10 what is being done here. I think this is just like,
11 what the hell. You know, it is like I don't think
12 they have proper scheduling. I don't think our
13 approval figures on anybody's road map on their
14 project schedule.

15 That is my own view. I don't think
16 anyone short sold the project. I think someone
17 said, we will get it through the locals. I think
18 that is what happened.

19 CHAIRMAN VIVONA: Mr. Norris, you
20 work with the utilities, correct?

21 MR. ALEC NORRIS: Not directly, but I
22 coordinate with them.

23 CHAIRMAN VIVONA: So, the other
24 poles, the other towers that are -- what do they
25 call them, scaffold towers, the ones that have all

1 the --

2 MR. ALEC NORRIS: Lattice towers.

3 CHAIRMAN VIVONA: Lattice towers.

4 There are still other lines of lattice towers in
5 Chatham. Are those scheduled to be monopoles? Do
6 you know?

7 MR. ALEC NORRIS: Not that I know of.
8 I assume at some point down the road they will be
9 looking at each individual one, each individual
10 line. I think there was -- the Lambertville line is
11 the one next to the Roseland-Metuchen line and those
12 are still lattice towers.

13 I know that they are looking at
14 different transmission lines currently to see what
15 would be a good candidate for the next one. They
16 have to maintain a certain voltage on their grids,
17 in their lines and everything else. But as of right
18 now, I haven't heard anything about the
19 Roseland-Lambertville line or any other lines going
20 through Chatham.

21 CHAIRMAN VIVONA: Going back with
22 John's statements, you guys are sort of at the mercy
23 of PSE&G. You want to get your stuff on the poles
24 as quick as possible. Your extension is not because
25 you guys are not ready. It because they won't let

1 you. I understand that.

2 MS. FAIRWEATHER: Do you ever feel
3 like one of those ping pong machines, where you just
4 keep getting batted off the little things in the
5 ping pong -- not the ping pong, whatever those
6 machines are -- pinball. That is how we feel.

7 It is like we are going in one
8 direction and we think it is okay, we think it is
9 okay, and then we are going in another and it has
10 just been like that for the last three and a half
11 years.

12 CHAIRMAN VIVONA: Right. I think
13 hopefully there won't be future ones of these,
14 because once these monopolies -- the monopolies are
15 up, now you have just got to transfer everything
16 over?

17 MS. FAIRWEATHER: Right.

18 CHAIRMAN VIVONA: And I think that we
19 will be done for a while.

20 MS. FAIRWEATHER: That is one of the
21 reasons -- we could ask for June 15 or 20, whenever
22 the temperatures would go up to 81 degrees, but what
23 if it doesn't happen in the spring and we are in the
24 fall --

25 CHAIRMAN VIVONA: Right. So, we

1 understand that you are in the middle, we are in the
2 middle, but we are responsible for the wellbeing of
3 Chatham residents. As Kate said, people came here,
4 they didn't want to see the temporary pole anymore.
5 We told them it would only be a year. Okay. Two
6 years. And then there is really nothing we can do
7 about it or you can do about it, except for next
8 time, if there is a next time, you just have to ask
9 for a longer extension. If it gets done quicker, it
10 comes down quicker. So, we don't have to explain to
11 someone why it looks like we lied to them.

12 MS. FAIRWEATHER: I agree.

13 CHAIRMAN VIVONA: That is the only
14 comment I have. I know it is not your fault. It is
15 PSE&G's fault. It is everything, but we are
16 responsible for Chatham. So, for next time, that is
17 what we should do.

18 As far as this goes, what can we do? I
19 mean, our hands are tied. The things are up there.
20 There is no other damage.

21 MS. FAIRWEATHER: One of the sad parts
22 is, is that as far as we are behind here, we have
23 our approvals and we don't have any other issues.
24 So, we hopefully will make the spring. That will be
25 one the first ones off in the whole -- off from the

1 temporary to the permanent in all the other towns.

2 MS. KENNY: Really?

3 MR. ALEC NORRIS: None of these are
4 in construction yet?

5 MS. FAIRWEATHER: Yes.

6 MS. KENNY: Hypothetically, if we
7 voted no, which I don't think we would, what would
8 you do?

9 MS. FAIRWEATHER: Panic for about an
10 hour or two. File a temporary restraining order,
11 because we are taking down a telephone system.

12 MS. KENNY: You could do that.

13 CHAIRMAN VIVONA: We still have like
14 19 more people to do, so I think we are ready to put
15 this to a vote.

16 So, someone make a motion please to
17 extend the application.

18 MR. HYLAND: I move.

19 CHAIRMAN VIVONA: Can I have a second
20 on his move?

21 MR. BORSINGER: Second.

22 CHAIRMAN VIVONA: Okay.

23 Roll call, please.

24 SECRETARY TSIMBOUKIS: Mr. Vivona?

25 CHAIRMAN VIVONA: Yes.

1 SECRETARY TSIMBOUKIS: Mrs. Kenny?

2 MS. KENNY: Yes.

3 SECRETARY TSIMBOUKIS: Mr. Weston?

4 MR. WESTON: Yes.

5 SECRETARY TSIMBOUKIS: Mrs. Romano?

6 MS. ROMANO: Yes.

7 SECRETARY TSIMBOUKIS: Mr. Styple?

8 MR. STYPLE: Yes.

9 SECRETARY TSIMBOUKIS: Mr. Borsinger?

10 MR. BORSINGER: Yes.

11 SECRETARY TSIMBOUKIS: Mr. Hyland?

12 MR. HYLAND: Yes.

13 MR. SHAW: We will have a resolution
14 for you on the 19th.

15 MS. FAIRWEATHER: Thank you, sir.

16 Thank you everyone.

17 (Hearing concluded at 9:44 p.m.)

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CERTIFICATE

I, RITA GARDNER, Notary Public of the State of New Jersey and a Certified Court Reporter, do hereby certify that the foregoing is a true and accurate transcript, to the best of my ability, of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative or employee of such attorney or counsel, and that I am not financially interested in the action.



Notary Public of the State of New Jersey

Dated: November 9, 2015

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New Jersey Rules Governing Civil Practice

Part IV, Rule 4:14

Depositions Upon Oral Examination

4:14-5. Submission to Witness; Changes; Signing

If the officer at the taking of the deposition is a certified shorthand reporter, the witness shall not sign the deposition. If the officer is not a certified shorthand reporter, then unless reading and signing of the deposition are waived by stipulation of the parties, the officer shall request the deponent to appear at a stated time for the purpose of reading and signing it. At that time or at such later time as the officer and witness agree upon, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, and any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness. If the witness fails to appear at the time stated or if the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the witness' failure or

refusal to sign, together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress under R. 4:16-4(d) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.