

PB# 96-11

**PUBLIC UTILITY COMMUNICATION
FACILITY**

65-1-17

96 - 11 Public Utility Communications Facility
(Bell-Atlantic) Dean Hill Rd. (Clough-Harbour)

Approved
1-13-97

Planning Board

Town Hall

555 Union Avenue

New Windsor, NY 12550

MADE IN U.S.A.
© Wilson Jones, 1989

DATE April 15, 1996 RECEIPT NUMBER 96-11
 RECEIVED FROM Bell Atlantic NYNEX Mobile
 Address 180 Washington Valley Rd. - Bedminster, NJ 07921
Sever Hundred Fifty 00/100 DOLLARS \$750.00
 FOR Site Plan Escrow

ACCOUNT			HOW PAID		
BEGINNING BALANCE	750	00	CASH		
AMOUNT PAID	750	00	CHECK	#	305717
BALANCE DUE	-0	-	MONEY ORDER		

A. Zappalo
 BY Theresa Mason, Secy to the P.B.

TOWN OF NEW WINDSOR

555 Union Avenue
 New Windsor, NY 12550

GENERAL RECEIPT

15141

April 15 1996

Received of Clough, Harbour + Assoc. LLP \$ 100.00
One Hundred 00/100 DOLLARS

For Special Perm. Application P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
<u>CR # 2103</u>		<u>100.00</u>

By Dorothy N Hansen

Town Clerk

Title

TOWN OF NEW WINDSOR

555 Union Avenue
 New Windsor, NY 12550

GENERAL RECEIPT

15142

April 15 1996

Received of Clough, Harbour + Assoc LLP \$ 100.00
One Hundred 00/100 DOLLARS

For Application Fee P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
<u>CR # 2410</u>		<u>100.00</u>

By Dorothy N Hansen

Town Clerk

Title

DATE January 7, 1997RECEIVED FROM Bell Atlantic NynexRECEIPT NUMBER 96-11

7

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15441

April 15 1996

Received of Clough, Harbour + Ass LHP \$ 100.00

One Hundred 00/100 DOLLARS

For Special Perm. Application P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
CR # 2103		100.00

By Dorothy H Hansen

Town Clerk

Title

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15442

April 15 1996

Received of Clough, Harbour + Ass LHP \$ 100.00

One Hundred 00/100 DOLLARS

For Application Fee P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
CR # 2410		100.00

By Dorothy H Hansen

Town Clerk

Title

Wilson Jones • Consultants • S1632 4W/CL Duplicate • S1644
Planning Board
Town Hall
555 Union Ave.
New Windsor, NY 12553
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DATE January 7, 1997 RECEIPT NUMBER 96-11 7

RECEIVED FROM Bell Atlantic Nynex

Address 180 Washington Valley Road - Redminister, NJ 07921

One thousand Eight Hundred Eighty Six 17/100 DOLLARS \$ 1,886.17

FOR 2% of Cost Estimate \$ 94,308.61 - Inspection fee

ACCOUNT		HOW PAID	
BEGINNING BALANCE	1,886 17	CASH	
AMOUNT PAID	1,886 17	CHECK	# 605984
BALANCE DUE	- 0 -	MONEY ORDER	

Theresa Morrison
BY Theresa Morrison, Secy to the P.B.

Town Clerk

TITLE

Emg. \$484.00

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15141

April 15 1996

Received of Clough, Harbour & Ass. LLP \$ 100.00
One Hundred 00/100 DOLLARS

For Special Perm. Application P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
ck # 2103		100.00

By Dorothy H. Hansen
Town Clerk
Title

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15442

April 15 1996

Received of Clough, Harbour & Ass. LLP \$ 100.00
One Hundred 00/100 DOLLARS

For Application Fee P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
ck # 2410		100.00

By Dorothy H. Hansen
Town Clerk
Title

DATE December 16, 1996 RECEIPT NUMBER 96-11

RECEIVED FROM Clough, Harbour & Associates LLP

Address P.O. Box 5269 - Albany, N.Y. 12205

Twenty Eight 00/100 DOLLARS \$ 28.00

FOR Addition to close out Escrow.

ACCOUNT	HOW PAID
BEGINNING BALANCE 28 00	CASH
AMOUNT PAID 28 00	CHECK # <u>005927</u>
BALANCE DUE - 0 -	MONEY ORDER

[Signature]
12/17/96
BY Thyra Mason, Secy to the P.B.
Town Clerk
TITLE

MADE IN U.S.A.
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WILLIAMSON LAW BOOK CO., VICTOR, NY 14564

Emg. 5484.00

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15141
April 15 1996

Received of Clough, Harbour + Ass LHP \$ 100.00
One Hundred 00/100 DOLLARS

For Special Perm. Application P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
CR # 2103		100.00

By Dorothy H Hansen
Town Clerk
Title

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15442
April 15 1996

Received of Clough, Harbour + Ass LHP \$ 100.00
One Hundred 00/100 DOLLARS

For Application Fee P.B. # 96-11

DISTRIBUTION

FUND	CODE	AMOUNT
CR # 2410		100.00

By Dorothy H Hansen
Town Clerk
Title

TOWN OF NEW WINDSOR
55 Union Avenue
New Windsor, NY 12553

General Receipt

11477
Dec 17 1996

Received from Clough, Harbour + Ass \$ 100.00
One Hundred 00/100 DOLLARS

for P.B. # 96-11

DISTRIBUTION:

FUND	CODE	AMOUNT
CR # 8728		100.00

By Dorothy H. Hansen
Town Clerk
TITLE

WILLIAMSON LAW BOOK CO., VICTOR, NY 14564

Emy. 5484.00

VISUAL RESOURCE EVALUATION

**TOWN OF NEW WINDSOR
ORANGE COUNTY
NEW YORK**

October, 1995

Submitted by

BELL ATLANTIC NYNEX MOBILE INC.
46 Broadway
Menands, New York 12204
(518) 433-0185

Prepared by:

CLOUGH, HARBOUR & ASSOCIATES
Engineers, Surveyors, Planners
& Landscape Architects
III Winners Circle
Albany, New York 12205
(518) 453-4500

VISUAL RESOURCE EVALUATION

The following "Visual Resource Evaluation" has been conducted to determine which areas within the Town of New Windsor will contain views to the proposed 180 foot communications tower as proposed by Bell Atlantic NYNEX Mobile.

Landscape Setting:

The landscape setting for the project area is the Hudson Valley. According to the Town's zoning ordinance, the project site is zoned as open space residential. Surrounding areas within the general viewshed are zoned suburban residential to the north and south, rural residential to the west and planned industrial to the east of the project site. The landscape within this viewshed area is characterized by flat to hilly topography. This topography ranges in elevation from sea level to approximately 700 feet above mean sea level (AMSL). Vegetation consists primarily of mixed hardwood forests, open fields and wetland areas. Sugar maple, beech, basswood, American elm, white ash and yellow birch are the predominant forest species, while gray dogwood, eastern red cedar, and hawthorne are the predominant successional shrubland species.

The proposed site is located near a Central Hudson Gas & Electric utility right-of-way for overhead transmission lines at an elevation of approximately 500± feet AMSL and can be reached via an existing NYNEX right-of-way from Dean Hill Road. The proposed facility is located approximately 15 feet below the summit of the hill where the Central Hudson and NYNEX rights-of-way intersect. The site is surrounded by mature deciduous and coniferous vegetation. The proposed communications facility includes a 180 foot self-supporting tower. The tower will be constructed of galvanized steel. The small, one story, pre-fabricated equipment shelter will have an exposed aggregate earth-tone facade. The base of the tower and equipment shelter will be enclosed by a chain link fence. The access road and turnaround area will be gravel. The site will maintain its natural drainage patterns.

Methodology:

On August 30, 1995, Clough, Harbour & Associates conducted a field investigation for the purpose of delineating the viewshed associated with a proposed 180 foot tall tower at the project site. The methodology utilized during this field investigation is a "balloon test". The proposed tower was simulated by flying three four foot diameter helium filled weather balloons at the location where it will be constructed. Conditions were good, with clear skies and wind speeds reduced to approximately five to ten knots. The balloons were maintained at a height of 180 feet above ground level.

With the balloons in place, nearby local, county, and state roads were surveyed to identify the location and extent of all areas from which the balloons were visible. Photographs were taken from various vantage points to document the actual view toward the balloons, as well as the general character of the viewshed. The balloons are visible in photographs 2, 3, 4, 8, 10, 12, and 13; and

therefore, the tower will be visible from these vantage points. The balloons are not visible in photographs 1, 5, 6, 7, 9, and 11; and therefore, the tower will not be visible from these locations. Each photograph includes a brief description of the location and orientation from which it was taken.

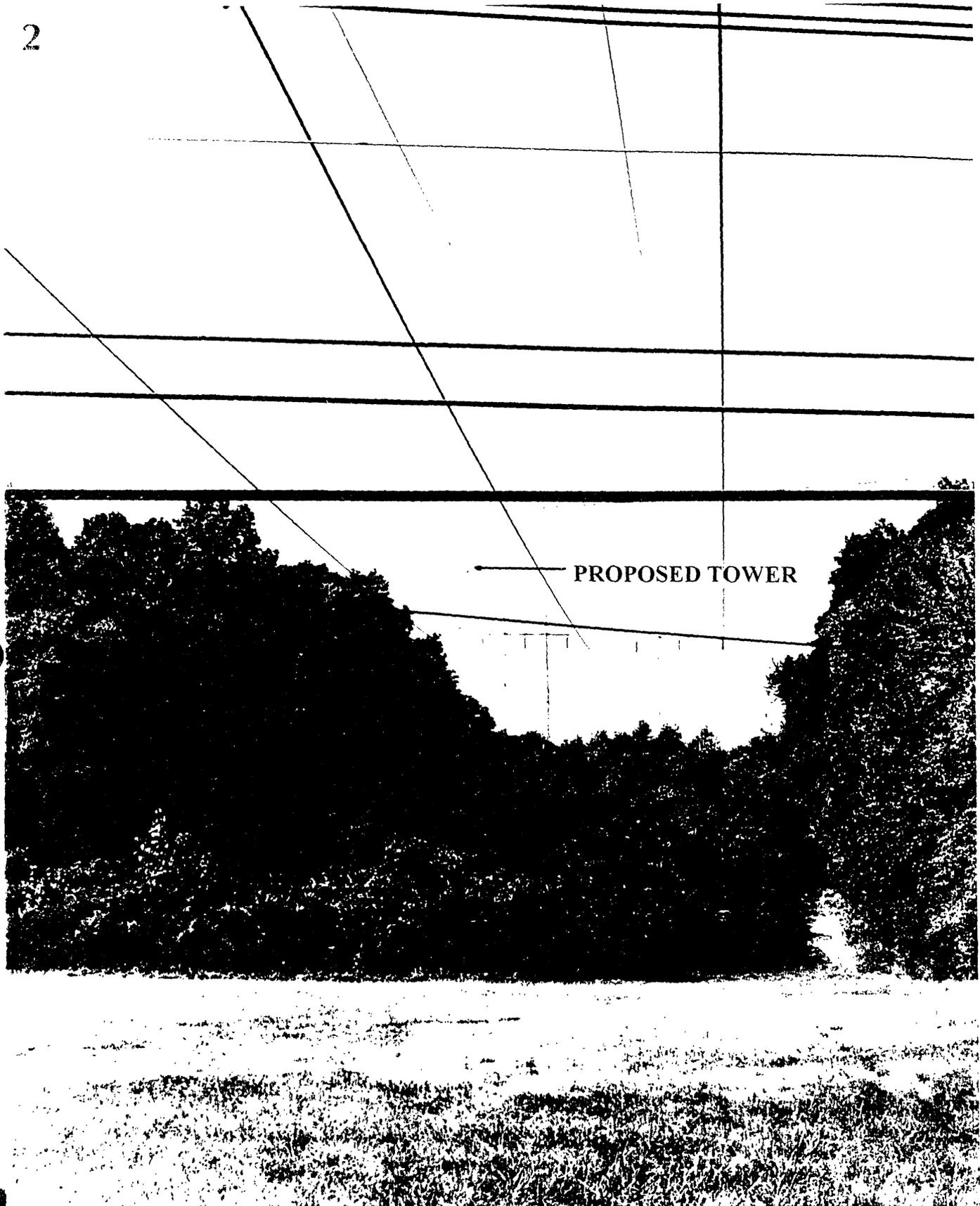
Following the completion of the balloon test, the vantage points from which the photographs were taken were plotted on a USGS quadrangle map. Cross sections were developed through the proposed tower location to identify the maximum limits of the viewshed, or the area from which existing topography would permit a view of the tower, absent obstructions such as, vegetation and buildings. Next, using available vegetation maps of the area, which were verified during the field investigation, existing vegetation lines were plotted on the cross sections to identify the areas within the viewshed where vegetation would obstruct the view of the proposed tower.

The accompanying Viewshed Analysis Map presents the results of the evaluation described above. Different symbols and/or colors are used to differentiate between areas from which the tower will be visible and areas from which the view of the tower will be blocked by topography and/or vegetation. The viewshed analysis map presents a conservative delineation of the viewshed, since any area from which any part of the tower will be visible is presented as a "visible area". In actuality, the views from many of these areas will be partially obscured by vegetation or buildings, or only the very top of the tower may be visible. Additionally, the map does not provide any indication of how prominent the view of the tower will be from the visible areas; ie., whether the tower will be viewed as part of the foreground, midground, or background. For these reasons, it is important to refer to the photographs to gain the perspective that is needed to clearly interpret any impact the proposed tower may have on the visual environment. Photograph locations are shown on the Viewshed Analysis Map.

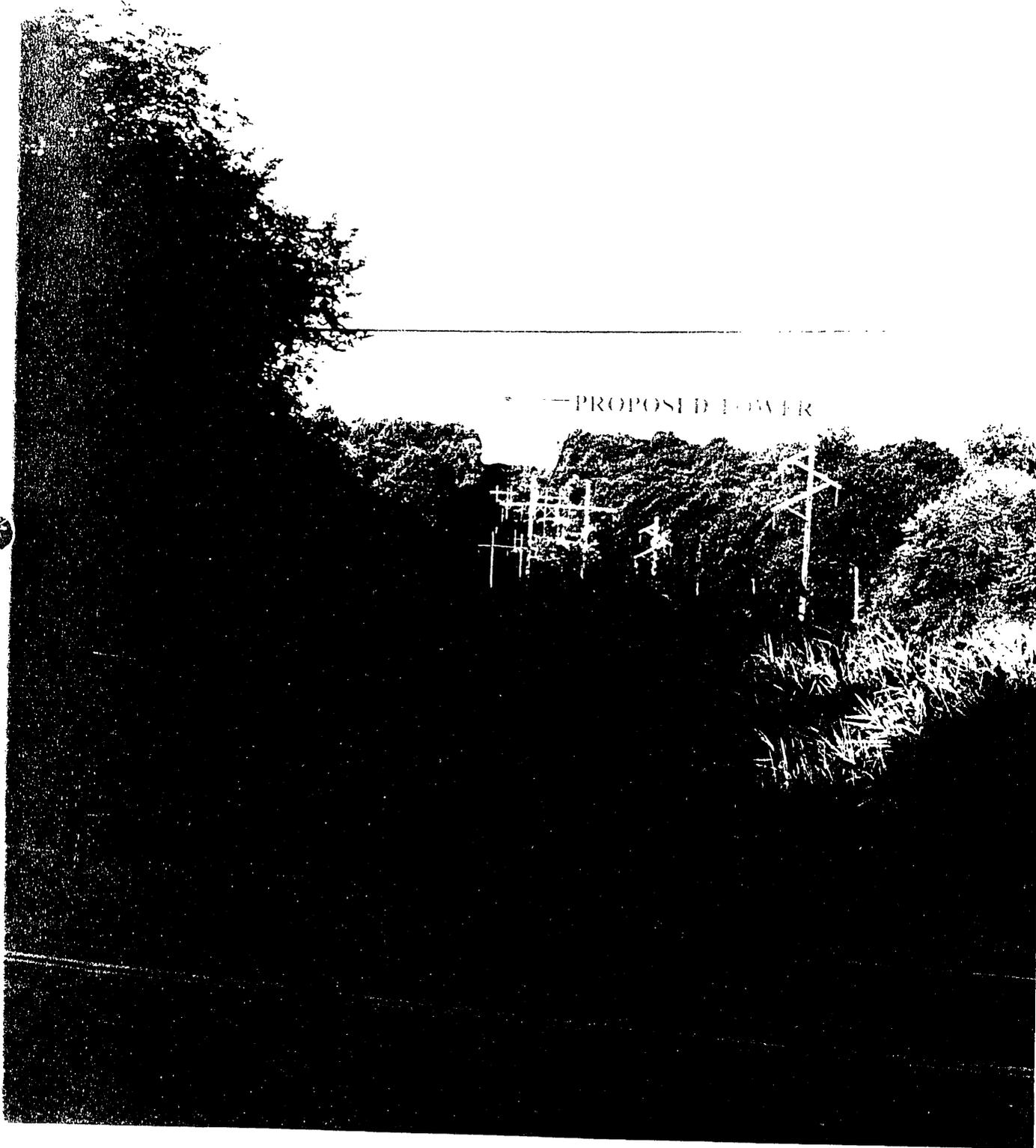


1. View from Knox Headquarters State Historic Site
looking northwest towards the proposed tower. Not Visible.

2



2. View from Riley Road looking west towards the proposed tower.

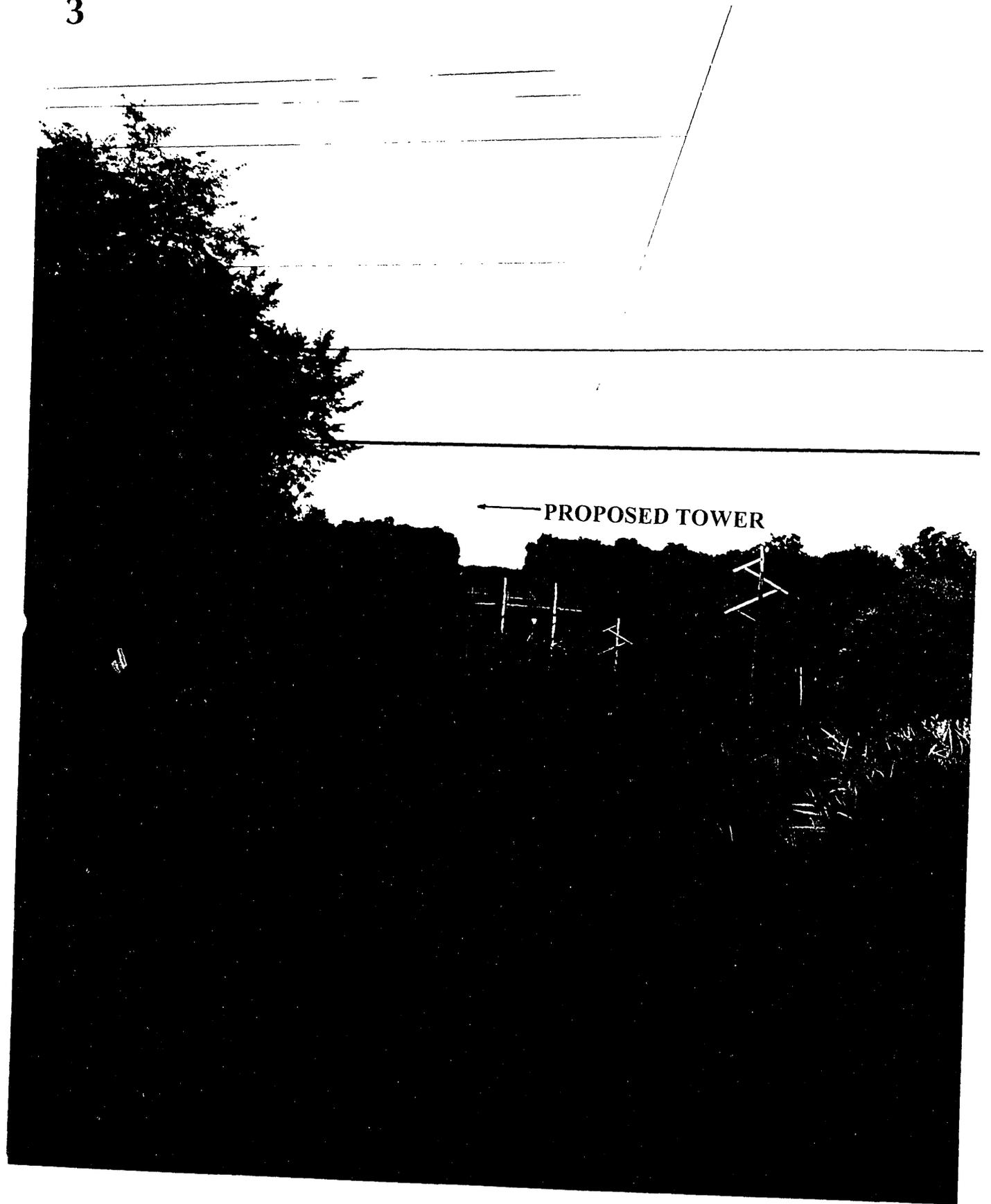


— PROPOSED TOWER

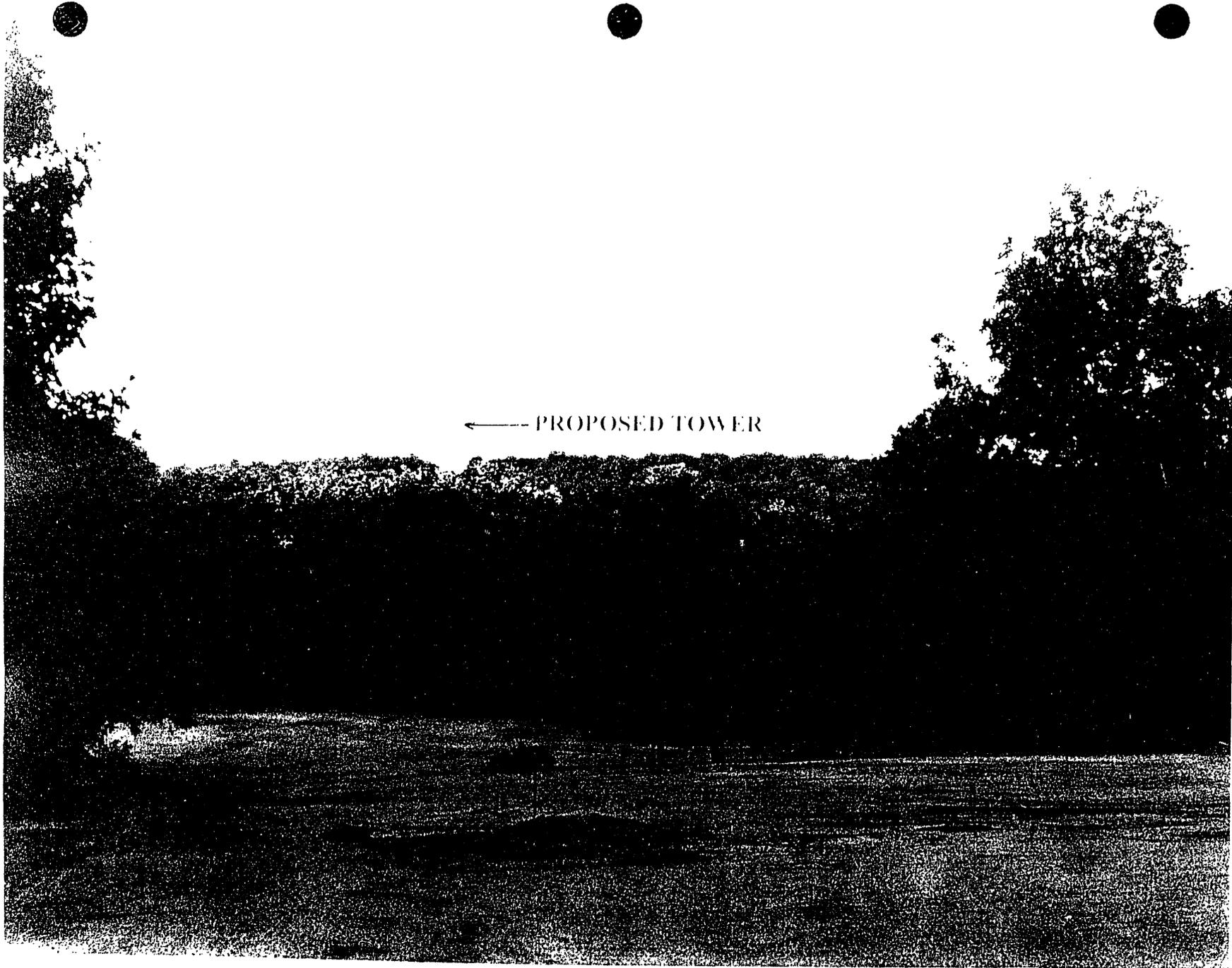
View looking west towards the proposed tower

RETAKE
OF
PREVIOUS
DOCUMENT

3



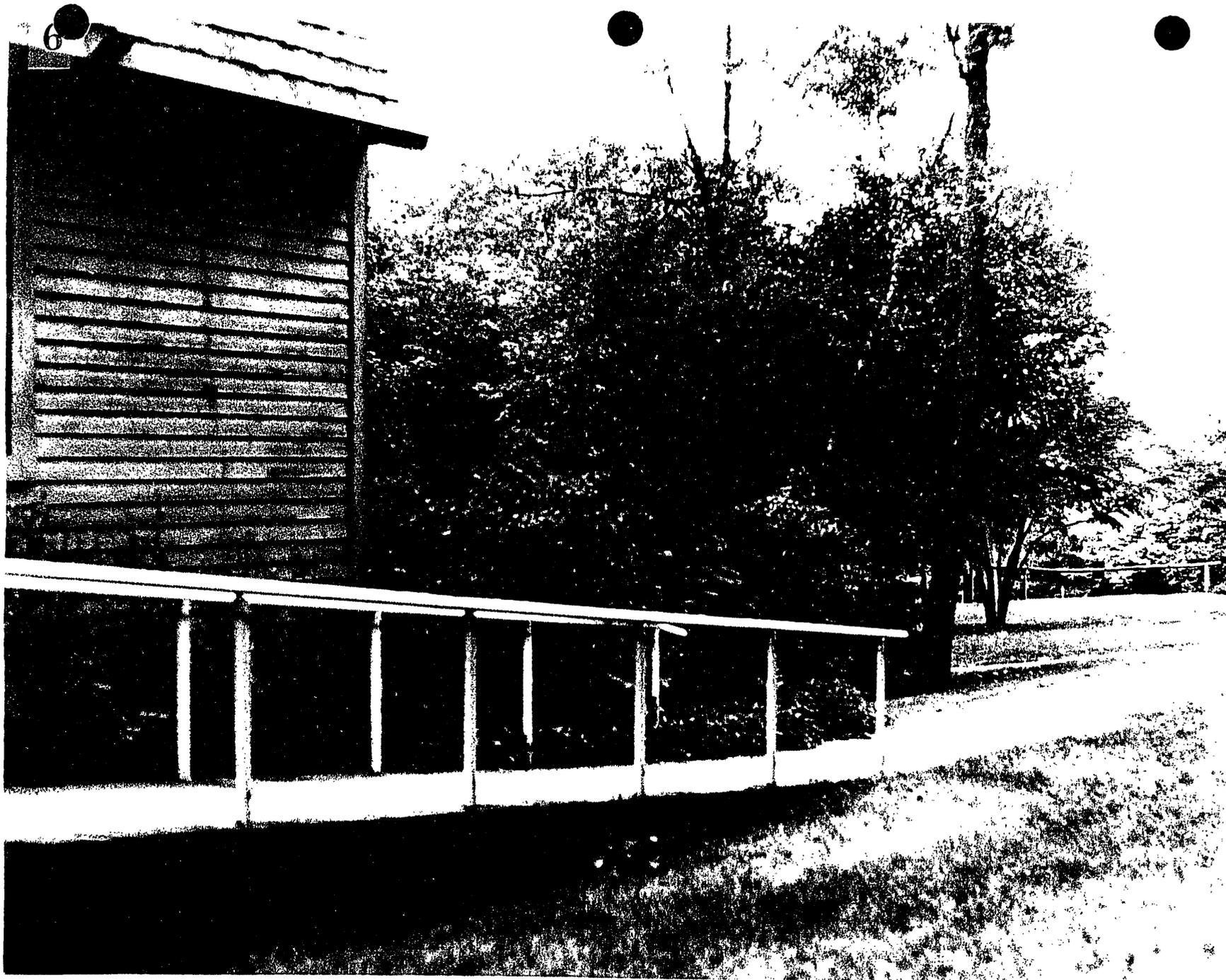
3. View from Route 300 looking southwest towards the proposed tower.



4. View from the entry gate at new Windsor Cantonment State Historic Site looking southwest towards the proposed tower.



3. View from the Monument at New Windsor Cantonment State Historic Site looking southwest towards the proposed tower. Not Visible.



6. View from the Visitor Center at New Windsor Cantonment State Historic Site looking southwest towards the proposed tower. Not Visible.



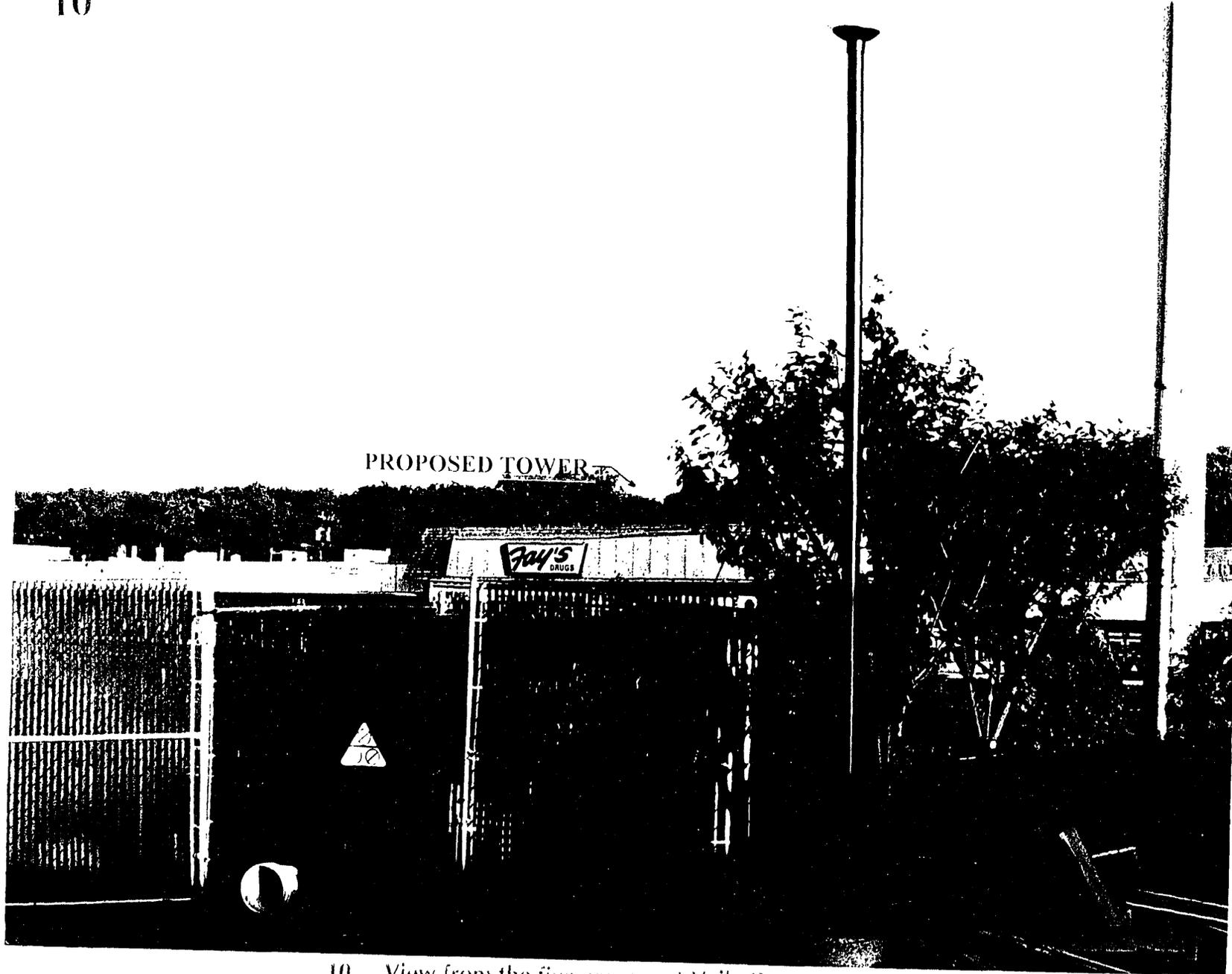
View from the Last Encampment of the Continental Army along Route 300
looking southwest towards the proposed tower. Not Visible.



8. View from Southgate Village Apartment Complex off of Route 32 looking west towards the proposed tower.



9. View from St. Josephs Elementary School
looking west towards the proposed tower. Not Visible.



10. View from the five corners at Vails Gate looking northwest towards the proposed tower.



11. View from the Community Park off of Route 69 looking southwest towards the proposed tower. Not Visible.



12. View from the New Windsor Municipal Building looking south towards the proposed tower.



13 View from Mount Airy Road looking east towards the proposed tower.

CONSULTING REPORT

BY

AMERICAN PROPERTY COUNSELORS
Real Estate-Market Studies-Appraisals
80 Business Park Drive
Armonk, New York 10504

**STATEMENT OF OPINION
RELATIVE TO
PROPOSED TRANSMISSION TOWER**

**TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK**

APC File #6019

AMERICAN PROPERTY COUNSELORS

REAL ESTATE ANALYSIS • MARKET STUDIES • APPRAISALS

80 BUSINESS PARK DRIVE
ARMONK, NEW YORK 10504
TELEPHONE (914) 273-4000
FAX (914) 273-4099

March 30, 1996

Ruth B. Rosenberg Esq.
Nixon, Hargrave, Devans & Doyle
One Thomas Circle - Suite 800
Washington, D.C. 20005

Re: Proposed transmission tower for Bell Atlantic NYNEX Mobile
Town of New Windsor, Orange County, New York

Dear Ms. Rosenberg:

At your request, we have inspected the area of a transmission tower site in the Town of New Windsor, Orange County, New York, and gathered data pertinent to what impact, if any, a proposed new tower may have on the market value of nearby properties.

This report includes a description of the tower proposal and a summary of our analyses and findings through studies of other similar towers.

Based on our observations and objective studies, we consider it unlikely that the new tower will influence surrounding land use patterns or alter nearby property values.

If you should have any questions regarding this report, or if we can provide any further assistance or clarification in this matter, please feel free to call.

Sincerely yours,
AMERICAN PROPERTY COUNSELORS



By: Harvey D. Cohen, MAI

HDC/LK

Introduction

This study is intended to provide some general and specific background on the effects which communications towers have had on land use patterns and market values. Our study consists of a description of a proposed transmission tower which Cellco Partnership, by its managing general partner Bell Atlantic NYNEX Mobile, Inc. (Bell Atlantic NYNEX Mobile) proposes to install in New Windsor, some observations near an unusually large radio tower in this region, and value impact studies of two other towers in Orange County and three in neighboring Dutchess County.

The Proposal Under Review

Our study concerns a leased site at the end of an existing NYNEX right-of-way off the north side of Dean Hill Road. This is in the Town of New Windsor, Orange County, New York. The leased site is part of a property designated on New Windsor tax maps as parcel 65-1-17. The property is now owned by Herbert L. and Marjorie N. Kartiganer.

The tower site is part of a 25.63 acre parcel of vacant backland between Dean Hill Road (to the south and west) and Riley Road (to the north and east). The rear of the property is bordered by a Central Hudson Gas & Electric powerline easement. Access is over a dirt road which now extends to Dean Hill Road.

The Bell Atlantic NYNEX Mobile proposal calls for a self-supporting 180' high tower with a one story, unmanned equipment shelter at the tower's base. The facility will be used to relay cellular telephone communications. The installation will be surrounded by an 8 foot high chain link fence. The area of the site to be leased will be a 100 foot square (10,000 SF) of land, approximately fifteen feet south of where the existing NYNEX right-of-way and the Central Hudson right-of-way cross. Access will be over the existing dirt road from Dean Hill Road.

The proposed tower site is at an elevation approximately 500' above sea level, well above the level of nearby roads. The tower site was recently logged, but selectively. There are enough trees remaining to obscure the proposed tower from surrounding properties. The tower site itself is bordered by vacant, partially wooded land on all sides. The only visible improvement is the Central Hudson Gas & Electric powerline to the north.

The surrounding neighborhood is partly suburbanized but still semi-rural. Zoning is for residential development on lots of at least two acres each, but many nearby properties are even larger. The nearest homes are well-maintained, owner-occupied single family dwellings along Dean Hill Road. The styles and ages of these homes vary, but several seem to have been built within the last five years. These appear to be the closest homes to the tower site. Homes along Riley Road to the north also vary in age, size and style, but tend to be older and in a slightly lower price range.

Brown's Pond and Silver Stream Reservoir are both a short distance west of the site, which contributes to the semi-rural character of the neighborhood. Much land remains undeveloped, which is indicative of an abundance of land in the region. Even if we see a dramatic surge in regional growth, there is buildable land throughout Orange County, and we expect that the

supply of land will continue to exceed demand. We anticipate that the subject neighborhood will maintain its semi-rural appearance for years to come.

In summary, the influence of the proposed tower in this location will be limited by a scarcity of immediate neighbors, by its semi-rural setting, by steep terrain, and by trees which help isolate the tower from many of the existing homes in the neighborhood. As future development takes place in the neighborhood, we do not expect the tower to have a measurable influence on surrounding lands for the same reasons.

Impact Studies

Real estate analysts are sometimes called upon to make studies of the impact that selected circumstances have on adjacent properties. So-called "impact studies" seek to objectively measure a change in market behavior or market prices resulting from a change in physical conditions nearby. For example, the completion of a new highway, a new transit system or a new sewer line, or the imposition of a special property tax, all have the potential to change nearby land use patterns or property values. Impact studies have been prepared by American Property Counselors to measure the effects of new highways and new powerlines on adjacent house values, to judge the effects of a sanitary landfill, and to measure the diminution of land value caused by conservation easements.

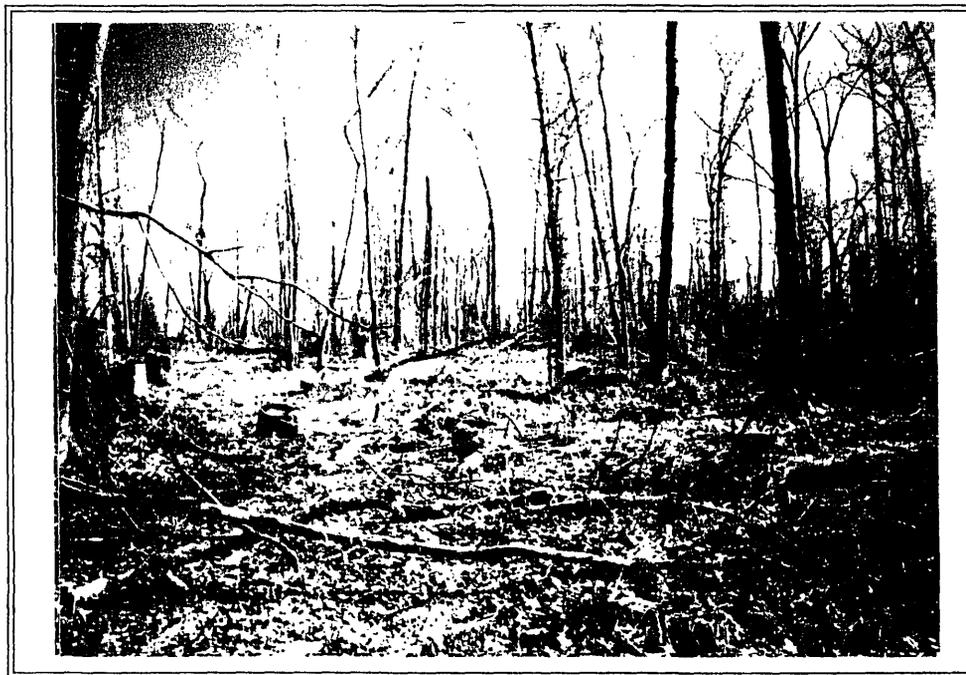
Impact studies work with selected groups or pairs of similar properties which are affected by, or insulated from special conditions. A highway impact study might focus on similar tract houses adjacent to and away from the highway. We might look at the prices such houses sell for, how readily they sell, how often they sell, how fast their values appreciate, and how readily nearby land is developed with new houses.

A new highway or powerline does not always produce a change in adjacent property values. When a homeowner loses part of his front yard for a highway widening, the loss may be a dramatic change for that homeowner. When the house is resold, the new buyer is not aware that the front lawn had previously been larger. As a result, he may pay the same price the house might have sold for when the lawn was larger. The purpose of an impact study is not to measure the change in conditions, but to measure the effects of that change upon prices.

SUBJECT PHOTOGRAPHS



A view of the dirt road leading to the proposed tower site. This is part of a NYNEX easement. The immediate area is undeveloped. This view is to the south, toward Dean Hill Road.



The tower will be in this area, just south of the Central Hudson Gas & Electric easement. This view is to the northeast.

SUBJECT PHOTOGRAPHS



Two views of the Central Hudson Gas & Electric easement showing the surrounding area. The upper photo looks northeast, toward Riley Road. The lower photo is to the southwest, toward Dean Hill Road.



Observations - Alpine, New Jersey

There is a very dramatic example of land use adjacent to a tower in this region, which we can observe as an introduction to our impact studies. This is the Armstrong tower in Alpine, New Jersey, near Palisades Interstate Parkway and just south of the New York state line. Alpine, New Jersey is one of the most affluent suburbs in the New York metropolitan area.

This self-supporting 416 foot high tower has a broad base and three horizontal spars festooned with antennas. It was built in 1937 by Edwin Armstrong, the inventor of FM radio, for radio broadcasting. It is readily visible from the Tappan Zee Bridge and many other points miles away. From close up, the tower is unavoidable and overwhelming.

The land surrounding the Armstrong tower was subdivided in the mid-1980's and is now a community called Timberline at Alpine. Lots near the tower were among the first built, and the development has been expanded. New houses are still being built within sight of this tower. Vacant two acre lots have sold for prices above \$700,000 each, and most houses are worth between \$1,500,000 and \$4,000,000. We are including several photographs of these houses, showing their proximity to this 416 foot high communications tower.

The Armstrong tower in Alpine is admittedly an extreme example. Few radio towers are built in this way today -- so high, so broad and so visible. Still, the tower has obviously not deterred construction on surrounding lands. Lots and houses have sold readily in Timberline at Alpine and the location is well established as a prized address.

TIMBERLINE AT ALPINE, NEW JERSEY



This 416 foot tower is much closer than it appears to be in this photo, it is literally at the center of this luxury home development.



Many of the homes in this development have their own private tennis courts and pools.

TIMBERLINE AT ALPINE, NEW JERSEY



This is a very large new house which was in the early stages of construction, when this photo was taken. The 416 foot tall tower is above the trees on the left.

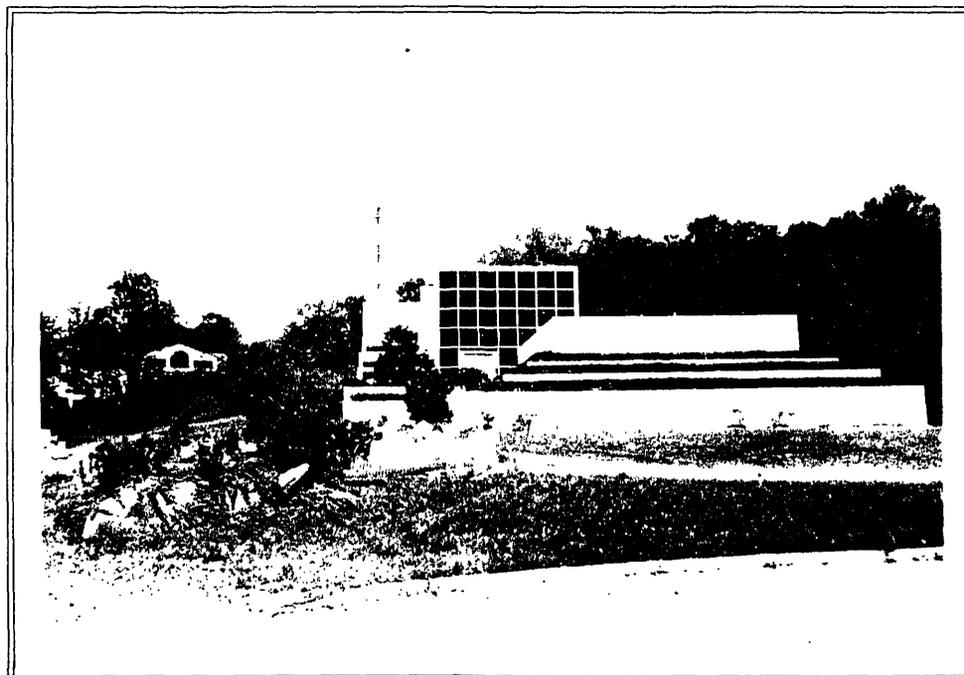


On the right is another new home under construction. Note the elaborate white brick walls being built along the road.

TIMBERLINE AT ALPINE, NEW JERSEY



These views show two custom homes with clear views of the tower.
When this photo was taken in mid-1994, a new house was
being built on the lot to the left.



TIMBERLINE AT ALPINE, NEW JERSEY



Note the tower on the right.



The tower is above the trees on the left. This was taken in front of a very large sandstone mansion with a heavy wrought iron fence. Nearly all houses in this neighborhood have views of this tower.

Impact Study - Orange County, New York

We looked specifically for communications towers in Orange County to see what impact they have had on surrounding property values. We were able to find and investigate two such towers; in the towns of Hamptonburgh and Newburgh. Both towers have been in place long enough to give a fair indication of their influence on surrounding land use patterns.

Unlike areas which are more fully developed, Orange County has an enormous surplus of vacant land suitable for new houses. Builders and home buyers have a choice, and it is not at all difficult to find a homesite distant from a communications tower. It is interesting to note that most of the homes we found near the towers in this study were built *after* the tower was erected. We will see that prices for homes near the towers are comparable to or greater than the prices of similar homes which are not near a tower.

Tower Example 1: This tower is on the east side of Ridge Road in Hamptonburgh. The tower site is just south of the intersection with Sarah Wells Trail and east of an active Conrail line. This was recently farmland, and most of the land is gently rolling and cleared. Ridge Road slopes down from south to north, and the tower sits at a relatively low point with regard to surrounding lands. This makes the site more visible.

The tower in Hamptonburgh is a 188' skeletal steel microwave tower built in 1967 by AT&T. At the base of the tower is a one story concrete block building, and the site is surrounded by an 8' high chain link fence.

Since 1967 a number of homes have been built along Ridge Road and Sarah Wells Trail, close to this tower. Many of the homes on Ridge Road, south of the tower, have unobstructed views of the tower due to the sloping terrain of Ridge Road. In addition, two new upscale residential subdivisions (known as Kimberly Estates and Arbor Road) are still being developed just north of the tower, off Sarah Wells Trail. Kimberly Estates and Arbor Road are less than one-half mile from this microwave tower.

Following is a summary of some real estate sales surrounding the tower site in Hamptonburgh. Note that there have been lot sales purchased to build new homes within sight of the tower. A number of existing homes within sight of the tower have also sold.

TOWER EXAMPLE 1
RESIDENTIAL PROPERTY SALES NEAR HAMPTONBURGH TOWER

LOCATION	STYLE		SIZE(AC)	DATE SOLD	SALE PRICE
Ridge Road	Vacant land		5.40	8/91	\$63,000
Ridge Road	Vacant land		5.00	4/87	\$69,000
Ridge Road	Vacant land		5.30	4/86	\$31,000
Ridge Road	Vacant land		5.50	4/85	\$19,900
LOCATION	STYLE	AGE	SIZE(SF)	DATE SOLD	SALE PRICE
Ridge Road	Colonial	1987	3,456	1/88	\$385,000
Ridge Road	Log Cabin	1990	1,980	7/93	\$192,000
Ridge Road	Raised ranch	1975	1,236	9/90	\$165,000
Arbor Road	Colonial	1988	2,640	9/92	\$239,000
Arbor Road	Split level	1982	2,664	1/92	\$215,000
Arbor Road	Colonial	1988	3,259	12/92	\$298,000
Arbor Road	Brick ranch	1983	2,000	2/88	\$245,000
Arbor Road	Cape Cod	1984	2,200	6/93	\$210,000
Arbor Road	Colonial	1983	2,186	1/87	\$195,900
Arbor Road	Ranch	1980	2,273	4/94	\$195,900
Kimberly Dr.	Colonial	1992	2,483	7/93	\$215,000
AVERAGES			2,398		\$232,345

For comparison, here are median house prices for the Town of Hamptonburgh, compiled by the Orange County Board of Realtors Multiple Listing Service.

<u>Reporting Period</u>	<u>Median Price</u>
12/89	\$175,000
12/90	190,000
12/91	131,000
12/92	168,614
12/93	190,863
12/94	179,719

Median house prices fluctuate from one period to another because each reflects only about 12 to 15 sales reported within Hamptonburgh. Only one high-priced sale, say a home with acreage, can distort the statistics of an individual year. Hamptonburgh is still high on the regional price range. Of 1,928 Orange County home sales in 1994, the median house price was \$135,210. The house prices near this tower in Hamptonburgh are clearly much higher than local and regional price norms.

Impact Study - Comparison Methodology

We have researched and analyzed sales and resales of homes situated in close proximity to an established communications tower in Orange County. Comparing these sales of homes near the tower with similar homes in non-proximate locations provides us with some guidance as to whether proximity to a communications tower affects home value. We also have two homes in close proximity to the tower which have resold. From these sales we can surmise continued appeal and marketability, and also analyze rates of price appreciation.

Sale A is a wood frame two story home at the intersection of Sarah Wells Trail and Ridge Road, directly across the street from the Hamptonburgh tower. Situated on a 0.84 acre site, the home sold in 1970 for \$40,000. The home resold in January, 1987 for \$125,000. This is an increase in value of 212.5%, or +12.5% per year over 17 years.

Sale B is a ranch-style wood frame home built in 1966. It adjoins Sale A to the east and is situated on a 0.94 acre site in close proximity to the tower. This home has 6 rooms, 3 bedrooms, 1 full bath and 1 half bath. It has a full basement, one fireplace, and contains 1,528 SF of finished living area. This home sold in August, 1983 for \$72,500. It resold in January, 1985 for \$82,000, an increase of 13.1% in 17 months, or +9.25% per year appreciation.

Both properties appreciated at rapid rates, similar to or greater than regional norms. Both of these properties demonstrate the continued desirability and marketability of homes near communications towers.

Tower Example 2: This tower is located at the rear of the Plattekill Service Plaza on the northbound lane of the New York State Thruway. This service plaza is actually located in the northern portion of the Town of Newburgh, adjacent to a relatively new housing development. The tower site is located off Heinsman Lane, between Barn View Lane and Acorn Drive, both private roads. Most of the surrounding land varies from level to gently rolling, with a mix of lightly wooded and cleared areas. The terrain of Heinsman Lane slopes up to the west before dropping off toward the Thruway. The tower under study sits at the grade of the Thruway, which is a relatively low point with regard to surrounding lands.

The original tower on this site was 140' tall, but in September 1995 it was replaced with a new cellular tower which is 200' tall.

Since 1988 a number of homes have been built along Heinsman Lane, Barn View Lane, and Acorn Drive, close to the tower. Many of these homes have unobstructed views of the tower, and all were built when the original 140' tower was in place.

Following is a summary of some real estate sales surrounding this tower site in Newburgh.

TOWER EXAMPLE 2
RESIDENTIAL PROPERTY SALES NEAR THRUWAY TOWER - NEWBURGH

<u>LOCATION</u>	<u>STYLE</u>	<u>YEAR BUILT</u>	<u>SIZE (SF)</u>	<u>SITE (AC)</u>	<u>DATE SOLD</u>	<u>SALE PRICE</u>
Acorn Drive	Ranch	1988	1,056	1.1	03/89	\$138,000
Acorn Drive	Raised Ranch	1989	1,444	1.4	10/89	\$150,000
Acorn Drive	Raised Ranch	1989	1,728	1.9	05/89	\$140,000
Heinsman Lane	Raised Ranch	1988	1,584	1.0	12/89	\$140,000
Heinsman Lane	Raised Ranch	1988	2,912	1.1	10/88	\$170,540
Barn View Lane	Ranch	1992	1,056	1.4	01/93	\$115,000
Barn View Lane	Ranch	1992	1,658	1.1	08/92	\$95,000
AVERAGES			1,634	1.29		\$135,506

For comparison, here are average house prices for the Town of Newburgh, compiled by the Orange County Board of Realtors, Multiple Listing Service.

<u>Reporting Period</u>	<u>Median Price</u>
12/88	\$134,686
12/89	\$134,606
12/90	\$130,715
12/91	\$131,071
12/92	\$132,837

It appears that average house prices in the Town of Newburgh during these years fluctuated only slightly. It is interesting to see that the house sales near the Thruway tower in Newburgh are at or slightly above local price norms. It should also be noted that of 1,936 Orange County home sales in 1988, the median house price was \$134,686, slightly below our average for homes near this Thruway tower.

This indicates that prices for homes near the tower are comparable to or greater than the prices of similar homes which are not near a tower.

It should be noted that the proximity of these homes to the Thruway and the Service Plaza probably has a greater impact on market behavior and value than the nearby tower. The Service Plaza is open 24 hours, and the lights and vehicle noise emanating from this location are probably more dramatic influences than the stationary communications tower. Discussions with neighbors indicate that they are less concerned with the tower than the potential adverse effect of highway noise, lights, and litter produced by Thruway travelers.

Impact Study - Dutchess County, New York

We also looked at communications towers in Dutchess County to see what impact they have had on surrounding property values. We investigated three such towers; one in the Town of Hyde Park and two in the Town of Poughkeepsie. All three towers have been in place for well over 20 years, long enough to give a fair indication of their influence on their surroundings.

We found 13 houses which are in close proximity to these three communications towers. These houses were selected because each sold and resold while a large tower was nearby. Some resold more than once. In total, we researched 31 transactions involving houses near towers. We can use this pattern of sales and resales to measure value appreciation over time. The value appreciation of houses near a tower can then be compared with appreciation rates for other Dutchess County houses not near a tower. In effect, we will be using actual market transactions to see if houses near towers appreciate faster or slower than houses not near towers.

It should be noted that most of our sales occurred during 1982-1990, a period of strong economic growth in Dutchess County and the entire Mid-Hudson Valley. This growth was reflected in a very active real estate market where property values appreciated rapidly. This growth in the real estate sector is readily discernable as patterns of appreciation which we have used in formulating meaningful data regarding the effect of communication towers on surrounding property values.

In sharp contrast, the following years (1991 - 1995) were characterized by a dramatic decline in economic activity in the region. This was due in part to the national recession and, at a more local level, the severe re-trenching and cutbacks at International Business Machine (IBM), the largest area employer. A substantial downsizing of the workforce at both the Poughkeepsie and East Fishkill IBM facilities was implemented, and the Kingston mainframe facility was closed. This series of events adversely affected real estate activity in the region. New home construction virtually ceased, and resales of existing homes also dropped off dramatically. In many locations, property values declined to levels prevalent during the mid 1980's.

The result has been that there are not enough newer sales of homes near communications towers to provide meaningful patterns of appreciation or depreciation. For these reasons, the focus of the following impact study is the very active real estate market of 1982-1990.

Tower Example 3: This tower site is on the west side of Route 9G (Violet Avenue) just north of West Dorsey Lane in the Town of Hyde Park. This is a 300 foot tower erected in 1963. It is currently owned and operated by Mid-Hudson Broadcasting Company. The surrounding neighborhood has a mix of local business uses along Route 9G, with houses along West Dorsey Lane.

We looked for home sales in the immediate vicinity of this tower and found three which sold subsequent to the tower's original construction.

Sale 1 is located at the corner of West Dorsey Lane and West View Drive, and consists of a home and an additional vacant lot. The property is 83-85 West Dorsey Lane, and is designated as parcels 6163-01-466596 and 473599 on Hyde Park tax maps. This 1950's wood frame ranch

home contains six rooms, three bedrooms and 1.5 baths. There are 1,942 SF of living area plus a full unfinished basement and a detached two car garage. The property sold on July 12, 1985 for \$96,000, and resold in February 1991 for \$125,000. In analyzing this sale/resale, we arrive at an annual appreciation rate of 5.52%:

	<u>Date of Sale</u>	<u>Sale Price</u>
	July 1985	\$ 96,000
	February 1991	125,000
Difference:	65 months	\$ 29,000
Appreciation:	$\$29,000/\$96,000 = .302$, or 30.2%	
	$.302/65 \text{ months} = .0046$ per month, or 5.52% per year	

Sale 2 is located on West View Drive, a cul-de-sac only a very short distance from Sale 1. Its tax map designation is parcel 6163-01-448600. This property sold in February 1983 for \$60,500 and resold in April 1985 for \$78,000. This wood frame ranch home was built in 1947 and contains six rooms, three bedrooms and one full bath. The house contains 1,332 SF of living space, exclusive of a partially finished basement. An analysis of this sale/resale provides us with an annual value appreciation rate of 13.2%:

	<u>Date of Sale</u>	<u>Sale Price</u>
	February 1983	\$ 60,500
	April 1985	78,000
Difference:	26 months	\$ 17,500
Appreciation:	$\$17,500/\$60,500 = .289$, or 28.9%	
	$.289/26 \text{ months} = .011$ per month, or 13.2% per year	

Sale 3 is 3 West View Drive and is designated as 6163-01-447607 on the Hyde Park tax maps. This property sold in November, 1964 for \$14,000, then resold in August 1991 for \$95,000. This two bedroom ranch style home was built in 1950 and contains 718 SF. The property has a full basement and a one car built-in garage.

	<u>Date of Sale</u>	<u>Sale Price</u>
	November 1964	\$ 14,000
	August 1991	95,000
Difference:	321 months	\$ 81,000
Appreciation:	$\$81,000/\$14,000 = 5.786$, or 578.6%	
	$5.786/321 \text{ months} = .018$ per month, or 21.6% per year	

Tower Example 4: This tower site is located along the south side of Pendell Road in the Town of Poughkeepsie. Situated just east of the intersection with Route 9G (Violet Avenue), this 300 foot tall tower was erected in 1970. This tower is owned and operated by WEOK Broadcasting and is situated on 9.9 acres. The surrounding neighborhood is primarily residential to the north and west. Dutchess Community College is located on Pendell Road and Creek Road, northeast of the tower site, and commercial uses are found along Route 9G.

After researching home sales in the immediate vicinity of this tower, we selected six sales/resales which occurred subsequent to the erection of the tower.

Sale 4 is located at 7 Stuyvesandt Drive, just north of the Pendell Road intersection. This 816 SF wood frame ranch was built in 1954 and is situated on a 0.231 acre site. The property is built on a slab and contains five rooms, three bedrooms and one full bath. All municipal utilities are available to this site. Tax map designation is 6162-07-606785. This property sold in May 1986 for \$63,500, and resold in August 1988 for \$90,000. An analysis of this sale/resale yields the following appreciation rate for this property:

	<u>Date of Sale</u>	<u>Sale Price</u>
	May 1986	\$ 63,500
	August 1988	90,000
Difference:	27 months	\$ 26,500
Appreciation:	$\$26,500/\$63,500 = .4173$, or 41.73 %	
	$.4173/27 \text{ months} = .015$ per month, or 18.55% per year	

Sale 5 is located at 3 Stuyvesandt Drive, at the intersection of Stuyvesandt Drive and Pendell Road and just south of the Sale 4 house. Tax map identification is 6162-07-607769. This one story wood frame house was built in 1956 and has a 0.28 acre site. The home has five rooms, three bedrooms and one full bath and is built on a slab. The property sold in May 1974 for \$23,000 and resold in March 1987 for \$75,000.

	<u>Date of Sale</u>	<u>Sale Price</u>
	May 1974	\$ 23,000
	March 1987	75,000
Difference:	154 months	\$ 52,000
Appreciation:	$\$52,000/\$23,000 = 2.2608$, or 226.08%	
	$2.2608/154 \text{ months} = .0147$ per month, 17.64% per year	

Sale 6 is 41 Pendell Road and is designated as 6162-07-597752 on local tax maps. This ranch style wood frame home was built in 1956 and contains 1,197 SF. The home has five rooms, three bedrooms and one full bath. (A one car attached garage was added in 1989, after our studied sales dates). This property sold in September 1981 for \$35,500 and resold in July 1986 for \$63,500. The property resold again in October 1987 for \$85,000. Appreciation during this six year time frame is calculated as follows:

	<u>Date of Sale</u>	<u>Sale Price</u>
	September 1981	\$ 35,500
	July 1986	63,500
Difference:	70 months	\$ 28,000
Appreciation:	$\$28,000/\$35,500 = .789$ or 78.9%	
	$.789/70 \text{ months} = .01127$ per month, or 13.52% per year	

	<u>Date of Sale</u>	<u>Sale Price</u>
	July 1986	\$ 63,500
	October 1987	85,000
Difference:	15 months	\$ 21,500
Appreciation:	$\$21,500/\$63,500 = .339$, or 33.9%	
	$.339/15 \text{ months} = .0226$ per month, or 27.12% per year	

Sale 7 is located at 52 Pendell Road, and is designated tax parcel 6162-02-639756. This house is virtually adjacent to the tower site. The house is a cape cod style home built in 1947 on a 0.24 acre site. It has five rooms, two bedrooms and one full bath in 1,746 SF. This property sold four different times between 1982 and 1987:

	<u>Date of Sale</u>	<u>Sale Price</u>
	August 1982	\$ 45,000
	September 1985	70,193
Difference:	37 months	\$ 25,193
Appreciation:	$\$25,193/\$45,000 = .560$, or 56%	
	$.560/37 \text{ months} = .0151$ per month, or 18.12% per year	

	<u>Date of Sale</u>	<u>Sale Price</u>
	September 1985	\$ 70,193
	April 1986	83,000
Difference:	7 months	\$ 12,807
Appreciation:	$\$12,807/\$70,193 = .182$, or 18.2%	
	$.182/7 \text{ months} = .0261$ per month, or 31.32% per year	

	<u>Date of Sale</u>	<u>Sale Price</u>
	April 1986	\$ 83,000
	February 1987	105,000
Difference:	10 months	\$ 22,000
Appreciation:	$\$22,000/\$83,000 = .265$, or 26.5%	
	$.265/10 \text{ months} = .0265$ per month, or 31.8% per year	

Sale 8 is located at 118 East Cedar Street, at the intersection with Route 9G (Violet Avenue). Its tax map designation is 6162-07-519770. This two story wood frame house was built in 1932 on a 0.33 acre site. It has six rooms, three bedrooms and one full bath in 1,344 SF. This home sold in October 1980 for \$47,500, and resold in June 1989 for \$115,000. The appreciation rate for this property is:

	<u>Date of Sale</u>	<u>Sale Price</u>
	October 1980	\$ 47,500
	June 1989	115,000
Difference:	104 months	\$ 67,500
Appreciation =	$\$67,500/\$47,500 = 1.4211$, or 142.11%	
	$1.4211/104 \text{ months} = .0136$ per month, or 16.32% per year	

Sale 9 is located at 15 Eugene Court West in the Amato Acres subdivision. This recent residential subdivision of detached single family homes was developed in 1985-1986. Sales activity in the development was brisk and homes sold extremely well. The subdivision is located on the south side of Chestnut Street and the west side of Route 9G (Violet Avenue), less than one block from the radio transmission tower.

This sale property is a wood frame raised ranch situated on a 0.28 acre site. The home has six rooms, three bedrooms and one full bath, and a two car built-in garage. A rear deck was added in 1989, after the property sold. Tax map designation is 6162-10-431690. As with the Pendell Road properties, this property sold three times between 1987 and 1989:

	<u>Date of Sale</u>	<u>Sale Price</u>
	January 1987	\$ 90,000
	January 1988	130,000
Difference:	12 months	\$ 40,000
Appreciation:	$\$40,000/\$90,000 = .444$, or 44.4%	
	$.444/12 \text{ months} = .0370$ per month, or 44.4% per year	

	<u>Date of Sale</u>	<u>Sale Price</u>
	January 1988	\$130,000
	June 1989	135,000
Difference:	17 months	\$ 5,000
Appreciation:	$\$5,000/\$130,000 = .038$, or 3.8%	
	$.038/17 \text{ months} = .0022$ per month, or 2.68% per year	

Tower Example 5: This tower is behind Van Wagner Road in the Town of Poughkeepsie. The site is reached from Tucker Drive with two 50 foot rights-of-way for access. The property is owned and operated by radio station WKIP. It contains two radio transmission towers: one 344 feet high, built in 1962, the other 161 feet high, built in 1965. The surrounding neighborhood is a mix of light industrial (primarily warehouses) and residential uses.

Four house sales near this tower site have been found and analyzed to show their value appreciation over time.

Sale 10 is 42 Durocher Terrace and is designated as 6262-03-351027 on the Town of Poughkeepsie tax maps. This cape cod style home was built in 1930 and is situated on a 0.4895 acre lot. The home contains six rooms, two bedrooms and one full bath in 1,713 SF of living space. Additionally, there is a living room fireplace and a full unfinished basement. This property sold in May 1979 for \$36,500, then resold in November 1989 for \$137,000. Below is the calculation of the 26.04% annual value appreciation:

	<u>Date of Sale</u>	<u>Sale Price</u>
	May 1979	\$ 36,500
	November 1989	137,000
Difference:	127 months	\$100,500
Appreciation :	$\$100,500/\$36,500 = 2.7534$, or 275.34%	
	$2.7534/127 \text{ months} = .0217$ per month, or 26.04% per year	

Sale 11 is 61 Durocher Terrace (tax parcel 6262-03-3240730). Located just south of Sale 10, this colonial style home is situated on a 0.53 acre site and has six rooms, three bedrooms and one and one-half baths in 1,416 SF. There is a fireplace and a full unfinished basement. This property sold three times between 1980 and 1989:

	<u>Date of Sale</u>	<u>Sale Price</u>
	July 1980	\$ 56,500
	October 1987	133,000
Difference:	87 months	\$ 76,500
Appreciation:	$\$76,500/\$56,500 = 1.3540$, or 135.40%	
	$1.3540/87 \text{ months} = .0156$ per month, or 18.72% per year	

	<u>Date of Sale</u>	<u>Sale Price</u>
	October 1987	\$133,000
	August 1989	143,000
Difference:	22 months	\$ 10,000
Appreciation:	$\$10,000/\$133,000 = .0752$, or 7.52%	
	$.0752/22 \text{ months} = .0034$ per month, or 4.08% per year	

Sale 12 is at 20 Cooper Road (tax parcel 6262-03-024160), just west of Tower 3. This ranch style wood frame house was built in 1958 and contains five rooms, three bedrooms and one full bath. The house has 984 SF and is situated on a 0.336 acre site. It sold in November 1981 for \$42,000, then resold in December 1988 for \$105,000.

	<u>Date of Sale</u>	<u>Sale Price</u>
	November 1981	\$ 42,000
	December 1988	105,000
Difference:	85 months	\$ 63,000
Appreciation:	$\$63,000/\$42,000 = 1.50$, or 150%	
	$1.50/85 \text{ months} = .0177$ per month, or 21.24% per year	

Sale 13 is also located just west of the two transmission towers on the north side of Alice Court. The property address is 5 Alice Court, designated as parcel 6262-03-015076 on local tax maps. This 0.471 acre site contains a ranch style wood frame home built in 1945. The home has five rooms, two bedrooms and one full bath. The property originally sold in June 1984 for \$46,500, then resold in October 1990 for \$95,000. Appreciation calculations are shown below:

	<u>Date of Sale</u>	<u>Sale Price</u>
	June 1984	\$ 46,500
	October 1990	95,000
Difference:	76 months	\$ 49,000
Appreciation:	$\$49,000/\$46,500 = 1.0538$, or 105.38%	
	$1.0538/76 \text{ months} = .0139$ per month, or 16.68% per year	

Impact Study - Comparison Methodology

We have researched and analyzed 31 sales and resales of 13 homes situated in close proximity to communications towers in Dutchess County, New York. Resales of the same house show price appreciation over time. Our 13 houses give a good indication of how rapidly homes near towers appreciated in recent years.

We can compare this with price appreciation trends for other homes in Dutchess County during similar time periods, to see if nearby communications towers influence price appreciation.

As a base, we have analyzed home sales statistics from the Mid-Hudson Multiple Listing Service (MLS) for years 1982 - 1990. A big advantage of this method is the breadth of the statistic sample available through the Multiple Listing Service. It is logical to assume that a large data base will provide more sound statistical data than a small, selective one.

Alternately, we could have compared individual sales of homes near towers with similar homes in non-proximate locations. This methodology was utilized in the Orange County study but we have utilized appreciation trends in the Dutchess County study because of the greater availability of data necessary for a study of this type. This study of value appreciation rates is broader and extremely significant because it covers a period of years and price trends throughout Dutchess County.

On the following page is a statistical summary of home sales between 1982 and 1990 in Hyde Park, Poughkeepsie, and all of Dutchess County.

We have taken note that the Mid-Hudson Multiple Listing Service changed its reporting procedures in 1986. The Town of Poughkeepsie data from 1982-1985 included house sales in Hyde Park, Pleasant Valley, and LaGrange. This changed in 1986 when Hyde Park and Pleasant Valley data was isolated. (Town of Poughkeepsie data from 1986 on still included sales

in LaGrange). Because of this complication, we place the greatest reliance on the overall statistics for the county.

From this information, we can extract annual appreciation rates and compare them with the appreciation rates shown by sales of the homes near towers. These are found on the page following the MLS sales data. After analyzing this data, we will be able to infer certain conclusions about the effect of communications towers on surrounding property value appreciation.

Mid-Hudson Multiple Listing Service
Reported Average Home Prices - 1982 - 1990

Following is a summary of average house prices for homes sold through the Mid-Hudson Multiple Listing Service. These averages are compiled from verified prices for individual homes. We have used this information to calculate annual value appreciation rates for the time period between 1982 and 1990. These price trends represent a statistically meaningful sample of all houses sold within the geographic areas specified.

YEAR	GEOGRAPHIC AREA	AVERAGE SALE PRICE	NO. OF SALES	AVG. PRICE DUT. COUNTY
1982	T/Poughkeepsie *	\$63,766	316	\$63,848
1983	T/Poughkeepsie *	\$70,944	492	\$72,961
1984	T/Poughkeepsie *	\$81,801	502	\$83,947
1985	T/Poughkeepsie *	\$96,792	547	\$97,629
1986	T/Poughkeepsie **	\$119,780	496	\$121,419
	Hyde Park	\$122,191	134	
1987	T/Poughkeepsie **	\$145,585	448	\$141,120
	Hyde Park	\$116,039	168	
1988	T/Poughkeepsie **	\$150,775	427	\$151,467
	Hyde Park	\$128,941	192	
1989	T/Poughkeepsie **	\$148,920	384	\$149,469
	Hyde Park	\$132,115	156	
1990	T/Poughkeepsie **	\$142,505	333	\$149,457
	Hyde Park	\$122,648	151	

* Includes homes sold in Pleasant Valley, Hyde Park, LaGrange

**Includes homes sold in LaGrange

Here are calculated annual appreciation rates based on these average prices.

<u>Year</u>	<u>Town of Poughkeepsie</u>	<u>Hyde Park</u>	<u>Dutchess County</u>
1982-1983	+11.26%*	N/A	+14.27%
1983-1984	+15.31%*	N/A	+15.06%
1984-1985	+18.33%*	N/A	+16.30%
1985-1986	+23.75%*	N/A	+24.37%
1986-1987	+21.54%**	-5.04%	+16.23%
1987-1988	+ 3.56%**	+11.12%	+ 7.33%
1988-1989	- 1.23%**	+ 2.46%	- 1.32%
1989-1990	- 4.31%**	- 7.17%	0

Here is the average annual price appreciation rates as shown by all home sales reported by the Multiple Listing Service between 1982 and 1990.

<u>Town of Poughkeepsie</u>	<u>Hyde Park</u>	<u>Dutchess County</u>
+11.03%	+ .34%	+11.53%

This compares with a +19.37% average annual price appreciation rate shown by actual sales and resales of homes near our three studied communications towers during the same time period.

* Includes homes sold in Pleasant Valley, Hyde Park, LaGrange

**Includes homes sold in LaGrange

1982 - 1990 Annual Appreciation Rates Compared

Here is a summary of price appreciation rates analyzed from sales and resales of homes near the three communications towers in our study. We have derived an annual appreciation rate applicable to the time between the sale and resale of each home near the tower. The "countywide appreciation" rate shown in the right column is the rate shown by all Multiple Listing Service (MLS) home sales for the same period.

<u>SALE NO.</u>	<u>ANN. APPRECIATION NEAR TOWER</u>	<u>TIME SPAN</u>	<u>COUNTYWIDE APPRECIATION</u>
1	+5.52%	1985-1991	*
2	+13.2%	1983-1985	+16.9%
3	+21.6%	1964-1991	*
4	+18.55%	1986-1988	+12.37%
5	+17.64%	1974-1987	*
6	+13.52%	1981-1986	*
	+27.12%	1986-1987	+16.23%
7	+18.12%	1982-1985	+17.48%
	+31.32%	1985-1986	+24.37%
	+31.80%	1986-1987	+16.23%
8	+16.32%	1980-1989	*
9	+44.4%	1987-1988	+ 7.33%
	+2.68%	1988-1989	- 1.32%
10	+26.04%	1979-1989	*
	+18.72%	1980-1987	*
11	+4.08%	1987-1989	+ 2.96%
12	+21.24%	1981-1988	*
13	+16.68%	1984-1990	+13.01%

The average annual appreciation rate shown by home sales near radio towers is + **19.37 %**
This compares with an average of + **11.53 %** for Dutchess County as shown by MLS reports.

* Not included in MLS home sales survey.

Concluding Statement of Opinion

We introduced this study by observing a luxury home development surrounding an enormous tower in Alpine, New Jersey, just south of the New York state line. This tower is far larger and more prominent than the tower now being proposed in New Windsor, and Alpine is a somewhat unique and unusually expensive housing market. We did not attempt any in-depth analysis of properties in Alpine, but the existence of million dollar homes surrounding this tower is a statement in itself. Obviously, homesites and homes adjacent to large communications towers are salable.

Our two tower studies in Orange County are also good examples of development taking place around a tower. These towers are more closely similar to the proposed New Windsor tower, and surrounding homes are also comparable to New Windsor's housing market. Clearly, these two towers in Orange County were not an impediment to developing adjacent land, even while there was an abundance of other vacant land in the locale with no tower nearby. Homes near the towers did not appear to sell for less than local price norms, in fact, they generally sold for higher prices.

Our tower studies in Dutchess County provided still more home sales and a broader statistical base to analyze. We were able to analyze annual appreciation rates for home prices near the towers in Dutchess County. From these, it appears that houses near towers appreciate at a similar or greater rate than houses sold in Poughkeepsie, Hyde Park, and the county as a whole. We compared average appreciation rates for 1982 - 1990, and also compared appreciation between the times when our studied houses sold and resold. In both cases, the appreciation rates of the homes near towers frequently outpaced appreciation in the surrounding town and in Dutchess County.

Based on our independent studies, we conclude that the proposed new public utility tower will have little if any measurable effect on surrounding property values.

In summary, we have reviewed the specific proposal for this new tower in New Windsor and toured the site and the locale. Based on our experience, observations and an impact study involving five communications towers in Orange and Dutchess counties, we see no basis for predicting any deleterious effects on neighborhood land use patterns or nearby real estate values.

PROFESSIONAL QUALIFICATIONS
HARVEY D. COHEN

Professional Affiliations

Appraisal Institute - MAI Designation
Licensed New York State Real Estate Broker
New York State Certified Real Estate General Appraiser

Experience

1989 - Present Senior Appraiser, American Property Counselors
1986 - 1989 Lakewood Appraisal Corporation, a subsidiary of Progressive Bank
 Corporation (NASDAQ)
 Manager, Commercial Division, 1988 - 1989
 Staff Appraiser, 1986 - 1987
1985 - 1986 Vantage Funding Company, Mortgage Loan Officer
1984 - 1985 Key Associates Realtors, Inc., Real Estate Salesman

Professional Training

American Institute of Real Estate Appraisers

Report Writing and Valuation Analysis
Case Studies in Real Estate Valuation
Capitalization Theory and Techniques
Real Estate Risk Analysis
Money Markets and Real Estate
Standards of Professional Practice

Society of Real Estate Appraisers

Introduction to Appraising Real Property
Applied Residential Property Valuation
Professional Practice Seminar

I have successfully completed courses and seminars concerning shopping center development and leasing, computer-assisted valuation techniques, real estate law and brokerage.

I have written and conducted seminars sponsored by the Northeast Regional Association of Assessing Officers and the New York State Association of Assessing Officers.

Educational Background

B.A., New York University, Washington Square College, 1969
M.A., Columbia University, 1972

Clients (partial listing)

United States Postal Service
U. S. Department of Agriculture, Forest Service
U. S. Department of the Interior, National Park Service
State of New York, Department of Transportation
State of New York, Department of Environmental Conservation
State of New York, Facilities Development Corporation
State University of New York
State of New York, Office of Parks, Recreation and Historic Preservation
State of New Jersey, Department of Transportation
State of New Jersey, Green Acres Program
State of Connecticut, Department of Transportation
Port of Seattle, Washington
State of Illinois, Department of Transportation
Reynolds Metals Company, Inc.
McGraw Hill
I.T.T. Corp.
International Business Machines Corp.
United Parcel Service
Chrysler Corporation
Warner-Lambert Pharmaceutical Co.
Westinghouse Electric Corp.
Presidential Realty Corp.
Chase Enterprises
Trust for Public Lands
Open Space Institute
Continental Insurance Company
Prudential Insurance Co. of America
Marine Midland Bank
Fleet Bank/Norstar
General Electric Credit Corp.
National Westminster Bank
Morgan Guaranty Trust Co.
Manufacturers Hanover Trust Co.
FCA American Mortgage Corp.
J. P. Morgan Interfunding Corp.
New York State Power Authority
New York State Electric & Gas Corp.
Con Edison
Columbia Gas of New York
Texaco, Inc.
Agway, Inc.
BP Oil Co.
Shell Oil Corp.
Mobil Oil Corp.

**ORANGE COUNTY - POUGHKEEPSIE LIMITED PARTNERSHIP
d/b/a BELL ATLANTIC NYNEX MOBILE**

**APPLICATION FOR SPECIAL PERMIT FOR PUBLIC UTILITY
COMMUNICATION FACILITY AND SITE PLAN APPROVAL**

BEFORE THE PLANNING BOARD OF THE TOWN OF NEW WINDSOR

**Written Testimony and Exhibits
September 11, 1996**

Submitted by

Ruth B. Rosenberg, P.C.
Nixon, Hargrave, Devans & Doyle LLP
One Thomas Circle, N.W.
Suite 700
Washington, DC 20005

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I. DESCRIPTION OF PROJECT

On December 30, 1994, Orange County-Poughkeepsie Limited Partnership, a Delaware general partnership d/b/a Bell Atlantic NYNEX Mobile, Inc. ("NYNEX" or the "Telephone Company"), entered into an Option and Lease Agreement with Herbert and Marjorie Kartiganer ("Lessors") for a part of Lessors' real property, more particularly described as a portion of Tax Map Number 65-1-17 near Dean Hill Road in the Town of New Windsor. The Telephone Company intends to use the Demised Premises as a public utility communications facility site ("Facility Site"), and will enjoy a 25' wide nonexclusive access and utility easement (the "Access and Utility Easement") extending from Dean Hill Road to the Facility Site. A portion of the Easement crosses the lands of Hudson Valley Development Group of New Windsor, L.P., which has granted an easement to the Telephone Company for access and utilities. The Telephone Company will construct and operate a public utility communications facility (the "Facility") consisting of a 160' high freestanding communications tower with attached equipment, a prefabricated one-story fireproof equipment shelter placed on a concrete slab, and a concrete pad for a generator, all contained within an 8' high chain link security fence, the top foot of which is three strands of barbed wire. The gravel driveway will give access to a gravel parking and turn-around area. The proposed Facility will be unmanned; there will be no employees at the site, there will be no water or bathroom facilities. A Telephone Company van will make bimonthly visits for regular maintenance. A Site Plan package prepared by Clough, Harbour & Associates LLP, detailing the location and dimensions of the improvements is attached hereto as **Exhibit A**.

The Telephone Company is a public utility under New York law, and is licensed by the Federal Communications Commission to provide cellular telephone service to the market encompassing the Town of New Windsor and surrounding areas. It was granted a Certificate of Public Convenience and Necessity by the New York State Public Service Commission ("NYPSC") (a copy of the NYPSC Certificate of Public Convenience and Necessity is attached hereto as **Exhibit B**). The New York Court of Appeals has held that cellular telephone companies licensed by the FCC are public utilities for the purposes of zoning and land use ordinances (*Cellular Tel. Co. v. Rosenberg*, 82 NY 2d 364 (1993); *In re Payne*, 178 AD 2d 979 (4th Dept. 1991)).

The Facility Site is located in a R-2 Open Space Residential District, which permits railroad, public utility radio or television transmission antennas and rights-of-way with a special use permit issued by the Planning Board, as shown on the Table of Use/Bulk Regulations of the New Windsor Zoning Ordinance (all section references, unless otherwise noted, are to the New Windsor Zoning Ordinance).

The Telephone Company applied to the Board of Appeals for a height variance permitting a 160' high communications tower and a street frontage variance since the parcel on which the communications facility will be built has no street frontage at all but does have a 25' easement for access and utilities from Dean Hill Road to the Facility Site.

The proposed site is near a Central Hudson Gas & Electric utility easement with towers and overhead transmission lines and can be reached via an

existing Telephone Company right-of-way from Dean Hill Road. The Facility will be located near the summit of the hill where both right-of-ways intersect.

The Telephone Company commissioned a Visual Resource Evaluation from Clough, Harbour & Associates LLP to illustrate views of the Facility. It includes photographs taken from various locations around the proposed site and a viewshed analysis which was used to determine the locations from which the proposed communications tower would be seen and the nature of the visual impact. The Visual Resource Evaluation is included under separate cover as *Exhibit C*.

II. PROJECT NEED

The Telephone Company is charged with the responsibility of providing cellular telephone service in various parts of New York, including the area in and around the Town of New Windsor. The Telephone Company has planned this project in order to fulfill its obligation to provide good quality cellular telephone service to emergency services, businesses, and individuals.

The Federal Communications Commission ("FCC") has divided the entire country into service areas and has assigned two licenses for each area for cellular telephone services: the "A" license for companies which are not wireline telephone companies; and the "B" license for wireline telephone companies. The Telephone Company has a "B" License.

Cellular telephones have become an important tool for citizens to report accidents or other emergencies, crimes and drunk drivers, leading to prompt response by police and emergency services personnel. Police and rescue workers also rely increasingly on cellular telephones for communication during emergencies such as snowstorms, when regular telephone service is inadequate or unavailable.

Essentially, cellular telephone service operates by transmitting a very low power radio signal (less than ten watts per channel) between the cellular telephone and an antenna mounted on a tower, pole, building or other structure. The antenna feeds the signal to electronic apparatus housed in a small equipment shelter near the antenna, where it is connected to an ordinary telephone line, and is then routed anywhere in the world. The antenna and equipment building are known as a "cell site."

A cell site is capable of transmitting to and from cellular phones only within a limited geographic area. This limited geographic area is called a "cell." A cell site must be located within a prescribed area in order to provide coverage for the entire cell.

Cellular telephone technology requires that cells overlap somewhat in order to provide uninterrupted service. When the cellular user moves into a new cell, the transmission is automatically transferred to the cell site in the new cell. If there is no cell site in the new cell, there is no cellular telephone service. See *Figure 1*^{*}.

Because each cell site must be placed in such a manner as to provide service within a particular cell, and to provide overlapping (but not duplicate) coverage with the existing or planned cells around it, there is limited flexibility as to where a cell

* Graphic - HOW IT WORKS / A CELLULAR PHONE SYSTEM, by Robert Dorrell, "Washington Business", *The Washington Post*, dated October 23, 1995.

site can be placed. In the present case, the Telephone Company needs coverage and capacity in this area of the Town to provide service to the public.

In a January 2, 1996, news release in Warren Publishing, Inc.'s *Communications Daily* it was reported that the U.S. now has 31 million cellular phone users, up from 10 million just two years ago.

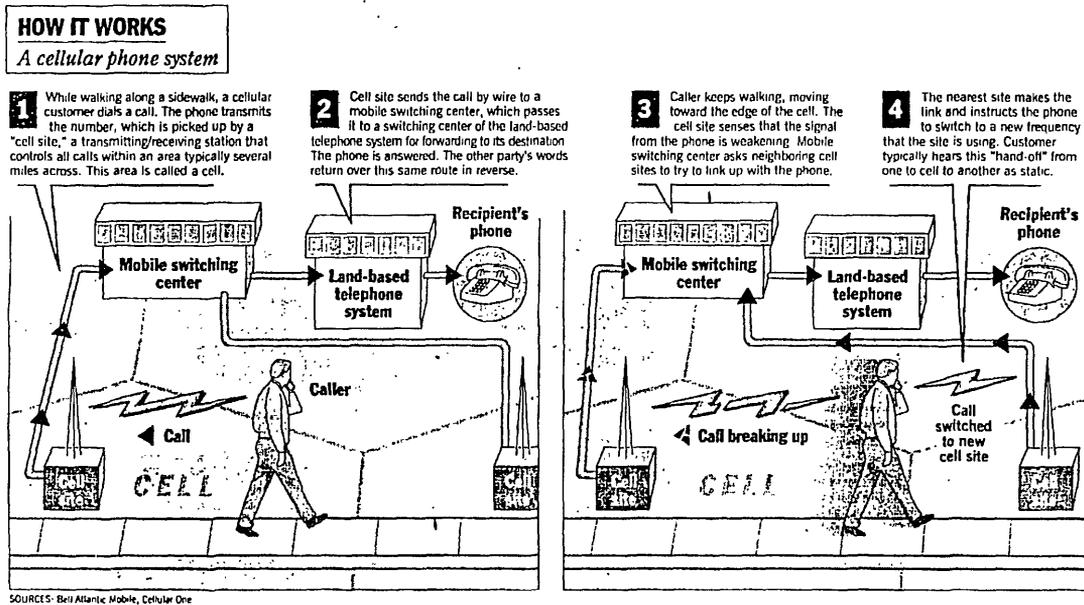


Figure 1

A news article in *The Washington Post* on March 19, 1995, observed that:

Thanks to a cellular phone, rescue workers arrived in time to cut the umbilical cord from around the neck of Cheyenne Snow Burr The ordeal might have been featured on the TV Show "Rescue 911," except that tales of cellular phones saving the ill or stranded aren't very unusual anymore.

An August 29, 1995, *Post* article reported:

[Cellular phones were once] considered an accessory carried by yuppies who conspicuously called associates from chic restaurants, the cellular phone is rapidly becoming a personal safety device. According to a poll taken by the Cellular Telecommunications Industry Association (CTIA), . . . two thirds of all cellular customers bought their phones for safety and security reasons . . . "If a cellular phone is within your budget, as relatively inexpensive as it is, you should have one," [1st Sgt. Joe] Pruitt [of the Maryland State Police] says.

Copies of articles are attached as *Exhibit D*.

In a May 22, 1995, article published in the American Medical Association's *American Medical News* it was reported that:

For many physicians a cellular phone has become a necessary tool that makes their lives easier. It makes them available to their patients for emergencies and allows them to keep in touch with their office while they travel between home, the hospital and the office. . . .

For sheer ease of use and accessibility, no new technology has revolutionized communications like the cellular phone. Everyone from truckers to executives to physicians seems to have a cellular phone these days. Whether built into an automobile or a hand-held portable phone . . . cellular phones are a prominent part of the landscape

Cellular phones' phenomenal growth over the last decade is due mainly to the convenience a cell phone offers, and the safety it provides. In a 1992 survey by the Gallup organization, more than a third of respondents said they had used their cellular phones to summon roadside assistance. Fully 90% said having the phone makes them feel more safe and secure. More than half have used it to get directions.

On September 18, 1995, the *Central New York Business Journal* printed an article discussing trends in growth and technology in the cellular industry. Cellular phones have been installed in the Richardson Texas School system. One advantage of doing so is the elimination of the need to install phone lines. The average age of schools in Texas is 50 years, a big issue in renovation is the asbestos. With a wireless system, asbestos is not disturbed.

Closer to home, the article notes that:

"The New York State Department of Transportation has found the use of cellular phones a convenience as well as a safety feature . . . In the past, roadside message boards weren't always updated immediately. Now, the signs are installed by a crew, and messages programmed back at the office are delivered over cell phones to the sign, for instantaneous display. Warning signs go up immediately; detour signs disappear as soon as they are no longer needed. This system is already in place in the Albany area, and we have plans to install it in the Syracuse, Buffalo, and Rochester areas soon."

A June 26, 1995 article in *Mobile Phone News* reported that:

About 16 percent of U.S. households said they bought a cellular phone in 1994 for business use, the study said. Another 25 percent said personal use was the driving factor in mobile phone purchases. However, a 58 percent chunk of all cellular telephone users mix business and personal calls [Electronic Industries Association] said in its "The U.S. Consumer Electronics Industry in Review -- 1995 Edition."

III. SPECIAL PERMIT

The Table of Bulk Regulations provides that a special permit must be obtained for the maintenance of the following uses in an R-2 District: "railroad, public utility radio and television transmission antennas and rights-of-way." Section 48-33 C.(1) prescribes the standards to be applied in an application for a special permit. While this section specifically provides that the Board of Appeals shall serve the review function, the Bulk Regulations Table provides that the Planning Board or Town Board issues special permits. These are the only standards, however, set forth in the Zoning Ordinance.

The Board is directed to "take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular" and accomplish the following objectives:

(a) That all proposed structures, equipment and material shall be readily accessible to fire and police protection.

(b) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

(c) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:

[1] the location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residential district nor conflict with the normal traffic of the neighborhood.

[2] The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(a) That all proposed structures, equipment and material shall be readily accessible to fire and police protection.

This communications facility consists of a 160' high tower, and a fireproof equipment shelter, surrounded by a chain link fence with barbed wire on top. It will be silently alarmed to an constantly manned off-site location. Access will be across an existing telephone company driveway with a small realignment on the Hudson Valley Development Limited Partnership property. The driveway will be improved over its present condition. There will be no employees on the premises; the site will be visited by maintenance personnel bimonthly. Access by fire and police protection will be more than adequate. The Zoning Board has already given a variance to the project based upon lack of street frontage. Town Law 280-a permits a zoning board to grant such relief with a presumption that a 25' wide right-of-way provides adequate access for fire and other emergency service vehicles.

(b) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

The Zoning Ordinance already contemplates public utility radio and television transmission towers and rights-of-way in the R-2 District. There are already two such uses in the immediate vicinity of the proposed communications facility. The facility itself will provide service to this area of the Town of New Windsor, a communications service that promotes the public welfare as we described above.

The facility will have no adverse impact on the development of the area. Not only has the Telephone Company's Lessors agreed to lease the premises on a parcel which they may some day develop as a residential subdivision, but the abutting neighbor, the Hudson Valley Development Group of New Windsor, L.P., has also directly contemplated this development and has granted an access and utility easement.

Moreover, the Telephone Company has commissioned a study of the possible impact on development of this proposed transmission tower. The study, entitled "Statement of Opinion Relative to Proposed Transmission Tower, Town of New Windsor, Orange County, New York," was prepared by American Property Counselors and is submitted under separate cover, as Exhibit E. The study concludes at page 27, that:

In summary, we have reviewed the specific proposal for this new tower in New Windsor and toured the site and the locale. Based on our experience, observations and an impact study involving five communications towers in Orange and Dutchess counties, we see no basis for predicting any deleterious effects on neighborhood land use patterns or nearby real estate values.

Finally, the electromagnetic energy to be emitted from this wireless facility is 1375 times below the exposure limits of OSHA, ANSI, IEEE, NCRP and the limits of all states that regulate RF exposure, and complies with FCC regulations. See attached report from R.C. Petersen of the Radiation Protection and Product Safety Department, Bell Laboratories, Murray Hill, New Jersey, dated February 21, 1996, a copy of which is **Exhibit F** attached hereto. The recent Telecommunications Act of 1996 expressly preempts any discussion of health effects from wireless communications facilities which comply with FCC regulations. The Federal Communications Commission issued its "Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation on August 7, 1996 (**Exhibit G**). These guidelines adopted the standards recommended by ANSI/IEEE and NCRP, to which reference is made in the Petersen report.

(c) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:

[1] the location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residential district nor conflict with the normal traffic of the neighborhood.

[2] The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

This use will not create any pedestrian traffic. Vehicular traffic will normally occur with the access to the site twice a month by a maintenance vehicle. There will be no conflict with the normal traffic of the neighborhood.

The communications facility building is a one story prefabricated equipment shelter that is not visible from any neighboring residential uses. The fence which is an eight foot chain link fence with three strands of barbed wire on top is a typical security fence for a public utility unmanned substation. The Lessors of the

property has no concern that the improvements will be visible if they develop this land for a residential subdivision. No residential neighbor will see the equipment shelter or the fence.

The height of the communications tower which will be the only improvement visible off-site from some locations, has already been determined by the Zoning Board of Appeals to have no adverse impact on the appropriate development of land and buildings. The Board of Appeals granted a height variance and street frontage variance on July 8, 1996, and concluded that this action is an unlisted action and issued a negative declaration pursuant the State Environmental Quality Review Act.

IV. SITE DEVELOPMENT PLAN REVIEW

The Table of Bulk Regulations for the Open Space Residential (R-2) District provides, in its Notes 2 and 3, that site plan approval is required for each use carrying that designation. All special permit uses carry footnotes 2 and 3 except cemeteries, reservoirs, and railroad, public utility radio and television transmission antennas and rights-of-way. We have been unable to date to reach Mr. Babcock to discuss why site plan approval is required. We are addressing the site plan review standards, even though we are not sure site plan review is applicable to this use.

Section 48-19 of the Zoning Ordinance directs the Planning Board to "take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the proposed development and the immediate neighborhood in particular" in reviewing site plans for site plan approval. The following objectives in particular are to be addressed by the Planning Board in this process:

- (1) Traffic access. That all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- (2) Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent the parking on public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
- (3) Landscaping and screening. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight (8) inches in diameter measured three (3) feet above the base of the trunk shall be retained to the maximum extent possible.

1. TRAFFIC ACCESS

The proposed access to the site is an existing dirt road utilized for many years by New York Telephone as access to its easement adjacent to the proposed site. At the request of the developer abutting Dean Hill Road, we have entered into an easement agreement placing a jog in the driveway to accommodate its future subdivision layout. The existing dirt road will be improved, but will remain an unpaved access driveway to the site. There will be minimal "traffic" generated by this project. Once the communications facility is complete there will be a maintenance vehicle routinely checking the site about twice a month.

The Zoning Board granted a variance for no street frontage, and in the process of so doing, concluded, as we argued, that adequate access for emergency vehicles was supplied pursuant to the provisions of Town Law 280-a.

2. CIRCULATION AND PARKING

This communications facility will have no employees on site. There are, nevertheless, two parking spaces at the end of the turn-around adjacent to the chain link security fence. There will be no pedestrian traffic. The infrequent access to the site by a maintenance vehicle insures that there will be no circulation or parking issue by the approval of this site plan.

3. LANDSCAPING AND SCREENING

There will be no playgrounds, parking lots, or public areas in the proposed communication facilities site. The existing woods naturally screening the proposed site will remain in place, with the exception of whatever tree removal is absolutely necessary to construct the improvements. Since the site is surrounded by a large unimproved parcel of Lessors, there is no plan to supplement the improvements with landscaping which will not be visible to any abutting residential property owner.

V. CONCLUSION

We ask the Planning Board to find that this is an unlisted action and to adopt a negative declaration. Although the Zoning Board has already made these findings in connection with the height variance and street frontage variance applications, those findings were not part of a coordinated review. They are supported by the record before this Board.

We ask also that the Planning Board approve a special use permit for this public utility communications facility in a remote site, adjacent to two existing public utility rights--of-way, and designed to bring good cellular telephone service to the New Windsor area, in accordance with its FCC license.

Finally, we ask site plan approval, if that is indeed required, since this site has no adverse impact on traffic access, circulation and parking, or landscaping and screening, and is in the public interest.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 19, 1987

COMMISSIONERS PRESENT:

Peter Bradford, Chairman
Harold A. Jerry, Jr.
Gail Garfield Schwartz
Eli M. Noam
James T. McFarland
Edward M. Kresky
Henry G. Williams

CASE 29633 - Orange County-Poughkeepsie Limited Partnership-Petition for a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunication system in the Orange County and Poughkeepsie cellular geographic service areas.

ORDER ISSUING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

(Issued August 27, 1987)

By petition filed July 1, 1987 and amended July 22, 1987, Orange County-Poughkeepsie Limited Partnership sought authority pursuant to Section 99 of the Public Service Law to operate a cellular telephone utility in Orange and Dutchess Counties. At our August 19, 1987 session, we determined that public convenience and necessity require the construction and operation of facilities by Orange County - Poughkeepsie Limited Partnership.

We find the petitioner has complied with the certification requirements contained in our rules and the proposed service will be

in the public interest. Notice of the application has been duly published and a hearing has been held as required by Section 99 of the public Service Law. The operation to be certified herein shall provide reliable cellular radio telecommunications service within all or part of the contours defined by the Federal Communications Commission (FCC) as the Orange County and Poughkeepsie Cellular Geographic Service Areas (CGSA). Accordingly, it is

CERTIFIED that subject to the conditions hereinafter set forth in this Order, and not otherwise, public convenience and necessity require the operation of high capacity land mobile cellular radio telephone facilities by Orange County-Poughkeepsie Limited Partnership to enable it to offer to the general public cellular radio telephone services within the Orange County and Poughkeepsie Cellular Geographic Service Areas; and it is further

C R D E R E D:

1. That this Order constitutes a Certificate of Public Convenience and Necessity authorizing Orange County - Poughkeepsie Limited Partnership to provide cellular radio telephone facilities as described in its petition within the Orange County and Poughkeepsie Cellular Geographic Service Areas.

2. That on or before November 1, 1989, Orange County - Poughkeepsie Limited Partnership submit proof to the Commission that it is providing reliable service to the entire Orange County and Poughkeepsie CGSAs, and if it is not, that it provide documentation showing the portion of the CGSAs that is actually served.

3. That if the entire CGSAs are not served by November 1, 1989, the Certificate will be modified to include only the area actually served.

4. That, within 30 days of issuance by the FCC, Orange County - Poughkeepsie Limited Partnership submit a copy of its FCC Construction Permit for the Orange County CGSA.

5. That such certificate shall be effective upon the effective dates provided in appropriately filed tariff schedules, said schedules to be filed within 90 days of the issue date of this Order and said schedules not to become effective on less than 60 days notice.

6. That this Certificate of Public Convenience shall remain in effect so long as Orange County - Poughkeepsie Limited Partnership maintains tariffs on file with the Commission. In the event that the company files a supplement cancelling its tariff in its entirety pursuant to Part 630.48 of 16NYCRR, this Certificate shall be revoked six months thereafter and this proceeding will be closed without further notice.

7. That this Order is effective immediately; and,

8. That this proceeding is continued.

. By the Commission,

(SIGNED)

JOHN J. KELLIHER
Secretary

LEVEL 1 - 2 OF 2 STORIES

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The Washington Post

March 19, 1995, Sunday, Final Edition

SECTION: FINANCIAL; Pg. H01

LENGTH: 1358 words

HEADLINE: Sowing a Cellular Culture; Pocket Phones Proliferate, And So Does the Stress

BYLINE: Mike Mills, Washington Post Staff Writer

BODY:

Thanks to a cellular phone, rescue workers arrived in time to cut the umbilical cord from around the neck of Cheyenne Snow Burr.

She was born in a car that pulled over on Interstate 95 in Prince William County last year during a heavy snowstorm. Her grandmother, Sarah Puckett, along for the interrupted dash to Fairfax Hospital, dialed 911 on her new cellular phone. An operator gave calming advice and soon medics arrived and dealt with the cord.

The ordeal might have been featured on the TV show "Rescue 911," except that tales of cellular phones saving the ill or stranded aren't very unusual any more. In the past two years, sales of the phones have positively boomed, changing them from luxury item to discount-store commodity. Puckett had bought her phone in part out of concern that something like the family's roadside crisis might happen.

There are now 25 million cellular phones in the United States, meaning one out of every 10 people in the country can talk on the go. Cellular is a \$ 14 billion-a-year business that signs up 28,000 new customers a day.

Pocket phones were once status jewelry for K Street executives. But today it's no big deal to see a husband in a supermarket or video store talking into a pocket phone to make sure his spouse approves of his selections, or a working mom toting a flip phone to keep in close touch with her child's day-care provider.

"I think of it like insurance. You never know what might happen," said Lynn Drake, a cashier at a Giant Food Inc. supermarket and a part-time accordionist, who carries her pocket phone everywhere, even on frequent trout-fishing expeditions.

The phones keep people in instant touch with family, co-workers or 911. But they can also fray nerves, speed up life dizzily and erode privacy and quiet -- the bus passenger yakking on a cellular phone is an emerging social nuisance of the '90s. Some customers give them up, appalled that their new pay-by-the-minute toys ran up hundreds of dollars in charges in a single month.



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The phones have proliferated with only two cellular companies serving a given community (Bell Atlantic Mobile and Cellular One in this area, each serving roughly 350,000 customers, according to market research firm Herschel Shosteck Associates of Wheaton).

Within the next few years, as many as eight new wireless companies may spring up in every town, using new licenses auctioned by the Federal Communications Commission for advanced digital phone and paging services. AT&T Corp. and Sprint Corp. already have laid plans to offer such services in the Washington-Baltimore area.

Mark Lowenstein, director of wireless research for the Yankee Group, a Boston consulting firm, predicts roughly 80 million people will own pocket phones by 2004.

Helping drive that demand are prices that have come down even as phones have become smaller and lighter. The first cellular phones were bulky, car-mounted models. Now, about 73 percent of all new cellular sales are tiny pocket phones, followed by car phones and larger "transportable" phones with carrying bags, according to EMC Inc., an industry analysis firm based in the District.

Getting Started

Getting set up with a cellular phone has become much easier over the years. A decade ago, when cellular had just begun, customers in the Washington area typically had to drive out to the cellular company's warehouse in some rural industrial park, pay a couple of thousand dollars for a phone and go through a lengthy installation and registration rigamarole.

People can go cellular today for as little as \$ 30 a month, which gives them 30 minutes of "talk time" and may even include a free phone. After that 30 minutes, the price is typically 20 cents to 40 cents per minute.

They can get phones at stores such as Circuit City, Luskin's or even McDonalds. In Western states within the territory of phone company US West Inc., people buy shrink-wrapped phones at grocery stores and activate them by dialing a special number. Most phones are now cheap or free with service contracts (even the lightest, state-of-the-art pocket phones cost only a few hundred dollars).

Cellular companies are devising new pricing plans and promotions that encourage regular folks to use the phones for more than just emergencies. The average business user makes 19 calls and spends \$ 84 a month, but folks who buy phones for personal use make an average of only nine calls and spend \$ 37 monthly, according to the Yankee Group.

And because roughly 25 percent of all cellular users drop their service or switch carriers every year, cellular providers are nudging customers to commit to contracts of one or two years.

"There's often a bit of sticker shock" for newcomers to cellular, according to Lowenstein. "People don't quite know what cellular costs, or what they're getting into. So they go hog wild and there are problems," he said.

As with any technological advance, the blessings are mixed, say sociologists



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who have studied the subject.

The most immediate consequences are positive: Uncertainty is reduced in the owner's life -- if you're late and want to notify people at your destination or if you're lost and need quick directions. People become more efficient with their time -- they can order takeout during their commute and have it arrive at home when they do. And, of course, there is increased security in traveling with a phone in your car or pocket.

On the Other Hand

But, notes James E. Katz, director of social science research at Bellcore, the New Jersey-based laboratory owned by the seven regional Bell companies, there also is a huge downside: stress.

First, there's the pocket phone owner's sense that life is speeding up, that things need to be accomplished immediately -- a common sensation that has accompanied many new technologies, Katz says, including fax machines, pagers and traditional telephones.

Also, just knowing that someone could call you at any time can be unnerving. Yes, pocket phones have an "off" button. But many owners feel guilty or anxious leaving them off while they relax. "Somehow, that's seen as antisocial and unprofessional," Katz said. "There are fewer excuses these days for not being near a phone."

And car phones may be a boon to highway safety during breakdowns. But Katz says they also can be a safety hazard -- like when you're trying to outpace a Mack truck while merging onto a highway and talking on a phone.

Putting O.J. on Hold

Cellular phones also put stress on people who aren't using them.

"If it rings again, it's mine," said Los Angeles Judge Lance A. Ito, after defense attorney Robert Shapiro's cellular phone sounded twice while the prosecution in the O.J. Simpson trial was making an argument.

The Long Island Railroad has a "cellular-free" parlor car where pocket phones are banned. In Santiago, Chile, where wireless phones are a popular substitute for poor local phone service, patrons in many restaurants are asked to check their cell phones at the door, like six-shooters in Dodge City.

Users of cellular phones often "imagine themselves to be in an etiquette-free zone," wrote Judith Martin in a 1993 booklet titled "Miss Manners' Guide to the Perfectly Proper Use of Cellular Telephones." Rule No. 1, she says, is that "it's rude to interrupt people or activities" by taking or placing a call.

But Bellcore's Katz is sympathetic to cellular phone neophytes who have trouble handling the demands of anywhere-anytime communications. He calls for "a new social regime, a choreography of contact" between wireless phones and their owners.

The etiquette of ordinary phones doesn't necessarily work with the new ones,



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he said. People should know when or where they might annoy others. Because users pay even for incoming calls, he said, they quickly learn to be selective about who gets the numbers. (This is partly why you rarely see cellular numbers on business cards or in phone directories.)

With wireless phones, Katz says, "people are tacitly saying you can't call me, but I'll call you . . . if I want," Katz said. "And that's a powerful position in daily life."

GRAPHIC: Illustration, victoria kann for The Washington Post; Chart, The Washington Post, CELLULAR SWITCH (This chart was not available)

LANGUAGE: ENGLISH

LOAD-DATE: March 19, 1995



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LEVEL 1 - 1 OF 2 STORIES

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August 29, 1995, Tuesday, Final Edition
Correction Appended

SECTION: STYLE; Pg. B05; STYLE PLUS; THE CONSUMATE CONSUMER

LENGTH: 1567 words

HEADLINE: The Pocket-Size Protector; Feeling Safe, not Stylish, With Cellular Phones

BYLINE: Chana Schoenberger, Special to The Washington Post

BODY:

Natalie Slutsky remembers one occasion last winter when she was particularly thankful for her cellular telephone. "My daughter, Amanda, and I were meeting David, my husband, for dinner," she says. "He called on the car phone to see where we were, and he heard me say to Amanda, 'Look at that stupid woman crossing the double yellow line -- she's going to hit us!' And she did. He heard the whole crash." The air bags in the car inflated, and David Slutsky heard his daughter say smoke was coming out of the dashboard. She screamed at her mother to get out of the car, and he heard his wife say she was stuck. Then they were disconnected. He immediately called 911.

"Two men had stopped, and they also called the police on their phones," says Natalie Slutsky, who lives in Ellenville, in upstate New York. "The girl who hit me borrowed my phone to call her husband, and when the ambulance came we called David from the car phone to tell him which hospital he should meet us at."

Like a number of cellular telephone customers nationwide, the Slutskys bought theirs for emergencies, including calling for help if they ever were in an accident. Once considered an accessory carried by yuppies who conspicuously called associates from chic restaurants, the cellular phone is rapidly becoming a personal safety device. According to a poll taken by the Cellular Telecommunications Industry Association (CTIA), a national trade group based in the District, two-thirds of all cellular customers bought their phones for safety and security reasons. A Motorola poll found that nine out of 10 subscribers felt safer having a cellular phone.

At first, Jodi O'Connor was angry at her husband for buying a cellular phone when she became pregnant. But then her water broke -- eight weeks before her due date -- at her husband's indoor soccer game. A friend waved her husband off the field, and the couple started for the hospital in their car.

O'Connor's contractions kept increasing, then she felt the baby's head. Her husband pulled over and called 911 on their car phone. The operator talked them through the emergency delivery, and an ambulance pulled up seconds later to take the O'Connors and their 3-pound, 8-ounce daughter, Amber, to the hospital.

"We were so thankful we had the car phone," says Jodi O'Connor, an elementary



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school teacher who lives in Ellicott City. "It was an eerie night, and we were stranded on the side of the road in the dark. We replay it over and over again in our minds, and I don't know what we would have done without being able to call 911."

With an increase in cellular phone sales (CTIA announced in February that one out of every 10 Americans uses a cellular phone, totaling 25 million customers nationwide) has come an increase in "good Samaritan" calls to 911 and #77, which connects cellular customers directly to the nearest state police barracks or emergency rescue center.

Mike Houghton of CTIA says cellular customers make 18,000 calls each day to 911 and other emergency numbers. Calls to both #77, which is designed primarily for reporting roadway hazards and dangerous drivers, and 911 are free.

"The cellular phone trend is increasing daily," says 1st Sgt. Joe Pruitt of the Maryland State Police. "I don't think it's reached its peak yet."

Bruce Henry, a dispatcher with the Virginia State Police, says cellular calls account for about 30 percent of all the calls made to the State Police in Fairfax. Pruitt estimates his station in Rockville receives an average of 35 to 50 calls from cellular phones each day. Most, he says, are from drivers reporting accidents on the road.

"We get people calling in all the time about drunk drivers, or reckless or aggressive drivers. People call and report from the site of the accident," Pruitt says.

In fact, reaching for the car phone when passing an accident on the road has become a reflex action for many drivers. On the way to Atlantic City with some friends a few years ago, Marlyn Glickman saw two cars chasing each other on the highway. "They were tailgating each other," the Rockville resident remembers. "They stopped on the side of the road, and one guy pulled out a tire iron and went for the other guy. We called the police on the car phone."

The proliferation of cellular phones has created another phenomenon: the multiple-Samaritan accident. Gerri Epstein, a travel agent from Bethesda, was crossing the intersection at 14th and K streets NW when she saw a car hit a bicycle courier. She immediately reached for her cellular phone and dialed 911. As she spoke to the emergency dispatcher, she counted 12 others on the scene who also had pulled out phones to call for help.

"We jammed the lines," Epstein laughs. "Several people got busy signals because we were all calling at exactly the same time."

Frequently, Pruitt says, several drivers call to report the same accident. The accident that generated the most calls to his station happened in October 1992, when a tanker truck exploded at the junction of I-270 and the Beltway. "We probably got, in a 10-minute period, a hundred calls," he remembers. "The lights just lit up. We literally could not handle the amount of phone calls."

Pedestrians can be cellular Samaritans too. Last August, Mark Rosenbaum, a research administrator, and his wife, Mary Lee Stein, a social worker and psychotherapist, spotted a woman being followed on the street near their home in



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Adams-Morgan. They called the police and followed the man on foot, reporting his movements over their cellular phone. Eventually, the police arrested the man, who was carrying a gun.

For their contribution to public safety, the couple won an award from CTIA. "It turned out the police wanted him for several other armed robberies in the neighborhood," Rosenbaum says.

"If a cellular phone is within your budget, as relatively inexpensive as it is, you should have one," Pruitt says.

But even among those who buy phones for safety, the definition of "emergency" varies. Kitty Lilly was playing tennis one afternoon with a friend who had bought a cellular phone so her three daughters could reach her in an emergency. When the friend's phone rang in the middle of the game, Lilly says, "we were all worried. Then we heard her say, 'No, honey, I'd definitely wear the polka-dot one.' "

The Price of Peace of Mind

What price cellular safety? All calls to emergency numbers such as 911 or #77 are free. The two cellular carriers that serve the Washington metropolitan area, Bell Atlantic Nynex Mobile and Cellular One, offer numerous service plans for cellular phones. Both companies caution against straight line-by-line comparisons of plans, since the actual cost of a call depends not only on the service plan you choose, but also on the phone you buy, time of day you use it and any extra services you might decide to add.

Service plans include a monthly access fee, a preset number of free minutes for peak and off-peak times (generally peak hours are from 7 a.m. to 9 p.m. during the week), and per-minute rates for peak and off-peak times. Cellular One's Peace of Mind plan, for example, is designed for those who carry a cellular phone primarily for safety. The monthly access fee is \$ 29, with 30 free off-peak minutes. Additional peak minutes are 30 cents; off-peak, 19 cents. A two-year service contract is required. Cellular's Guardian plan offers the same services, but it's access fee is 21.95 with a required three-year service contract. Mr. Rescue, Cellular One's version of AAA roadside assistance, is included at no extra charge.

Bell Atlantic offers customers its Security plan with a monthly access fee of \$ 29.95 and a uniform charge of 75 cents per minute for both peak and off-peak hours.

For more information: Cellular One Customer Service hot line -- 800-235-5663; Bell Atlantic -- 800-255-2355.

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For more information: Cellular One Customer Service hot line -- 800-235-5663; Bell Atlantic -- 800-255-2355.

CORRECTION-DATE: August 31, 1995

CORRECTION:

An article in Tuesday's Style Plus misstated the monthly access fee for Bell Atlantic Nynex Mobile's Security plan. It is \$ 19.95. Also, Adams-Morgan resident Mark Rosenman was misidentified.

GRAPHIC: Illustration, Bethann Thornburgh for The Washington Post

LANGUAGE: ENGLISH

LOAD-DATE: August 29, 1995



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**Safety Analysis of the Electromagnetic Environment in the
Vicinity of a Proposed Cellular Radio Installation,
Off Mt. Airy and Dean Hill Roads, Town of New Windsor, Orange County, New York**

R. C. Petersen
Radiation Protection and Product Safety Department
Bell Laboratories
Murray Hill, New Jersey 07974-0636

Summary

This report is a safety analysis of the electromagnetic environment surrounding the Bell Atlantic NYNEX Mobile (BANM) cellular radio facility proposed for installation in the Town of New Windsor, New York. The analysis utilizes engineering data provided by BANM, together with well-established analytical techniques for calculating the radiofrequency (RF) electromagnetic fields associated with cellular radio transmitting antennas. Worst-case assumptions were used to ensure safe-side estimates, i.e., the actual values will be significantly lower than the corresponding analytical values.

The results of this analysis indicate that the maximum level of RF energy to which the public may be exposed is below all applicable health and safety limits. Specifically, in all normally accessible areas surrounding the facility, the maximum level of RF energy associated with *simultaneous and continuous operation of all transmitters* will be at least 1375 times below the exposure limits of OSHA, ANSI, IEEE, NCRP and the limits of all states that regulate RF exposure.

Prepared for
Joseph Ross
Bell Atlantic NYNEX Mobile
46 Broadway
Menands, New York 12204

February 21, 1996

1. Introduction

This report was prepared in response to a request from BANM for a safety analysis of the radiofrequency (RF) electromagnetic environment in the vicinity of the proposed cellular radio installation, and an opinion regarding the concern for public health associated with long-term exposure in this environment.

2. Technical Data

The antennas of the proposed cellular radio installation are to be located on a lattice tower-type structure located off Mt. Airy and Dean Hill Roads, Town of New Windsor, NY. The antennas will transmit at frequencies between 869 and 894 million hertz (MHz). (These frequencies were formerly allocated for UHF television channels 79 through 83.)

For a cellular radio system, the radiated power is typically less than 10 watts per transmitter (channel) and the actual *total* radiated power is usually less than 200 watts per sector (assuming the maximum number of transmitters are installed and operate *simultaneously and continuously*, which is rarely, if ever, the case). This is an extremely low power system when compared with other familiar radio systems, such as AM, FM, and television broadcast, which operate upwards of 50,000 watts. Figure 1 is a diagram of the electromagnetic spectrum which also lists common uses of RF energy. Table 1 below lists engineering specifications for the proposed system.

Table 1
Engineering Specifications for the
Proposed Cellular Radio System, Town of New Windsor, New York

Site Specifications	Bell Atlantic NYNEX Mobile
antenna centerline height above grade	165 ft
maximum ERP per channel†	100 watts
actual radiated power per channel	7 watts
actual <i>total</i> radiated power per sector	133 watts
number of transmit antennas	2 per sector
number of receive antennas	2 per sector
maximum number of transmitters	19 per sector
antenna manufacturer	Swedcom
model number	ALP9212
gain	14.15 dBi
type	directional
downtilt	0°

†ERP - *Effective Radiated Power*. ERP is a measure of how well an antenna concentrates RF energy; it is not the actual power radiated from the antenna. To illustrate the difference, compare the brightness of an ordinary 100 watt light bulb with that from a 100 watt spot-light. Even though both are 100 watts, the spot-light appears brighter because it concentrates the light in one direction. In this direction, the spot-light effectively appears to be emitting more than 100 watts. In other directions, there is almost no light emitted by the spot-light and it effectively appears to be much less than 100 watts.

3. Environmental Levels of RF Energy

The antennas used for cellular radio propagate energy in a relatively narrow beam (in the vertical plane) which is directed toward the horizon. The reason for this is to provide uniform coverage. Hence, levels of RF energy directly under the antennas are not remarkably different from the levels at points more distant.

For the case at hand, the maximal potential exposure levels associated with *simultaneous and continuous* operation of all BANM transmitters can be readily calculated at any point in a plane at any height above grade. Based on the information shown in Table 1, the maximum power density at any point in a horizontal plane 6 ft above grade will be less than 0.4 millionths of a watt per centimeter squared ($0.4 \mu\text{W}/\text{cm}^2$) and will be less than $0.5 \mu\text{W}/\text{cm}^2$ at any point in a corresponding plane 16 ft above grade. The latter is representative of the maximum power density immediately outside the upper floor of nearby private homes (assuming level terrain).

The above values are the theoretical maxima that could occur and are not typical values. The calculations include the effect of field reinforcement from in-phase reflections. The assumption was also made that the maximum number of transmitters are installed and operate continuously and at the highest power that normally would be used. Because of the intermittent nature of the transmission from these antennas, the actual time-weighted-average values will be lower than those above. Moreover, experience has shown that the analytical technique used is extremely conservative. That is, actual power density levels have always been found to be smaller than the corresponding calculated levels¹. Also, levels inside nearby homes and buildings will be lower than those immediately outside because of the high attenuation of common building materials at these frequencies and, hence, will not be significantly different from typical ambient levels.

4. Comparison of Environmental Levels with RF Standards

Table 2 shows the calculated maximal RF power density levels in the vicinity of the installation; Table 3 shows the pertinent federal, state and consensus exposure limits for human exposure to RF energy. The various exposure limits range from $550 \mu\text{W}/\text{cm}^2$ (public exposure) to $10,000 \mu\text{W}/\text{cm}^2$ (occupational exposure), while the corresponding calculated maximum power density levels in the environment around the proposed installation are $0.4 \mu\text{W}/\text{cm}^2$ (at 6 ft above grade) and $0.5 \mu\text{W}/\text{cm}^2$ (at 16 ft above grade). The power density in the main beam will be less than $10.0 \mu\text{W}/\text{cm}^2$ at any distance greater than 166 ft from the antennas.

Table 2
Calculated Maximal Levels for the Proposed
Cellular Radio Antennas, Town of New Windsor, New York

Location	Power Density ($\mu\text{W}/\text{cm}^2$)
6 ft above grade	< 0.4
16 ft above grade	< 0.5
In the main beam, at any distance greater than 166 ft from the antennas	< 10.0

1. Petersen, R.C., and Testagrossa, P.A., Radiofrequency Fields Associated with Cellular-Radio Cell-Site Antennas, *Bioelectromagnetics*, Vol. 13, No 6 (1992)

Table 3
Summary of State, Federal and Consensus Guidelines
for Exposure to Radiofrequency Energy at
Frequencies Used for Cellular Radio

<u>Organization/Government Agency</u>	<u>Exposure Population</u>	<u>Exposure Limits ($\mu\text{W}/\text{cm}^2$)</u>
Occupational Safety & Health Administration..... (OSHA - 29 CFR 1910.97)	Occupational	10,000
American National Standards Institute..... (ANSI C95.1 - 1982)	Occupational Public	2,750 2,750
Institute of Electrical and Electronic Engineers [†] (ANSI/IEEE C95.1-1992)	Occupational Public	2,750 550
National Council on Radiation Protection & Measurements (NCRP Report 86 - 1986)	Occupational Public	2,750 550
U.S. Federal Communications Commission ^{††} (requires FCC licensees to comply with ANSI C95.1-1982)	Occupational Public	2,750 2,750
New Jersey Administrative Code..... (NJAC 7:28-42)	Public	2,750
Massachusetts Department of Health..... (105 CMR 122)	Public	550
New York State, Department of Health..... (follows NCRP Report 86)	Public	550

[†] Latest revision of ANSI C95.1 - 1982.

^{††} Because of the low transmitter power, the FCC has categorically excluded cellular-radio from hazard analyses by the licensee.

5. Discussion of Health Standards

Recently, press coverage has suggested an association between health effects and exposure to magnetic fields from electric-power distribution lines, and from the use of hand-held cellular telephones. This press coverage has heightened concern among some members of the public about the possibility that health effects may be associated with any exposure to electromagnetic energy. Many people feel uneasy about new or unfamiliar technology and often want absolute proof that something is safe. Such absolute guarantees are not possible since it is virtually impossible to prove that something does not exist. However, sound judgments can be made as to the safety of a physical agent based on the weight of the pertinent scientific evidence. This is exactly how safety guidelines are developed.

The overwhelming weight of scientific evidence unequivocally indicates that biological effects associated with exposure to RF energy are threshold effects, i.e., unless the exposure level is sufficiently high the effect will not occur regardless of exposure duration. (Unlike ionizing radiation, e.g., X-rays and nuclear radiation, repeated exposures to low level RF radiation, or nonionizing radiation, are not cumulative.) Thus, it is relatively straightforward to derive safety limits. By adding safety factors to the threshold level at which the most sensitive effect occurs, conservative exposure guidelines have been developed to ensure safety.

At present, there are more than 10,000 reports in the scientific literature which address the subject of RF bioeffects. These reports, most of which describe the results of epidemiological

studies and animal studies, have been critically reviewed by leading researchers in the field and all new studies are continuously being reviewed by various groups and organizations whose interest is developing health standards. These include the U.S. Environmental Protection Agency, the National Institute for Occupational Safety and Health, the National Council on Radiation Protection and Measurements, the standards committees sponsored by the Institute of Electrical and Electronics Engineers, the International Radiation Protection Association under the sponsorship of the World Health Organization, and the National Radiological Protection Board of the UK. All of these groups have recently either reaffirmed existing health standards, developed and adopted new health standards, or proposed health standards for exposure to RF energy.

For example, in 1986, the National Council on Radiation Protection and Measurements (NCRP) published recommended limits for occupational and public exposure². These recommendations were based on the results of an extensive critical review of the scientific literature by a committee of the leading researchers in the field of bioelectromagnetics. The literature selected included many controversial studies reporting effects at low levels. The results of all studies were weighed, analyzed and a consensus obtained establishing a conservative threshold upon which safety guidelines should be based. This threshold corresponds to the level at which the most sensitive, reproducible effects were reported in the scientific literature. Safety factors were incorporated to ensure that the resulting guidelines would be at least ten to fifty times lower than the established threshold, even under worst-case exposure conditions. The NCRP recommended that continuous occupational exposure to cellular radio frequencies should not exceed approximately $2,750 \mu\text{W}/\text{cm}^2$, and continuous exposure of the public should not exceed $550 \mu\text{W}/\text{cm}^2$. (Although the State of New York does not have a regulatory program for the RF portion of the electromagnetic spectrum, the New York Department of Health (DOH) compares potential exposure levels with the above recommendations of the NCRP to assess public safety.)

In July of 1986, the Environmental Protection Agency published a notice in the Federal Register, calling for public comment on recommended guidance for exposure of the public³. Three different limits, ranging from approximately 275 to $2,750 \mu\text{W}/\text{cm}^2$, were proposed. In 1987 the EPA abandoned its efforts and failed to adopt official federal exposure guidelines. However, in 1993 the EPA, in its comments on the Federal Communications Commission's (FCC) Notice of Proposed Rule Making⁴, recommended adoption of the 1986 NCRP limits.

Also, in September 1991, the RF safety standard developed by Subcommittee 4 of the Institute of Electrical and Electronics Engineers (IEEE) Standards Coordinating Committee SCC-28 was approved by the IEEE Standards Board⁵. (IEEE SCC-28 was formerly the American National Standards Institute C95 Committee.) In November 1992, the ANSI Board of Standards Review approved the IEEE standard for use as an American National Standard. The limits of this standard are identical to the 1982 ANSI RFPGs⁶ for occupational exposure and approximately $550 \mu\text{W}/\text{cm}^2$ for exposure of the general public at cellular radio frequencies. Like those of the NCRP, these limits resulted from an extensive critical review of the scientific literature by a large committee of preeminently qualified scientists, most of whom were from academia and federal research laboratories.

2. NCRP - *Biological Effects and Exposure Criteria for Radio Frequency Electromagnetic Fields*, NCRP Report No. 86, National Council on Radiation Protection and Measurements, Bethesda, MD, (1986).

3. Federal Register, Vol. 51, No. 146, Wednesday, July 30, 1986.

4. Notice of Proposed Rule Making *In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, August 13, 1993. ET Docket No. 93-62

5. *IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz*, ANSI/IEEE C95.1-1992, Institute of Electrical and Electronics Engineers, Piscataway, NJ.

6. *American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz*, ANSI C95.1-1982, American National Standards Institute, New York, NY.

In implementing the National Environmental Policy Act⁷ regarding potentially hazardous RF radiation from radio services regulated by the FCC, the FCC categorically excluded land mobile services, including cellular radio, from hazard analyses because "individually or cumulatively they do not have a significant effect on the quality of the human environment"⁸. The FCC pointed out that there was no evidence of excessive exposure to RF radiation during routine normal operation of these radio services. The FCC is now in the process of reviewing comments on its 1993 Notice of Proposed Rule Making⁴ to adopt the 1992 ANSI/IEEE guidelines.

More recently, the World Health Organization's International Commission on Non-Ionizing Radiation Protection⁹ and the National Radiological Protection Board in the United Kingdom¹⁰ independently developed and published guidelines similar to those of ANSI/IEEE. Finally, what was formerly the USSR, which traditionally had the lowest exposure guides, twice has revised upward its limits for public exposure. Thus, there is a converging consensus of the world's scientific community as to what constitutes safe levels of exposure.

With respect to the proposed cellular radio antennas, be assured that the actual exposure levels in the vicinity of the Town of New Windsor, NY installation will be below any health standard used anywhere in the world and literally thousands of times below any level reported to be associated with any verifiable functional change in humans or laboratory animals. This holds true even when all transmitters operate *simultaneously and continuously*. Power density levels of this magnitude are not even a subject of speculation with regard to an association with adverse health effects.

6. For Further Information

Anyone interested can obtain additional information about the environmental impact of cellular radio communications from:

Dr. Robert Cleveland, Jr.
Federal Communications Commission
Office of Engineering and Technology
Room 7002
1919 M Street NW
Washington, DC 20554
(202) 653-8169

and

William J. Condon, CHP
Chief, Bureau of Environmental Radiation Protection
State of New York, Department of Health
2 University Place
Albany, NY 12203
(518)458-6495

7. Although there are no federal limits per se, in order to fulfill its obligation under the National Environmental Policy Act, the FCC requires licensees to comply with the 1982 ANSI C95.1 limits.
8. Action by the Commission February 12, 1987, by Second Report and Order (FCC 87-63), and Third Notice of Proposed Rulemaking (FCC 87-64). General Docket No. 79-144.
9. *Electromagnetic Fields (300 Hz to 300 GHz)*, Environmental Health Criteria 137, World Health Organization, Geneva, Switzerland (1993).
10. *Board Statement on Restrictions on Human Exposure to Static and Time Varying Electromagnetic Fields and Radiation*, Documents of the NRPB, Vol. 4, No. 5, National Radiological Protection Board, Chilton, Didcot, Oxon, United Kingdom (1993).

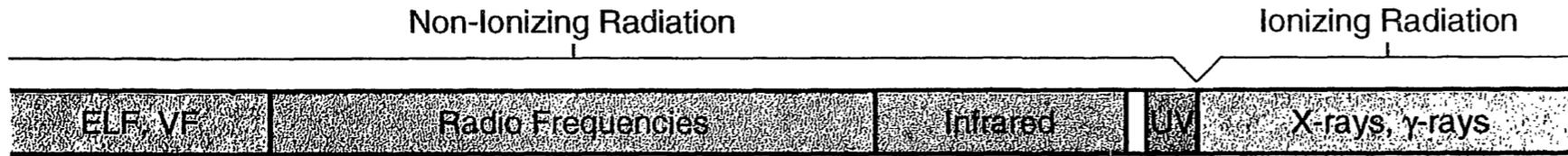
7. Conclusion

A safety analysis has been performed with respect to potential public exposure to RF energy in the environment associated with BANM cellular radio antennas proposed for installation in the Town of New Windsor, New York. The analysis utilized engineering data provided by BANM, together with well-established analytical techniques for estimating the environmental levels of RF energy associated with cellular radio transmitting antennas. Worst-case assumptions were used to ensure safe-side estimates, i.e., the actual values will be significantly lower than the corresponding analytical values.

The results of this analysis indicate that the maximum level of RF energy to which the public may be exposed will meet all applicable health and safety limits. Specifically, in all normally accessible areas surrounding the facility, the maximum level of RF energy associated with *simultaneous and continuous operation of all transmitters* will be at least 1375 times below the exposure limits of OSHA, ANSI, IEEE, NCRP and the limits of all states that regulate RF exposure.

Enclosure: Figure 1. Electromagnetic Spectrum

ELECTROMAGNETIC SPECTRUM



AM Radio: 535 - 1605 kHz

CB Radio: 27 MHz

Cordless Phones: 49 MHz

TV Ch 2-6: 54 - 88 MHz

FM Radio: 88 - 108 MHz

Marine Radio: 160 MHz

TV Ch 7-13: 174 - 216 MHz

TV UHF Ch 14-69: 470 - 800 MHz

Cellular Radio, Specialized Mobile Radio, Paging:
806 - 946 MHz

Antitheft devices: 10-20 kHz and/or 915 MHz

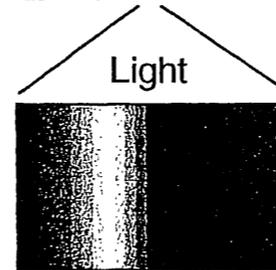
Microwave oven: 915 and 2450 MHz

Personal Communication Services: 1800 - 2200 MHz

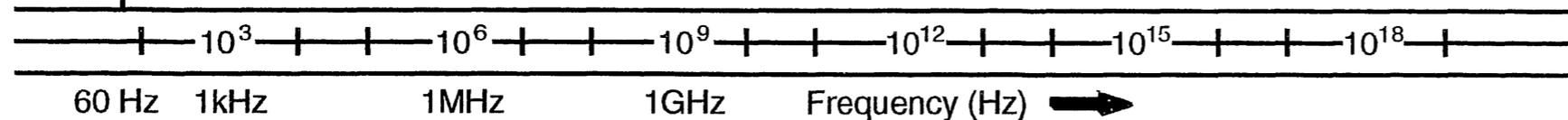
Intrusion alarms / door openers: 10.5 GHz

Microwave radio: 1 - 40 GHz

Satellite Communications: 100 MHz - 275 GHz



Power
Frequency



§ 101-35.401 General.

Consolidated local telecommunications service is available in most buildings occupied by concentrations of Federal employees. Local telecommunications includes any access services which provide, for a monthly fee, electronic connectivity to a larger telecommunications network and those support services which provide for the acquisition, operation and management of attached systems. Information on the use of consolidated local telecommunications services may be obtained from: GSA, Federal Telecommunications Service, Office of Regional Services (TR), 1730 M Street, NW., Suite 200, Washington, DC 20036.

§ 101-35.402 Policies.

(a) All executive agencies shall evaluate sharing Government owned or contracted local telecommunications facilities and services. Evaluation criteria and associated decisions must be documented as appropriate.

(b) Executive agencies receiving local telecommunications services from another agency, e.g., a GSA consolidated switch, must acknowledge their shared responsibility to that community of agencies in exchange for those services. Such a community shall be considered a telecommunications "Shared Resource Community." The agency primarily responsible for providing telecommunications service(s) to members of this community shall be the "Lead Agency." Lead agencies must acknowledge their responsibility(s) to provide services until an alternative arrangement has been coordinated with the community. Different agencies may take the lead in providing different services. Memoranda of Agreement will identify responsibilities and cost-recovery mechanisms.

(c) GSA charges to agencies for consolidated local telecommunications service will cover expenses for installation, changes in service, a common distributable charge, and termination.

Subpart 101-35.5—National Security and Emergency Preparedness (NSEP)**§ 101-35.500 Scope of subpart.**

This subpart discusses NSEP services and assistance provided by GSA to executive agencies.

§ 101-35.501 General.

Executive Order 12472 (49 FR 13471, 3 CFR, 1984 Comp., p. 193), requires that GSA ensure that the NSEP requirements of agencies are met. GSA incorporates NSEP safeguards and support features in networks and

services it provides for agencies. GSA also provides emergency telecommunications for the special needs of agencies and helps agencies plan, obtain, and maintain continuity of telecommunications during wartime and non-wartime emergencies.

§ 101-35.502 Policy.

Agencies shall use available GSA telecommunications systems and services to meet their NSEP requirements.

§ 101-35.503 Procedures.

Before acquiring services or facilities to meet special NSEP requirements, agencies shall review GSA-provided services. Agencies shall coordinate their special NSEP requirements with: General Services Administration, Federal Telecommunications Service, Office of Service Delivery, NSEP Center (TOS), 18th & F Streets, NW, Washington, DC 20405.

Subpart 101-35.6—Delegation of GSA's Multiyear Contracting Authority for Telecommunications Resources**§ 101-35.600 Scope of subpart.**

This subpart discusses the delegation of GSA's multiyear contracting authority to executive agencies.

§ 101-35.601 General.

Executive agencies are authorized to enter into multiyear contracts for telecommunications resources subject to the following conditions:

(a) The agency shall notify GSA/T prior to using GSA's multiyear contracting authority.

(b) The contract life including options, shall not exceed 10 years.

(c) Agencies shall comply with OMB budget and accounting procedures relating to appropriated funds.

Dated: July 31, 1996.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 96-19961 Filed 8-6-96; 8:45 am]

BILLING CODE 6820-25-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 1, 2, 15, 24 and 97**

[ET Docket No. 93-62; FCC 96-326]

Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The *Report and Order* ("R&O") amends the Commission's Rules to adopt new guidelines and methods for evaluating the environmental effects of radiofrequency (RF) radiation from FCC-regulated transmitters, in accordance with The National Environmental Policy Act (NEPA) of 1969. NEPA requires agencies of the Federal Government to evaluate the effects of their actions on the quality of the human environment. To meet the Commission's responsibilities under NEPA, the Commission has adopted revised RF exposure guidelines for purposes of evaluating potential environmental effects of RF radiation. The new guidelines reflect more recent scientific studies of the biological effects of RF radiation. Use of the new guidelines will ensure that the public and workers receive adequate protection from exposure to potentially harmful RF field.

EFFECTIVE DATE: August 6, 1996.

FOR FURTHER INFORMATION CONTACT: FCC RF Safety Program, (202) 418-2422, Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in ET Docket No. 93-62, FCC 96-326, adopted August 1, 1996 and released August 1, 1996. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Summary of the Report and Order

1. By this action, we are amending the Commission's Rules to adopt new guidelines and methods for evaluating the environmental effects of radiofrequency (RF) radiation from FCC-regulated transmitters. We are adopting Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters operating at frequencies from 300 kHz to 100 GHz. Specifically, we are adopting limits for field strength and power density that are generally based on Sections 17.4.1 and 17.4.2 and the time-averaging provisions recommended in Sections 17.4.1.1 and 17.4.3 of "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," NCRP Report No. 86 (1986), National Council on Radiation Protection and Measurements (NCRP). With the exception of the limits on exposure to power density above

1500 MHz and the limits for exposure to lower frequency magnetic fields, these MPE limits are also generally based on the guidelines contained in the RF safety standard developed by the Institute of Electrical and Electronic Engineers, Inc. (IEEE) and adopted by the American National Standards Institute (ANSI). See Section 4.1 of ANSI/IEEE C95.1-1992, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz". We are also adopting limits for localized ("partial body") absorption that will apply to certain portable transmitting devices. These guidelines are based on those recommended by ANSI/IEEE and NCRP. See Sections 4.2.1 and 4.2.2 of ANSI/IEEE C95.1-1992 and Section 17.4.5 of NCRP Report No. 86. We believe that the guidelines we are adopting will protect the public and workers from exposure to potentially harmful RF fields.

2. In reaching our decision on the adoption of new RF exposure guidelines we have carefully considered the large number of comments submitted in this proceeding, and particularly those submitted by the U. S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA) and other federal health and safety agencies. The new guidelines we are adopting are based primarily on the recommendations of those agencies, and we believe that these guidelines represent a consensus view of the federal agencies responsible for matters relating to the public safety and health.

3. The MPE limits adopted herein are based on exposure criteria quantified in terms of specific absorption rate (SAR), a measure of the rate of RF energy absorption. The basis for these limits, as well as the basis for the 1982 ANSI limits that the Commission previously specified in our rules, is an SAR limit of 4 watts per kilogram. The new MPE limits are derived by incorporating safety factors that lead, in some cases, to limits that are more conservative than the limits specified by ANSI in 1982. The more conservative limits do not arise from a fundamental change in the RF safety criteria for SAR, but from a precautionary desire for more rigor in the derivation of factors which allow limits for MPE to be derived from SAR limits.

4. This action satisfies the requirements of the Telecommunications Act of 1996 for a timely resolution of this proceeding. We note that research and analysis relating to RF safety and health is ongoing, and changes in recommended exposure limits are possible in the future. In that

regard, we intend to continue our cooperative work with industry and with the various agencies and organizations with responsibilities in this area in order to ensure that our guidelines continue to be appropriate and scientifically valid.

5. Accordingly, it is ordered that Parts 1, 2, 15, 24 and 97 of the Commission's Rules and Regulations are amended as specified below, effective August 6, 1996. Section 704(b) of the Telecommunications Act of 1996 requires that the Commission complete action in this proceeding, and prescribe and make effective rules regarding the environmental effects of RF emissions, by no later than August 6, 1996 (180 days after enactment)]. We find that good cause exists, pursuant to 5 U.S.C. Sec. 553 (d)(3), to make these rules effective upon their release rather than follow the normal practice of making them effective 30 days after publication in the *Federal Register*. Congress directed the Commission to make these rules effective within 180 days. Sec. 704 of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996) states that "[w]ithin 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions." Unlike other sections of that Act, *see, e.g.*, Secs. 251(d)(d)(1), which directs us to "complete" action, and Sec. 254(a)(2), which directs us to "promulgate" rules, Sec. 704 requires that the RF exposure guidelines be made effective within the prescribed 180 day time period. Completion of this rule making has required an extensive amount of work to resolve some extremely complex issues. In addition, coordination with the various federal agencies pursuant to the Interdepartmental Radio Advisory Committee has consumed more time than anticipated. The time required to review the comments, decide on the best possible guidelines based on the scientific evidence and, comments and to coordinate that decision with the other agencies has made it impossible to delay the effective date for 30 days and still meet the Congressionally imposed deadline. Thus, we have no alternative but to make these rules effective immediately. The authority for issuance of this Report and Order is contained in Sections 4(i), 7(a), 303(c), 303(f), 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), 303(r), and 332(c)(7), unless otherwise noted.

Final Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice*.¹ The Commission sought written public comments on the proposals in the *Notice*, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. No. 104-121, 110 Stat. 847 (1996).²

I. Need for and Purpose of this Action:

The National Environmental Policy Act (NEPA) of 1969 requires agencies of the Federal Government to evaluate the effects of their actions on the quality of the human environment. To meet its responsibilities under NEPA, the Commission has adopted revised RF exposure guidelines for purposes of evaluating potential environmental effects of RF radiation from FCC-regulated facilities. The new guidelines reflect more recent scientific studies of the biological effects of RF radiation. Use of these new guidelines will ensure that the public and workers receive adequate protection from exposure to potentially harmful RF field.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

No comments were filed in direct response to the IRFA. In general comments on the *Notice*, however, some commenters raised issues that might affect small entities. In particular, some commenters argued that the cost of complying with the radio frequency (RF) limits could be overly burdensome, and this could negatively impact small businesses. They express concern that the cost of testing, with respect to devices operating in close proximity to the body, is extremely expensive and obtaining testing equipment could be difficult for small businesses. For example, the National Association of Business and Educational Radio, Inc. (NABER) encourages us to categorically exclude land mobile transmitters, expressing concern that if categorical exclusions for land mobile services are eliminated, manufacturers would have to institute unnecessary and costly

¹ See *Notice of Proposed Rule Making*, ET Docket No. 93-62, 8 FCC Rcd 2849 (1993), 58 FR 19393 (April 14, 1993).

² Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. § 601 et seq.

testing.³ They also request that we limit the amount of paperwork that is necessary for demonstrating compliance with the limits. In particular, the Broadcast Joint Commenters suggest that additional paperwork should not be required to establish compliance with the new policies because it would be needlessly burdensome to the broadcasters and to the Mass Media Bureau.⁴ As discussed in Section V of this FRFA, we have attempted to address these concerns.

III. Description and estimate of the Small Entities Subject to the Rules:

The rules in this Report and Order will apply to the following twelve industry categories and services. The RFA generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. § 632. Based on that statutory provision, we will consider a small business concern one which (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The RFA SBREFA provisions also apply to nonprofit organizations and to governmental organizations. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small business within each of these services or the number of small business that would be affected by this action. We have, however, made estimates based on our knowledge about applications that have been submitted in the past. To the extent that a government entity may be a licensee or an applicant, the impact on those entities is included in the estimates for small businesses below.

As discussed below, under the rules we are adopting many radio services are categorically excluded from having to determine compliance with the new RF radiation limits that are being adopted. This exclusion is based on a determination that there is little potential for these services causing exposures in excess of the limits. Within the services below, many transmitting facilities are also categorically excluded based on antenna location and power. These categorical exclusions significantly reduce the burden associated with these rules, and may

reduce the impact of these rules on small businesses.

A. Radiofrequency Devices

The radiofrequency devices affected by this rulemaking are low power, unlicensed transmitters that will be used to provide, on millimeter wave frequencies, a variety of services, including vehicle collision avoidance and high data rate/short range wireless data communications. Unlicensed personal communications service (PCS) transmitters are also radiofrequency devices. Radiofrequency devices are subject to compliance with the new RF radiation requirements at the time of equipment authorization. Therefore, it will be the equipment manufacturers and importers who will be affected by this action.

We expect most of the firms that would be interested in producing millimeter wave and unlicensed PCS devices will be large businesses. We note that Ford Motor and Hewlett Packard have expressed interest in millimeter wave devices and filed comments in this proceeding. In addition, Motorola and Ericsson Corporate, both large equipment manufacturers, have expressed interest in manufacturing unlicensed PCS devices. Nevertheless, it is conceivable that small businesses will also want to manufacture these devices.

The Commission has not developed a definition of small entities applicable to radiofrequency devices. Therefore, the applicable definition of small entity is the definition under the SBA applicable to the "Communications Services, Not Elsewhere" category. A small millimeter wave device or unlicensed PCS entity under this definition is one with less than \$11.0 million in annual receipts.⁵

The Commission has not yet authorized any millimeter wave devices, and has authorized fewer than ten unlicensed PCS devices. Both these services are new, so we really don't know how many applications for equipment authorization we may receive, nor how many small manufacturers may be interested in producing these products. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small businesses in this category. The Census Bureau estimates indicate that of the 848 firms in the "Communications Services, Not Elsewhere" category, 775 are small businesses. Based on this

information, as well as our past experience in granting equipment authorization for other types of radiofrequency devices, we estimate that 50 percent of the applications for millimeter wave and unlicensed PCS devices will be from small businesses.

The Commission anticipates that approximately 30 applications will be filed annually for devices that operate in the millimeter band and unlicensed PCS spectrum. All of these applications will require an initial determination of compliance with our new RF guidelines. Of these devices, ten will require specific absorption rate (SAR) modeling or measurement, which adds cost to the authorization process.

B. Cellular Radio Telephone Service

The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.⁶ Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small cellular businesses and is unable at this time to make a precise estimate of the number of cellular firms which are small businesses.

The size data provided by the SBA does not enable us to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 500 or more employees.⁷ We therefore used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. That census shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.⁸ Therefore, even if all 12 of these large firms were cellular telephone

⁶ 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

⁷ U.S. Small Business Administration 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, SIC Code 4812 (radiotelephone communications industry data adopted by the SBA Office of Advocacy).

⁸ U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995).

³ NABER Comments at 5-6.

⁴ Broadcast Joint Commenters Reply Comments at 39-40.

⁵ 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4899.

companies, all of the remainder were small businesses under the SBA's definition. We assume that, for purposes of our evaluations and conclusions in the Final Regulatory Flexibility Analysis, all of the current cellular licensees are small entities, as that term is defined by the SBA. Although there are 1,758 cellular licenses, we do not know the number of cellular licensees, since a cellular licensee may own several licenses.

We assume that all of the current rural cellular licensees are small businesses. Comments filed by small business associations, the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO), state that 2/3 of its 440 members provide cellular service,⁹ and comments filed by the Rural Cellular Association (RCA) state that its members serve 80 cellular service areas.¹⁰ We recognize that these numbers represent only part of the current rural cellular licensees because there might be other rural companies not represented by either association.

The rules we are adopting generally require cellular stations to make a determination, through calculation or measurement, as to whether a transmitter facility will comply with the RF radiation exposure limits. If the facility does not comply with the limits, then the applicant (for a new license, a modification, or a renewal of an existing license) must file an Environmental Assessment (EA) pursuant to the National Environment Policy Act. The vast majority of applicants will find their facilities in compliance with the limits, or take steps such as controlling access around the transmitting facility, and will only need to indicate on their application that they comply with the limits. Many cellular transmission facilities are categorically exempted from making a compliance determination based on power and/or antenna height. The Commission processes roughly 700 applications for cellular transmitters facilities, involving 7,000 site locations, per year. Approximately 2,800 transmitting facilities will exceed categorical exclusion criteria and will require a determination of compliance with our new guidelines, based on calculations or measurements.

Manufacturers of mobile and portable cellular transmitters will have to make measurements, or in some cases calculations, as a condition for equipment authorization. Many of these manufacturers are likely to be the same

as those that will manufacture unlicensed PCS transmitters, as discussed in the radiofrequency device category above. Based on the information presented for radiofrequency devices, as well as our past experience in granting equipment authorization for other types of radiofrequency devices, we estimate that 50 percent of the applications for cellular telephones will be from small businesses. It is estimated that 200 mobile and portable cellular transmitters will require authorization per year.

C. Personal Communications Service

The broadband PCS spectrum is divided into six frequency blocks designated A through F. Pursuant to 47 C.F.R. § 24.720(b), the Commission has defined "small entity" for Blocks C and F licensees as firms that had average gross revenues of less than \$40 million in the three previous calendar years. This regulation defining "small entity" in the context of broadband PCS auctions has been approved by the SBA.¹¹

The Commission has auctioned broadband PCS licenses in Blocks A, B, and C. We do not have sufficient data to determine how many small businesses under the Commission's definition bid successfully for licenses in Blocks A and B. As of now, there are 90 non-defaulting winning bidders that qualify as small entities in the Block C auction. Based on this information, we conclude that the number of broadband PCS licensees affected by the rule adopted in this *Report and Order* includes the 90 non-defaulting winning bidders that qualify as small entities in the Block C broadband PCS auction.

At present, no licenses have been awarded for Blocks D, E, and F for spectrum. Therefore, there are no small businesses currently providing these services. However, a total of 1,479 licenses will be awarded in the D, E, and F Block broadband PCS auctions, which are scheduled to begin on August 26, 1996. Eligibility for the 493 F Block licensees is limited to "entrepreneurs" with the average gross revenues of less than \$125 million. However, we cannot estimate how many small businesses under the Commission's definition will win F Block licenses, or D and E Block licenses. Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of

prospective D, E, and F Block licensees can be made, we assume, for purposes of our evaluations and conclusions in this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

After all PCS licenses have been issued, the Commission expects to receive approximately 1,000 applications per year involving 10,000 sites. We anticipate that 3000 sites will not meet the categorical exclusion criteria and will involve a determination of compliance with the RF exposure guidelines.

As in the case of cellular telephones, mobile and portable PCS transmitters will have to undergo measurement or modeling to determine compliance with the RF radiation limits as a condition of equipment authorization. Again, we estimate that 50% of the manufacturers will be small businesses. Although we have authorized fewer than ten PCS transmitters, it is estimated that eventually 50 of such devices will be authorized each year.

D. Private Land Mobile Radio Services, Specialized Mobile Radio

Pursuant to 47 C.F.R. § 90.814(b)(1), the Commission has defined "small entity" for geographic area 800 MHz and 900 MHz SMR licenses as firms that had average gross revenues of less than \$15 million in the three previous calendar years. This regulation defining "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA.¹²

The rule adopted in this *Report and Order* applies to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable

¹² See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR, Docket No. 89-553, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693-702 (1995), 60 FR 48913 September 21, 1995 Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995), 61 FR 6212, February 16, 1996.

⁹ OPASTCO Comments at 1-2 (filed January 9, 1995).

¹⁰ RCA Comments at 2 (filed January 9, 1995).

¹¹ See Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 (1994), 59 FR 37566 (July 22, 1994).

to request information regarding the number of small businesses in this category. We do know that one of these firms has over \$15 million in revenues. We assume, for purposes of our evaluations and conclusions in this FRFA, that the remaining existing extended implementation authorizations may be held by small entities, as that term is defined by the SBA.

The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities under the Commission's definition in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted in this *Report and Order* includes these 60 small entities.

No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis to estimate, moreover, how many small entities within the SBA's definition will win these licenses. Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of our evaluations and conclusions in this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

The Commission receives about 3,000 applications for covered SMR transmitters facilities per year. Approximately 1,000 transmitters will exceed categorical exclusion criteria and will require a determination of compliance. In addition, as in the case of cellular telephones and PCS, mobile and portable covered SMR transmitters will have to undergo measurement or modeling to determine compliance with MPE and/or SAR requirements. It is estimated that 200 of such devices will require authorization per year.

E. Satellite Communications Services

The Commission has not developed a definition of small entities applicable to satellite communications licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone

companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.

Satellite systems authorized by the Commission can be divided into the following categories: mobile satellite service (MSS) non-geostationary satellite orbit (NGSO) (low or medium orbit satellites); mobile satellite service geostationary; mobile satellite service ship stations; and fixed satellite service.

In the MSS NGSO category the commission has divided its spectrum allocation into small and large NGSO. In the small NGSO or small low Earth-orbit (LEO) satellite service there are three existing and three pending or further licensees, all of which may be considered small business entities in the context of this analysis. These licensees are authorized in the VHF/UHF bands.

In the large LEO MSS category of MSS NGSO there are three existing licensees and three pending or future licensees in the 1.6/2.5 GHz band. The three existing are probably not small business entities and the three pending are probably small business entities. In the category of geostationary MSS the Commission has licensed one consortium, in the 1.5/1.6 GHz band, that comprises many small business entities.

The fixed satellite service (FSS) has generally been authorized in the 4/6 and 11/12 GHz band. There are three FSS licensees, that serve domestic US markets, none of which are small business entities. There are also two licensees serving international markets with FSS authorizations and these entities may be considered small business entities.

It should be noted that in most of the satellite areas discussed above the Commission issues one license to an entity but generally issues blanket license authority for thousands or even hundreds of thousands of earth stations or hand held transceivers. In this analysis we have considered satellite companies that have less than 1500 employees to be small business entities. Therefore, we are concluding that small business entities are largely affected by this proceeding in the satellite area.

The Commission receives about 600 applications for satellite facilities per year. All applicants must make a determination of compliance with the limits, based on calculations or measurements.

F. Radio Broadcast Service

The SBA has defined small radio broadcast service entities based on their "annual receipts" specifically in 13 CFR § 104, and its calculations include an averaging process. We do not currently

require submission of financial data from licensees that we could use to apply the SBA's definition of a small business. Thus, for purposes of estimating the number of small entities to which the rules apply, we are limited to considering the revenue data that are publicly available, and the revenue data on which we rely may not correspond completely with the SBA definition of annual receipts.

Under SBA criteria for determining annual receipts, if a concern has acquired an affiliate or been acquired as an affiliate during the applicable averaging period for determining annual receipts, the annual receipts in determining size status include the receipts of both firms. 13 CFR. § 121.104(d)(1). The SBA defines affiliation in 13 CFR. § 121.103. While the Commission refers to an affiliate generally as a station affiliated with a network, the SBA's definition of affiliate is analogous to our attribution rules. Generally, under the SBA's definition, concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. 13 CFR. § 121.103(a)(1). The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. 13 CFR. § 121.103(a)(2). Instead of making an independent determination of whether radio and television stations were affiliated based on SBA's definitions, we relied on the data bases available to us to afford us that information.

We have performed a study based on the data contained in the BIA Publications, Inc. Master Access Television Analyzer Database, which lists a total of 1,141 full-power commercial television stations. Low Power Television (LPTV) Stations and translator stations are discussed in paragraph H below. It should be noted that the percentage figures derived from the data base may be underinclusive because the data base does not list revenue estimates for noncommercial educational stations, and these are therefore excluded from our calculations based on the data base. Non-commercial stations are subject to the requirements adopted in the Report and Order. The data indicate that, based on 1995 revenue estimates, 440 full-power commercial television stations had an estimated revenue of 10.5 million dollars or less. That represents 54 percent of commercial television stations with revenue estimates listed in the BIA program. The data base does not

list estimated revenues for 331 stations. Using an extreme scenario, if those 331 stations for which no revenue is listed are counted as small stations, there would be a total of 771 stations with an estimated revenue of 10.5 million dollars or less, representing approximately 68 percent of the 1,141 commercial television stations listed in the BIA data base.

Alternatively, if we look at owners of commercial television stations as listed in the BIA data base, there are a total of 488 owners. The data base lists estimated revenues for 60 percent of these owners, or 295. Of these 295 owners, 156 or 53 percent had annual revenues of less than \$10.5 million. Using an extreme scenario, if the 193 owners for which revenue is not listed are assumed to be small, the total of small entities would constitute 72 percent of owners.

In summary, based on the foregoing extreme analysis using census data, we estimate that our rules will apply to as many as 1,150 commercial and non-commercial television stations (78 percent of all stations) that could be classified as small entities. Using the extreme analysis based on the data in the BIA data base, we estimate that as many as approximately 771 commercial television stations (about 68 percent of all commercial television stations) could be classified as small entities. As we noted above, these estimates are based on a definition that we believe greatly overstates the number of television broadcasters that are small businesses. Further, it should be noted that under the SBA's definitions, revenues of affiliates that are not television stations should be aggregated with the television station revenues in determining whether a concern is small. The estimates overstate the number of small entities since the revenue figures on which they are based do not include or aggregate such revenues from non-television affiliated companies.

In addition, according to the SBA's regulations, a radio broadcasting station must have annual gross receipts of \$5.0 million or less in order to qualify as a small business concern.¹³ There are approximately 10,250 commercial radio broadcasting stations and 1,810 noncommercial radio broadcast stations of all sizes in the nation, with approximately 5,200 different commercial licensees. For the same reasons as above, the exact number of small radio broadcasting entities to which the elimination of the rule will apply is unknown. Based on 1996 revenue estimates, the BIA Publications,

¹³ 13 CFR. § 121.201.

Inc. Master Access Analyzer Database indicates that 3,314 commercial radio stations had an estimated revenue of \$5.0 million or less. That represents approximately 32 percent of commercial radio stations with revenue estimates listed in the BIA program. The data base does not list estimated revenue for 6,571 stations. Using the most extreme scenario, if those 6,571 stations for which no revenue estimates is listed are counted as small stations, there would be a total of 9,885 stations with an estimated revenue of \$5.0 or less, representing approximately 96 percent of the 10,257 commercial radio stations listed in the BIA data base.

Alternatively, if we look at owners of commercial radio stations as listed in the BIA data base, there are a total of 5,207 owners. The data base lists estimated revenues for 29 percent of these owners, or 1,532. Of these 1,532 owners, 1,344 or 88 percent had annual revenue of less than \$5.0 million. Using the most extreme scenario, if the 3,675 owners for which revenue estimates are not listed are assumed to be small businesses, then the total of small entities would constitute 96 percent of commercial radio station owners. Further, many noncommercial radio broadcasters are considered to be small entities. Thus, a large number of licensees of radio broadcast facilities of several types (commercial AM, commercial FM, and noncommercial FM stations) could benefit from the rule amendment herein adopted.

The Commission receives about 1,800 applications for broadcast facilities per year. All applicants must make a determination of compliance with the limits, either by calculation or measurement.

G. Stations in the Maritime Services

This item would require licensees and applicants for ship satellite earth terminals to make a determination of compliance with the new RF radiation requirements. The Commission has not developed a definition of small entities applicable to ship satellite earth station licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.

Ship MSS is similar to geostationary MSS, as discussed above, except that earth stations are aboard maritime vessels rather than traditional earth stations in the MSS. In the area of ship MSS the Commission has two pending licensees for operation of the satellite

service, one of which can be considered small business.

The Commission receives about 272 applications for ship earth stations per year. All applicants must make a determination of compliance with the new RF radiation limits.

H. Experimental, Auxiliary, and Special Broadcast and Other Program Distribution Services

This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). It also includes Instructional Television Fixed Service stations, which are used to relay programming to the home or office, similar to that provided by cable television systems. The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.

There are currently 2,637 FM translators and boosters, 4,910 TV translators, and 1,903 Low Power TV stations which will be affected by the new requirements.¹⁴ There are also 2,032 ITFS licensees. The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities, including Low Power TV stations, could be classified as small businesses by themselves. We also recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either \$5 million for a radio station or \$10.5 million for a TV station). As we indicated earlier, 96% of radio stations and 78% of TV stations are designated as small.

The approximate number of annual applications processed by the Commission for this service is 1,032. All of these applications would be required to have a determination made regarding

¹⁴ FCC news release, Broadcast Station Totals as of June 30, 1996, released July 10, 1996.

compliance with the new RF radiation limits.

I. Multipoint Distribution Service (MDS)

This service involves a variety of transmitters, which are used to relay programming to the home or office, similar to that provided by cable television systems. The Commission has not developed a definition of small entities applicable to MDS licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons. There are 1,800 MDS stations currently licensed and 500 applications for additional channels.

The approximate number of annual applications processed by the Commission for MDS is 900. It is estimated that of the 900 processed, only 113 will not meet the categorical exclusion criteria and have to make a determination of compliance with the RF radiation limits.

J. Paging and Radiotelephone Service, and Private Land Mobile Radio Services, Paging Operations

Since the Commission has not yet approved a definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing less than 1,500 persons.

The Commission anticipates that a total of 15,531 non-nationwide geographic area licenses will be granted or auctioned. The geographic area licenses will consist of 3,050 MTA licenses and 12,481 EA licenses. In addition to the 47 Rand McNally MTAs, the Commission is licensing Alaska as a separate MTA and adding three MTAs for the U.S. territories, for a total of 51 MTAs. No auctions of paging licenses has been held yet, and there is no basis to determine the number of licenses that will be awarded to small entities. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of prospective paging licensees can be made, we assume, for purposes of this FRFA, that all the 15,531 geographic area paging licenses will be awarded to small entities, as that term is defined by the Small Business Administration (SBA).

We estimate that the approximately 600 current paging carriers could take the opportunity to partition and/or disaggregate a license to obtain an additional license through partitioning or disaggregation. We estimate that up

to 48,393 licensees or potential licensees could take the opportunity to partition and/or disaggregate a license or obtain a license through partitioning or disaggregation. This number is based on the total estimate of paging carriers (approximately 600) and non-nationwide geographic area licenses to be awarded (15,531) and our estimate that each license will probably not be partitioned and/or disaggregated to no more than three parties. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of future paging licensees can be made, we assume for purposes of this FRFA that all of the licensees will be awarded to small businesses. We believe that it is possible that a significant number of up to approximately 48,393 licensees or potential licensees who could take the opportunity to partition and/or disaggregate a license or who could obtain a license through partitioning and/or disaggregation will be a small business.

The Commission receives about 10,000 applications for paging facilities per year. Approximately 1,176 transmitters will exceed categorical exclusion criteria and will require a determination of compliance with the new guidelines, either by measurement or calculation.

K. Experimental Radio Service

The Commission has not developed a definition of small entities applicable to experimental licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.¹⁵ Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small experimental radio businesses and is unable at this time to make a precise estimate of the number of Experimental Radio Services which are small businesses.

The majority of experimental licenses are issued to companies such as Motorola and Department of Defense contractors such as Northrop, Lockheed and Martin Marietta. Businesses such as these may have as many as 200 licenses at one time. The majority of these applications, 70 percent, are from

entities such as these. Given this fact, the remaining 30 percent of applications, we assume, for purposes of our evaluations and conclusions in this FRFA, will be awarded to small entities, as that term is defined by the SBA.

The Commission processes approximately 1,000 applications a year for experimental radio operations. About half or 500 of these are renewals and the other half are for new licenses. Approximately 500 of these applications will be required to make an initial determination of compliance with our new RF guidelines.

IV. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements:

Applicants that are subject to the new RF radiation guidelines (i.e., not categorically excluded), are required to make a statement on any application filed with the Commission indicating that they comply with the RF radiation limits. Technical information supporting that statement must be retained by the applicant, and provided to the Commission upon request. In some cases, the applicant will be able to determine compliance by making calculations or reading applicable literature, including OST Bulletin No. 65. In other cases, detailed measurements of the transmitting facility may be necessary. In addition, steps to control access to the facility, such as warning signs or fences, may be required. Manufacturers of radio transmitting equipment will, as indicated above, need to make MPE and/or SAR measurements that will need to form part of the manufacturer's records for equipment authorization.

Reporting

Reporting requirements are limited to certain classes of applicants and licensees for which the potential for human exposure to RF emissions is the greatest. Most applicants and licensees are categorically excluded from routinely evaluating their facilities, operations or transmitters for compliance with the new RF exposure guidelines. The National Environmental Policy Act (NEPA), upon which our rules are based, allows "categorical exclusion" of large classes of actions that generally do not provide an opportunity for causing significant environmental impact, such as would result from human exposure to RF emissions in excess of the guidelines. In this case, the "actions" excluded are the granting of Commission applications and authorizations. Therefore, we are categorically excluding many applications submitted to the

¹⁵ 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

Commission from routine evaluation for compliance with the RF guidelines. This exclusion significantly limits burden on our regulatees, including many small businesses. The category exclusions apply to all radio services except those listed in section IV above and the radio amateur service. This means, for example, that all land mobile and public safety two-way systems are categorically excluded.

Applicants in services that are not categorically excluded may also be categorically excluded from determining compliance based on antenna location or station power. Applicants who are not categorically excluded are required to make a statement on certain application forms filed with the Commission indicating whether they comply with our environmental rules. This action by a licensee or applicant is the primary reporting requirement. In addition, supporting information (such as measurement data, site drawings, and calculations) may be requested, in certain cases, to justify the statement made on a Commission form.

Recordkeeping

The Commission has no specific recordkeeping requirements related to compliance with the RF exposure guidelines. This has not changed from the rules previously in place regarding compliance with RF exposure guidelines. The Commission does reserve the right to request information supporting the answer an applicant gives on a form. Such information would normally be technical in nature and could involve a report of calculations performed or measurements made to determine compliance. Therefore, many applicants and licensees may keep information related to their compliance on file in some form for their own records. The Commission provides applicants with guidance on performing calculations or measurements through its OST Bulletin No. 65, which is being updated to reflect the new guidelines. In many cases, an applicant or licensee can easily use this bulletin to determine compliance through the use of charts, figures and tables. This largely eliminates the need for keeping a detailed analytic report in many cases. Manufacturers of equipment who are required to evaluate portable or mobile devices would likely have to perform more detailed analysis and keep on file a specific technical report for review by the Commission if requested. Also, in a few cases involving multiple transmitters at large antenna farms detailed measurement studies may be necessary. Reports of such studies would be retained by an

applicant to provide evidence of compliance if required.

Other Compliance Requirements

As was true for the previous rules, there are no specific compliance requirements, as such. Under the Commission's NEPA rules, applicants and licensees are required to submit an Environmental Assessment (EA) if they do not comply with our RF exposure guidelines (47 CFR § 1.1311). An EA is a detailed accounting of the consequences created by a specific action that may have a significant environmental impact, in this case a Commission authorization of a transmitter or facility that exceeds the RF guidelines. An EA would be evaluated by the Commission to determine whether the authorization should be granted in view of the environmental impact. In reality, this leads to a *de facto* compliance requirement, since most applicants and licensees who are not categorically excluded (see above) undertake measures to ensure compliance before submitting an application in order to avoid the preparation of a costly and time-consuming EA. For this reason EAs are rarely filed with the Commission. This has not changed from the existing rules. As for determining compliance, as mentioned above, the Commission provides applicants with specific guidance in the form of a technical bulletin. This bulletin is designed to minimize the effort and burden required by an applicant to determine compliance with the guidelines prior to submitting an application. Many options are available for ensuring compliance, including restricting access to an area where high RF levels exist, using warning signs or fences to provide notice of potential RF exposure, use of protective shielding or warning devices, reduction of power when people are in high RF areas and, in the case of portable and mobile devices, designing devices to minimize RF absorption in the body of the user.

Skills Needed to Meet Requirements

If a station is not categorically excluded, then the licensee or applicant must make a determination of whether the station will comply with the RF radiation limits. This study can be done by calculation or measurement, depending upon the situation. The calculations can be done in many cases by a radio technician or engineer familiar with radio propagation. If measurements are necessary, then a radio technician or engineer will also be required.

The applicant must indicate on its application that it meets the NEPA requirements and, therefore, does not exceed the RF radiation limits. This is usually done by checking a box on a form, which can be done by a clerical person.

V. Steps Taken to Minimize the Economic Impact on Small Entities

The Commission has made every effort to devise ways to minimize the impact of the new RF limits on small entities, while protecting the health and safety of the public. However, we have incorporated sufficient flexibility in the procedures to make compliance as minimally burdensome as possible. We have taken the following steps to ease the impact on small businesses.

1. The Commission has created a categorical exclusion that requires only those transmitters that appear to have the highest potential to create a significant environmental effect to perform an environmental evaluation.
2. The Commission will revise OST Bulletin No. 65 to provide guidance for determining compliance with FCC-specified RF limits. This should be of particular assistance to small businesses since it will provide straightforward information that should allow a quick understanding of the requirements and a quick assessment of the potential for compliance problems without the need for an expensive consultant or measurement.
3. The Commission allows various methods for ensuring compliance with RF limits such as fencing, warning signs, labels, and markings, locked doors in roof-top areas, and the use of personal monitors and RF protective clothing in an occupational environment.
4. The Commission has rejected its initial proposal to adopt induced and contact currents limits due to the lack of reliable equipment available.
5. The Commission has specified a variety of acceptable testing methods and procedures that may be used to determine compliance. This will allow each small business to choose a procedure that best meets its needs in the manner that is least burdensome to it.
6. The Commission has always allowed multiple transmitter sites, i.e., antenna farms, to pool their resources and have only one study done for the entire site. This is very common at sites that have multiple entities such as TV, FM, paging, cellular, etc. In most circumstances, rather than each licensee hiring a separate consultant and submitting a study showing their compliance with the guidelines, one

consulting radio technician or radio engineer can be hired by the group of licensees. The consultant surveys the entire site for compliance and gives his recommendations and findings to each of the licensees at the site. The licensees can then use the findings to show their compliance with the guidelines. In this way the cost of compliance is minimized as no one licensee has to pay the entire consulting fee, rather just a portion of it.

The Commission has determined cost of performing an environmental evaluation is minimal for 87 percent of the businesses required to determine compliance. In normal situations, an environmental evaluation can be performed within 1 hour or less with the use of the revised OST Bulletin No. 65, "Evaluating Compliance With FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation." In situations involving devices intended to be used in close proximity to the body, only PCS, cellular, and SMR portable and mobile devices will be required to evaluate compliance under the Commission's equipment authorization process.

Report to Congress

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

List of Subjects

47 CFR Part 1

Environmental impact statement, Federal Communications Commission, Radio, Reporting and recordkeeping requirements.

47 CFR Part 2

Federal Communications Commission, Radio, Reporting and recordkeeping requirements.

47 CFR Part 15

Computer technology, Federal Communications Commission,

Reporting and recordkeeping requirements.

47 CFR Part 24

Federal Communications Commission, Personal communications service.

47 CFR Part 97

Communications equipment, Federal Communications Commission, Radio.

Federal Communications Commission

William F. Caton,
Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, parts 1, 2, 15, 24 and 97 are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 303 and 309(j) unless otherwise noted.

2. Section 1.1307 is amended by revising paragraph (b), by removing notes 1, 2 and 3 following paragraph (b), and by adding new paragraph (e) to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) In addition to the actions listed in paragraph (a) of this section, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities, require the preparation of an Environmental Assessment (EA) if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation in excess of the limits in § 1.1310 and § 2.1093 of this chapter. Applications to the Commission for construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities must contain a statement confirming compliance with the limits unless the facility, operation, or transmitter is

categorically excluded, as discussed below. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(1) The exposure limits in § 1.1310 are generally applicable to all facilities, operations and transmitters regulated by the Commission. However, a determination of compliance with the exposure limits in § 1.1310, and preparation of an EA if the limits are exceeded, is necessary only for facilities, operations and transmitters that fall into the categories listed in Table 1, or those specified in paragraph (b)(2) of this section. All other facilities, operations and transmitters are categorically excluded from making such studies or preparing an EA, except as indicated in paragraphs (c) and (d) of this section. For purposes of Table 1, "rooftop" means the roof or otherwise outside, topmost level or levels of a building structure that is occupied as a workplace or residence and where either workers or the general public may have access. The term "power" in column 2 of Table 1 refers to total operating power of the transmitting operation in question in terms of effective radiated power (ERP), equivalent isotropically radiated power (EIRP), or peak envelope power (PEP), as defined in § 2.1 of this chapter. For the case of the Cellular Radiotelephone Service, subpart H of part 22 of this chapter; the Personal Communications Service, part 24 of this chapter and covered Specialized Mobile Radio Service operations, part 90 of this chapter, the phrase "total power of all channels" in column 2 of Table 1 means the sum of the ERP or EIRP of all co-located simultaneously operating transmitters of the facility. When applying the criteria of Table 1, radiation in all directions should be considered. For the case of transmitting facilities using sectorized transmitting antennas, applicants and licensees should apply the criteria to all transmitting channels in a given sector, noting that for a highly directional antenna there is relatively little contribution to ERP or EIRP summation for other directions.

TABLE 1.—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (Title 47 CFR Rule Part)	Evaluation required if:
Experimental Radio Services (part 5)	Power > 100W ERP (164W EIRP). Millimeter wave devices operating in one of the following bands 46.7–46.8 GHz, 59.0–64.0 GHz or 76.0–77.0 GHz (see §§ 15.253 and 15.255 of this chapter). Unlicensed personal communications service devices operating under subpart D of this chapter.
Radio Frequency Devices (part 15)	

TABLE 1.—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION—Continued

Service (Title 47 CFR Rule Part)	Evaluation required if:
Multipoint Distribution Service (subpart K of part 21)	<i>Non-rooftop antennas:</i> height above ground level to radiation center < 10 m and power > 1640 W EIRP. <i>Rooftop antennas:</i> Power > 1640W EIRP.
Paging and Radiotelephone Service (subpart E of part 22)	<i>Non-rooftop antennas:</i> height above ground level to radiation center < 10 m and power > 1000W ERP (1640 W EIRP). <i>Rooftop antennas:</i> power > 1000W ERP (1640W EIRP).
Cellular Radiotelephone Service (subpart H of part 22)	<i>Non-rooftop antennas:</i> height above ground level to radiation center < 10 m and total power of all channels > 1000W ERP (1640 W EIRP). <i>Rooftop antennas:</i> total power of all channels > 1000W ERP (1640W EIRP).
Personal Communications Services (part 24)	(1) Narrowband PCS (subpart D): <i>non-rooftop antennas:</i> height above ground level to radiation center <10 m and total power of all channels > 1000W ERP (1640 W EIRP). <i>Rooftop antennas:</i> total power of all channels > 1000W (1640W EIRP). (2) Broadband PCS (subpart E): <i>non-rooftop antennas:</i> height above ground level to radiation center <10 m and total power of all channels > 2000W ERP (3280 W EIRP). <i>Rooftop antennas:</i> total power of all channels > 2000W (3280W EIRP).
Satellite Communications (part 25)	All included.
Radio Broadcast Services (part 73)	All included.
Experimental, auxiliary, and special broadcast and other program distributional services (part 74).	Subparts A, G, L: power > 100W ERP.
Stations in the Maritime Services (part 80)	Subpart I: <i>non-rooftop antennas:</i> height above ground level to radiation center < 10 m and power > 1640 W EIRP.
Private Land Mobile Radio Services Paging Operations (part 90)	<i>Rooftop antennas:</i> power > 1640W EIRP. Ship earth stations only.
Private Land Mobile Radio Services Specialized Mobile Radio ("covered" providers only—see below) ¹ (part 90).	<i>Non-rooftop antennas:</i> height above ground level to radiation center < 10 m and power > 1000W ERP (1640 W EIRP). <i>Rooftop antennas:</i> power > 1000W ERP (1640W EIRP).
Amateur Radio Service (part 97)	<i>Non-rooftop antennas:</i> height above ground level to radiation center < 10 m and power > 1000W ERP (1640 W EIRP). <i>Rooftop antennas:</i> total power of all channels > 1000W ERP (1640W EIRP). Transmitter power > 50W PEP.

¹ Note: "Covered" SMR providers includes geographic area SMR licensees in the 800 MHz and 900 MHz bands that offer real-time, two-way switched voice service that is interconnected with the public switched network and Incumbent Wide Area SMR licensees, as defined in § 20.3 of this chapter.

(2) Mobile and portable transmitting devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services (PCS), the Satellite Communications Services, the Maritime Services (ship earth stations only) and covered Specialized Mobile Radio Service providers authorized under subpart H of part 22, part 24, part 25, part 80, and part 90 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 2.1091 and 2.1093 of this chapter. All unlicensed PCS and millimeter wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in § 15.253(f), § 15.255(g), and § 15.319(i) of this chapter. All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§ 2.1091 and 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

(3) In general, when the guidelines specified in § 1.1310 are exceeded in an accessible area due to the emissions

from multiple fixed transmitters, actions necessary to bring the area into compliance with the guidelines are the shared responsibility of all licensees whose transmitters produce field strengths or power density levels at the area in question in excess of 1% of the exposure limits applicable to their particular transmitter.

(i) Applicants for proposed (not otherwise excluded) transmitters, facilities or modifications that would cause non-compliance with the limits specified in § 1.1310 at an accessible area previously in compliance must submit an EA if emissions from the applicant's transmitter or facility would result in a field strength or power density at the area in question that exceeds 1% of the exposure limit applicable to that transmitter or facility.

(ii) Renewal applicants whose (not otherwise excluded) transmitters or facilities contribute to the field strength or power density at an accessible area not in compliance with the limits specified in § 1.1310 must submit an EA if emissions from the applicant's transmitter or facility results in a field strength or power density at the area in

question that exceeds 1% of the exposure limit applicable to that transmitter or facility.

(4) *Transition Provisions.* For applications filed with the Commission prior to January 1, 1997, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations, or modifications in existing facilities require the preparation of an Environmental Assessment if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation that are in excess of the requirements contained in paragraphs (b)(4) (i) through (iii) of this section. These transition provisions do not apply to applications for equipment authorization of mobile, portable, and unlicensed devices specified in paragraph (b) (2) of this section.

(i) For facilities and operations licensed or authorized under parts 5, 21 (subpart K), 25, 73, 74 (subparts A, G, I, and L), and 80 of this chapter, the "Radio Frequency Protection Guides" recommended in "American National Standard Safety Levels with Respect to

Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz", (ANSI C95.1-1982), issued by the American National Standards Institute (ANSI) and copyright 1982 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York shall apply. With respect to subpart K of part 21 and subpart I of Part 74 of this chapter, these requirements apply only to multipoint distribution service and instructional television fixed service stations transmitting with an equivalent isotropically radiated power (EIRP) in excess of 200 watts. With respect to subpart L of part 74 of this chapter, these requirements apply only to FM booster and translator stations transmitting with an effective radiated power (ERP) in excess of 100 watts. With respect to part 80 of this chapter, these requirements apply only to ship earth stations.

(ii) For facilities and operations licensed or authorized under part 24 of this chapter, licensees and manufacturers are required to ensure that their facilities and equipment comply with IEEE C95.1-1991 (ANSI/IEEE C95.1-1992), "Safety Levels With Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz." Measurement methods are specified in IEEE C95.3-1991, "Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields—RF and Microwave." Copies of these standards are available from IEEE Standards Board, 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855-1331. Telephone: 1-800-678-4333. The limits for both

"controlled" and "uncontrolled" environments, as defined by IEEE C95.1-1991, will apply to all PCS base and mobile stations, as appropriate.

(iii) Applications for all other types of facilities and operations are categorically excluded from routine RF radiation evaluation except as provided in paragraphs (c) and (d) of this section.

(e) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations contained in this chapter concerning the environmental effects of such emissions. For purposes of this paragraph:

- (1) The term "personal wireless service" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;
- (2) The term "personal wireless service facilities" means facilities for the provision of personal wireless services;
- (3) The term "unlicensed wireless services" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services; and
- (4) The term "direct-to-home satellite services" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground

receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

3. A new Section 1.1310 is added to read as follows:

§ 1.1310 Radiofrequency radiation exposure limits.

The criteria listed in Table 1 shall be used to evaluate the environmental impact of human exposure to radiofrequency (RF) radiation as specified in § 1.1307(b), except in the case of portable devices which shall be evaluated according to the provisions of § 2.1093 of this chapter. Further information on evaluating compliance with these limits can be found in the FCC's OST/OET Bulletin Number 65, "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation."

Note to Introductory Paragraph: These limits are generally based on recommended exposure guidelines published by the National Council on Radiation Protection and Measurements (NCRP) in "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," NCRP Report No. 86, Sections 17.4.1, 17.4.1.1, 17.4.2 and 17.4.3. Copyright NCRP, 1986, Bethesda, Maryland 20814. In the frequency range from 100 MHz to 1500 MHz, exposure limits for field strength and power density are also generally based on guidelines recommended by the American National Standards Institute (ANSI) in Section 4.1 of "IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," ANSI/IEEE C95.1-1992, Copyright 1992 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York 10017.

TABLE 1.— LIMITS FOR MAXIMUM PERMISSIBLE EXPOSURE (MPE)

Frequency range (MHz)	Electric field strength (V/m)	Magnetic field strength (A/m)	Power density (mW/cm ²)	Averaging time (minutes)
(A) Limits for Occupational/Controlled Exposures				
0.3-3.0	614	1.63	*(100)	6
3.0-30	1842/f	4.89/f	*(900/f ²)	6
30-300	61.4	0.163	1.0	6
300-1500	.....	.....	f/300	6
1500-100,000	.....	.....	5	6
(B) Limits for General Population/Uncontrolled Exposure				
0.3-1.34	614	1.63	*(100)	30
1.34-30	824/f	2.19/f	*(180/f ²)	30
30-300	27.5	0.073	0.2	30
300-1500	.....	.....	f/1500	30
1500-100,000	.....	.....	1.0	30

f = frequency in MHz
* = Plane-wave equivalent power density

Note 1 to Table 1: Occupational/controlled limits apply in situations in which persons are exposed as a consequence of their

employment provided those persons are fully aware of the potential for exposure and can exercise control over their exposure. Limits

for occupational/controlled exposure also apply in situations when an individual is transient through a location where

occupational/controlled limits apply provided he or she is made aware of the potential for exposure.

Note 2 to Table 1: General population/uncontrolled exposures apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or can not exercise control over their exposure.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: Sec. 4, 302, 303 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303 and 307, unless otherwise noted.

2. A new center heading and § 2.1091 are added to subpart J to read as follows: Radiofrequency Radiation Exposure

§ 2.1091 Radiofrequency radiation exposure evaluation: mobile and unlicensed devices.

(a) Requirements of this section are a consequence of Commission responsibilities under the National Environmental Policy Act to evaluate the environmental significance of its actions. See subpart I of part 1 of this chapter, in particular § 1.1307(b).

(b) For purposes of this section mobile devices are defined as transmitters designed to be used in other than fixed locations and to generally be used in such a way that a separation distance of at least 20 centimeters is normally maintained between radiating antennas and the body of the user or nearby persons.

(c) Mobile devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services, the Satellite Communications Services, the Maritime Services and the Specialized Mobile Radio Service authorized under subpart H of part 22, part 24, part 25, part 80 of this chapter (ship earth station devices only) and part 90 of this chapter ("covered" SMR devices only, as defined in the note to Table 1 of § 1.1307(b)(1) of this chapter), are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if their effective radiated power (ERP) is 1.5 watts or more. Unlicensed personal communications service and unlicensed millimeter wave devices authorized under § 15.253, § 15.255 and subpart D of part 15 of this chapter are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, regardless of their power used, unless they meet the definition of a portable device as

specified in § 2.1093(b). All other mobile and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure prior to equipment authorization, except as specified in §§ 1.1307(c) and 1.1307(d) of this chapter. Applications for equipment authorization of mobile and unlicensed transmitting devices subject to routine environmental evaluation must contain a statement confirming compliance with the limits specified in paragraph (d) of this section as part of their application. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(d) The limits to be used for evaluation are specified in § 1.1310 of this chapter. All unlicensed personal communications service (PCS) devices shall be subject to the limits for general population/uncontrolled exposure.

(1) For purposes of analyzing mobile transmitting devices under the occupational/controlled criteria specified in § 1.1310 of this chapter, time-averaging provisions of the guidelines may be used in conjunction with typical maximum duty factors to determine maximum likely exposure levels.

(2) Time-averaging provisions may not be used in determining typical exposure levels for devices intended for use by consumers in general population/uncontrolled environments as defined in § 1.1310 of this chapter. However, "source-based" time-averaging based on an inherent property or duty-cycle of a device is allowed. An example of this is the determination of exposure from a device that uses digital technology such as a time-division multiple-access (TDMA) scheme for transmission of a signal. In general, maximum average power levels must be used to determine compliance.

(3) Compliance with exposure guidelines for mobile and unlicensed devices can be accomplished by the use of warning labels and by providing users with information concerning minimum separation distances from transmitting structures and proper installation of antennas.

4. A new section 2.1093 is added to subpart J to read as follows:

§ 2.1093 Radiofrequency radiation exposure evaluation: portable devices.

(a) Requirements of this section are a consequence of Commission responsibilities under the National Environmental Policy Act to evaluate the environmental significance of its actions. See subpart I of Part 1 of this chapter, in particular § 1.1307(b).

(b) For purposes of this section portable devices are defined as transmitters designed to be used within 20 centimeters of the body of the user.

(c) Portable devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services, the Satellite Communications Services, the Maritime Services and the Specialized Mobile Radio Service authorized under subpart H of part 22 of this chapter, part 24 of this chapter, part 25 of this chapter, part 80 of this chapter (ship earth station devices only), part 90 of this chapter ("covered" SMR devices only, as defined in the note to Table 1 of § 1.1307(b)(1) of this chapter), and portable unlicensed personal communication service and millimeter wave devices authorized under § 15.253, § 15.255 or subpart D of part 15 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use. All other portable transmitting devices are categorically excluded from routine environmental evaluation for RF exposure prior to equipment authorization, except as specified in §§ 1.1307(c) and 1.1307(d) of this chapter. Applications for equipment authorization of portable transmitting devices subject to routine environmental evaluation must contain a statement confirming compliance with the limits specified in paragraph (d) of this section as part of their application. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(d) The limits to be used for evaluation are based generally on criteria published by the American National Standards Institute (ANSI) for localized specific absorption rate ("SAR") in Section 4.2 of "IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," ANSI/IEEE C95.1-1992, Copyright 1992 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York 10017. These criteria for SAR evaluation are similar to those recommended by the National Council on Radiation Protection and Measurements (NCRP) in "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," NCRP Report No. 86, Section 17.4.5. Copyright NCRP, 1986, Bethesda, Maryland 20814. SAR is a measure of the rate of energy absorption due to exposure to an RF transmitting source. SAR values have been related to threshold levels for potential biological hazards. The criteria to be used are

specified in paragraphs (d)(1) and (d)(2) of this section.

(1) Limits for Occupational/Controlled exposure: 0.4 W/kg as averaged over the whole-body and spatial peak SAR not exceeding 8 W/kg as averaged over any 1 gram of tissue (defined as a tissue volume in the shape of a cube). Exceptions are the hands, wrists, feet and ankles where the spatial peak SAR shall not exceed 20 W/kg, as averaged over an 10 grams of tissue (defined as a tissue volume in the shape of a cube). Occupational/Controlled limits apply when persons are exposed as a consequence of their employment provided these persons are fully aware of and exercise control over their exposure. Awareness of exposure can be accomplished by use of warning labels or by specific training or education through appropriate means, such as an RF safety program in a work environment.

(2) Limits for General Population/Uncontrolled exposure: 0.08 W/kg as averaged over the whole-body and spatial peak SAR not exceeding 1.6 W/kg as averaged over any 1 gram of tissue (defined as a tissue volume in the shape of a cube). Exceptions are the hands, wrists, feet and ankles where the spatial peak SAR shall not exceed 4 W/kg, as averaged over any 10 grams of tissue (defined as a tissue volume in the shape of a cube). General Population/Uncontrolled limits apply when the general public may be exposed, or when persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or do not exercise control over their exposure. Warning labels placed on consumer devices such as cellular telephones will not be sufficient reason to allow these devices to be evaluated subject to limits for occupational/controlled exposure in paragraph (d)(1) of this section.

(3) Compliance with SAR limits can be demonstrated by either laboratory measurement techniques or by computational modeling. Methodologies and references for SAR evaluation are described in numerous technical publications including "IEEE Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields—RF and Microwave," IEEE C95.3–1991.

(4) For purposes of analyzing portable transmitting devices under the occupational/controlled criteria, the time-averaging provisions of the MPE guidelines identified in § 1.1310 of this chapter can be used in conjunction with typical maximum duty factors to determine maximum likely exposure levels.

(5) Time-averaging provisions of the MPE guidelines identified in § 1.1310 of this chapter may not be used in determining typical exposure levels for portable devices intended for use by consumers, such as hand-held cellular telephones, that are considered to operate in general population/uncontrolled environments as defined above. However, "source-based" time-averaging based on an inherent property or duty-cycle of a device is allowed. An example of this would be the determination of exposure from a device that uses digital technology such as a time-division multiple-access (TDMA) scheme for transmission of a signal. In general, maximum average power levels must be used to determine compliance.

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: Secs. 4, 302, 303, 304, 307 and 624A of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 307 and 544A.

2. Section 15.253 is amended by revising paragraph (f) to read as follows:

§ 15.253 Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz.

* * * * *

(f) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section are subject to the radiofrequency radiation exposure requirements specified in § 1.1307(b), § 2.1091 and § 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

3. Section 15.255 is amended by revising paragraph (g) to read as follows:

§ 15.255 Operation within the band 59.0–64.0 GHz.

* * * * *

(g) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section are subject to the radiofrequency radiation exposure requirements specified in § 1.1307(b), § 2.1091 and § 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these

requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

4. Section 15.319 is amended by revising paragraph (i), to read as follows:

§ 15.319 General technical requirements.

* * * * *

(i) Unlicensed PCS devices are subject to the radiofrequency radiation exposure requirements specified in § 1.1307(b), § 2.1091 and § 2.1093 of this chapter, as appropriate. All equipment shall be considered to operate in a "general population/uncontrolled" environment. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

PART 24—PERSONAL COMMUNICATIONS SERVICES

1. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309, and 332, unless otherwise noted.

2. Section 24.52 is revised to read as follows:

§ 24.52 RF hazards.

Licensees and manufacturers are subject to the radiofrequency radiation exposure requirements specified in § 1.1307(b), § 2.1091 and § 2.1093 of this chapter, as appropriate. Applications for equipment authorization of mobile or portable devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. §§ 151–155, 301–609, unless otherwise noted.

2. Section 97.13 is amended by adding paragraph (c) to read as follows:

§ 97.13 Restrictions on station location.

(c) Before causing or allowing an amateur station to transmit from any place where the operation of the station could cause human exposure to levels of radiofrequency (RF) radiation in excess of that allowed under § 1.1310 of this chapter, the licensee is required to take certain actions. A routine RF radiation evaluation, as discussed in § 1.1307(b) of this chapter, is required if the transmitter power exceeds 50 watts peak envelope power; otherwise the operation is categorically excluded from routine RF radiation evaluation except as specified in § 1.1307(c) and § 1.1307(d) of this chapter. Where the

routine evaluation indicates that the RF radiation could be in excess of the limits contained in § 1.1310 of this chapter, the licensee must take action to prevent such an occurrence. Further information on evaluating compliance with these limits can be found in the FCC's OST/OET Bulletin Number 65, "Evaluation Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation."

3. Section 97.503 is amended by revising paragraphs (b)(1), (b)(2), and (b)(3), and adding entry 10 to the table in paragraph (c) to read as follows:

§ 97.503 Element standards.

Topics	2	3(A)	3(B)	4(A)	4(B)
--------	---	------	------	------	------

(10) Radiofrequency environmental safety practices at an amateur station	5	5	5	0	0
--	---	---	---	---	---

(b) * * *

(1) Element 2: 35 questions concerning the privileges of a Novice Class operator license. The minimum passing score is 26 questions answered correctly.

(2) Element 3(A): 30 questions concerning the privileges of a Technician Class operator license. The minimum passing score is 22 questions answered correctly.

(3) Element 3(B): 30 questions concerning the privileges of a General Class operator license. The minimum passing score is 22 questions answered correctly.

* * * * *

(c) * * *

[FR Doc. 96-20082 Filed 8-5-96; 2:01 pm]
BILLING CODE 6712-01-P

47 CFR Part 73

[MM Docket No. 96-87; RM-8782]

Radio Broadcasting Services; Macomb, IL

AGENCY: Federal Communications Commission.
ACTION: Final rule.

SUMMARY: The Commission, at the request of WMS1, Inc., allots Channel 240A at Macomb, Illinois, as the community's third local commercial FM transmission service. See 61 FR 18540, April 26, 1996. Channel 240A can be allotted to Macomb in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.5 kilometers (0.3 miles) south to avoid a short-spacing to the licensed site of Station WMXG(FM), Channel 241C1, Clinton, Iowa. The coordinates for Channel 240A at Macomb are North Latitude 40-27-09 and West Longitude 90-40-12. With this action, this proceeding is terminated.

DATES: Effective September 16, 1996. The window period for filing applications will open on September 16, 1996, and close on October 17, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report

and Order, MM Docket No. 96-87, adopted July 26, 1996, and released August 2, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.
Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended

§ 73.202 [Amended];

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Channel 240A at Macomb.

Federal Communications Commission.

John A. Karousos,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96-20080 Filed 8-6-96; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket PS-124; Amdt. 192-78]
RIN 2137-AC25

Regulatory Review; Gas Pipeline Safety Standards; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.
ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule (Docket PS-124) changing miscellaneous gas pipeline safety regulations that was published Thursday, June 6, 1996 (61 FR 28770) in the Federal Register.

EFFECTIVE DATE: August 7, 1996.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, at (202) 366-2036, regarding this correction or the Dockets Unit, at (202) 366-5046, regarding copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

The final rule that includes the subject correction changed miscellaneous gas pipeline safety regulations to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic growth. As set out in the final rule under the heading Executive Order 12866 and DOT Regulatory Policies and

-----X

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES

**HERBERT S. KARTIGANER and MARJORIE
KARTIGANER/O.C. POUGHKEEPSIE MSA,
O.C. POUGHKEEPSIE MSA,**

#96-34.

-----X

WHEREAS, HERBERT S. KARTIGANER and MARJORIE KARTIGANER, 3928 Live Oak Blvd., Delaire Country Club, Delray Beach, FL 33445, and ORANGE COUNTY POUGHKEEPSIE MSA LIMITED PARTNERSHIP, with an office located at 180 Washington Valley Road, Bedminster, N. J. 07921, have made application before the Zoning Board of Appeals for a 100 ft. frontage and 142 ft. maximum building height variance for construction of a public utility communications facility with transmission tower off Dean Hill road in an R-2 zone; and

WHEREAS, a public hearing was held on the 8th day of July, 1996 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicants appeared before the Board for this proposal by Ruth B. Rosenberg, P.C. of Nixon Hargrave Devans & Doyle L.L.P. and Anthony Stellato, P.E. from Clough Harbour Assocs., Engineers; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, the Application was opposed by the New York City DEP which sent a letter of opposition to the Board; questions were raised by a representative of Mr. Ben Blumenfeld of Mt. Airy Estates; it was opposed by an unidentified audience member; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:

(a) The subject property consists of a vacant parcel of land located in the center of other much larger parcels of vacant land.

(b) The subject property has access to it off of Dean Hill Road, a Town Highway, by means of an easement of ingress and egress given by the owners of the intervening parcels between the subject parcel and the roadway.

(c) This application is made by NYNEX, a public utility as per the decision of the NYS Court of Appeals.

(d) The purpose of this site is to establish a communications facility for cellular use consisting of a 160 ft. high tower and an equipment shelter which is prefabricated, all which is surrounded by an 8 ft. chain link fence. There is no bathroom, no water and there will be no employees. The site will be visited on a regular basis approximately twice a month for maintenance purposes and it will be accessed over the above-referenced easement by a four-wheel drive van.

(e) A 12 ft. wide driveway will be installed over the easement.

(f) The original intention of the Applicant was to apply for permission to construct a 180 ft. tower but that request has been reduced to one for 160 ft. tower.

(g) The proposed tower is 22 ft. 3 in. at the base and tapers as it descends.

(h) The tower will have displayed on it the minimum lighting required by the FAA on account not only of its height but of its proximity to Stewart Airport.

(i) The FAA has approved construction of a tower 182 ft. high, a tower larger than that now applied for.

(j) The proposed site is close to an existing Central Hudson power transmission line and towers with the power lines coming down the hill toward and passed the site. The access to the parcel will be over an easement 25 ft. wide.

(k) The facility located on the site will be an unmanned facility.

(l) The tower is located in a wooded, remote area and it will not be visible at all, or minimally from most other areas of the Town of New Windsor.

(m) Although there is no street frontage to the parcel there is adequate access for emergency vehicles.

(n) The utility tower originally conceived and applied for was 180 ft. The Utility has determined that it can provide safe and adequate service with a tower of only 160 ft. so the height variance request is reduced to that figure.

(o) The utility service is designed to primarily benefit residential users.

(p) A study by Lucent Technologies evaluating the impact of the facility in measuring the electro-magnetic radiation from it shows that the radiation is approximately 1,375 times less than any applicable standard including the Ansi Standard and the exposure limits of OSHA, Ansi IEEE and NCRP.

(q) The FCC is pre-empted local communities in dealing with the issue of electro-magnetic energy provided that the emissions comply with the standards recognized by the FCC as the report from Lucent Technologies shows that it does.

(r) An written opinion was rendered to the Board by American Property Counselors showing comparables and studying sites next to towers and away from towers and comparing the difference in resale value for sites in Orange and Dutchess County.

(s) The owners of the dominant parcels, the Kartiganers and Hudson Valley Development Group, both have indicated an intention to develop the property in the future and do not have any objection, and, in fact, support the present application.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. This action is an unlisted action for the purposes of SEQR review.
2. This action will have no adverse impact and a Negative Declaration shall be issued.
3. The variance sought is substantial but nevertheless is warranted due to the peculiar configuration of the Applicants' lot.
4. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.
5. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
6. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed for the reasons set forth in the paragraphs above.
6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances are appropriate and are the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the

same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variances.

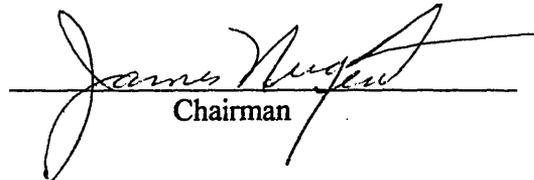
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 100 ft. frontage and 142 ft. maximum building height variance for construction of a public utility communications facility with transmission tower off Dean Hill Road in an R-2 zone, located off Dean Hill Road, in an R-2 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: November 25, 1996.


Chairman

BELL ATLANTIC NYNEX

96-11

MR. EDSALL: Planning board application 96-11 which was Orange County Poughkeepsie MS, a limited partnership Bell Atlantic NYNEX which was the tower out off Dean Hill Road, Mike and I did our site inspection back in June of 1997 and we had sent comments on to Eric Ridell from NYNEX, we had a couple concerns. We were out again this afternoon and it looks as if everything is resolved except for one easement issue which we want to doublecheck that they are okay on but the issue we want to bring back to the board just so it's on the record and we all nod and say it's fine, they ended up putting a generator for that facility inside rather than have it outside on a pad with an enclosure so the building ended up being larger. I think it was a great improvement but we just wanted to let you know it's not the building you approved, it's bigger.

MR. LANDER: How much larger?

MR. EDSALL: Six or eight feet because they--

MR. BABCOCK: It's within the fenced area.

MR. EDSALL: They just instead of having the building, having a generator outside, they bought a bigger pre-fab building and put the generator inside which I think is better. We were all concerned about the fuel leak and going towards Brown's Pond, this way, it's inside so there is less chance of any damage.

MR. PETRO: I like when things work out good.

MR. EDSALL: Just wanted to let you know that change, if you don't object, we're going to go ahead and close it out.

MR. STENT: Do we need an as-built on file with that now?

MR. EDSALL: Because it's within the fenced-in area, I'm not and it's in the middle of nowhere.

MR. BABCOCK: We may have an as-built in the office.

MR. EDSALL: It might be a building as-built rather than site plan as-built, we can throw it in the site plan file.

MR. PETRO: Motion to adjourn?

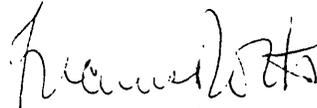
MR. LUCAS: So moved.

MR. LANDER: Second it.

ROLL CALL

MR. ARGENIO	AYE
MR. STENT	AYE
MR. LANDER	AYE
MR. LUCAS	AYE
MR. PETRO	AYE

Respectfully Submitted By:



Frances Roth
Stenographer



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.
JAMES M. FARR, P.E.

24 June 1997

- Main Office**
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
- Branch Office**
507 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

1687 2 1 1997 11 13 13 11

MEMORANDUM

TO: Michael Babcock, Town Building Inspector

FROM: Mark J. Edsall, P.E., Planning Board Engineer

SUBJECT: ORANGE COUNTY POUGHKEEPSIE MSA L.P.
(BELL ATLANTIC NYNEX SITE PLAN)
FIELD COMPLETION REVIEW - 6/24/97
NEW WINDSOR PLANNING BOARD NO. 96-11

This memorandum shall confirm our field review on 24 June 1997 of the subject site. The review was held relative to the site plan stamped approved by the Planning Board with stamp date 13 January 1997.

Several items of concern were noted during the field review, as follows:

1. It would appear that the building size has been enlarged and the generator has been included inside the building. Although I view this as an improvement, the change would require concurrence from the Planning Board.
2. Regarding the access roadway, the side slopes adjoining the roadway would appear to exceed the maximum slopes on the typical driveway detail of the plans. In some areas, the side slope would appear somewhat hazardous, although it should be noted that this driveway is not for access by the general public. The condition is noted herein to bring same to the attention of Bell Atlantic NYNEX, such that they can take any action they deem appropriate to improve the drive to the safest extent practicable.
3. The access drive was to include a gate to restrict access. Such a gate was installed near Dean Hill Road; however, at the time of our visit it was open and unsecured. It should be recommended to NYNEX that this gate remain secured and keys should be provided to the Town of New Windsor, such that the Town can gain access during emergencies or as necessary to access the Town's emergency water pump facility near Brown's Pond.

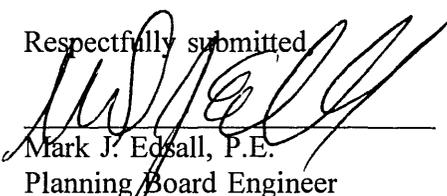
24 June 1997

MEMORANDUM
PAGE 2

4. The 25' wide access easement through the lands of Hudson Valley Development Group includes a "dog leg offset" just before the Kartiganer property. It would appear that the constructed roadway was run straight through, not including this offset. As such, the constructed roadway would not seem to remain within the 25' wide easement. The Town should receive a verification from the project surveyor that the remaining portions of the access roadway, as well as the tower and building, have been constructed in the proper location. Regarding the offset, if the developer can obtain an acknowledgement from Hudson Valley Development Group that the access road can be temporarily run in the constructed location, with same to be reconstructed upon the development of the Hudson Valley Development Group parcel, I would accept the condition as resolved.

Please contact me if you have any questions regarding the above.

Respectfully submitted,



Mark J. Edsall, P.E.
Planning Board Engineer

MJEmk

A:6-24-3E.mk

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 01/15/97

PAGE: 1

LISTING OF PLANNING BOARD ACTIONS

STAGE:

STATUS [Open, Withd]
A [Disap, Appr]

FOR PROJECT NUMBER: 96-11

NAME: PUBLIC UTILITY COMMUNICATIONS FACILITY
APPLICANT: OC POUGHKEEPSIE MSA LMTD. PARTNERSHIP

---DATE---	MEETING-PURPOSE-----	ACTION-TAKEN-----
01/13/97	PLANS STAMPED	APPROVED
09/11/96	P.B. APPEARANCE-PUBLIC HEARING	ND: APPROVED COND.
07/24/96	P.B. APPEARANCE	LA: WAIVE PH
04/24/96	P.B. APPEARANCE . REVISE AND RETURN TO WORKSHOP	DISAP. REFER TO ZBA
03/20/96	WORK SESSION APPEARANCE	REVISE & SUBMIT
03/06/96	WORK SESSION APPEARANCE	REVISE & RETURN

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 01/15/97

PAGE: 1

LISTING OF PLANNING BOARD AGENCY APPROVALS

FOR PROJECT NUMBER: 96-11

NAME: PUBLIC UTILITY COMMUNICATIONS FACILITY
APPLICANT: OC POUGHKEEPSIE MSA LMTD. PARTNERSHIP

	DATE-SENT	AGENCY-----	DATE-RECD	RESPONSE-----
REV1	07/12/96	MUNICIPAL HIGHWAY	07/19/96	APPROVED
REV1	07/12/96	MUNICIPAL WATER . NEWLY INSTALLED WATER LINE ON DEAN HILL RD - NOT YET CHARGED . PLEASE NOTIFY WATER DEPT. FOR FURTHER INFORMATION	07/22/96	APPROVED
REV1	07/12/96	MUNICIPAL SEWER	/ /	
REV1	07/12/96	MUNICIPAL FIRE	07/23/96	APPROVED
ORIG	04/15/96	MUNICIPAL HIGHWAY	04/15/96	APPROVED
ORIG	04/15/96	MUNICIPAL WATER	04/17/96	APPROVED
ORIG	04/15/96	MUNICIPAL SEWER	07/12/96	SUPERSEDED BY REV1
ORIG	04/15/96	MUNICIPAL FIRE	04/18/96	APPROVED

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 01/15/97

PAGE: 1

LISTING OF PLANNING BOARD FEES
ESCROW

FOR PROJECT NUMBER: 96-11

NAME: PUBLIC UTILITY COMMUNICATIONS FACILITY
APPLICANT: OC POUGHKEEPSIE MSA LMTD. PARTNERSHIP

---DATE---	DESCRIPTION-----	TRANS	---AMT-CHG	-AMT-PAID	--BAL-DUE
04/15/96	REC. CK. #305717 (BELL ATLA	PAID		750.00	
04/24/96	P.B. ATTY FEE	CHG	35.00		
04/24/96	P.B. MINUTES	CHG	94.50		
07/24/96	P.B. ATTY. FEE	CHG	35.00		
07/24/96	P.B. MINUTES	CHG	40.50		
09/11/96	P.B. ATTY FEE	CHG	35.00		
09/11/96	P.B. MINUTES	CHG	54.00		
11/21/96	P.B. ENGINEER FEE	CHG	484.00		
12/16/96	REC. CK. #008727	PAID		28.00	
		TOTAL:	778.00	778.00	0.00

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 01/15/97

PAGE: 1

LISTING OF PLANNING BOARD FEES
APPROVAL

FOR PROJECT NUMBER: 96-11

NAME: PUBLIC UTILITY COMMUNICATIONS FACILITY
APPLICANT: OC POUGHKEEPSIE MSA LMTD. PARTNERSHIP

---DATE---	DESCRIPTION-----	TRANS	---AMT---CHG	-AMT-PAID	---BAL---DUE
09/11/96	APPROVAL FEE	CHG	100.00		
12/16/96	REC. CK. #008728	PAID		100.00	
		TOTAL:	100.00	100.00	0.00

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 01/15/97

PAGE: 1

LISTING OF PLANNING BOARD FEES
4% FEE

FOR PROJECT NUMBER: 96-11

NAME: PUBLIC UTILITY COMMUNICATIONS FACILITY
APPLICANT: OC POUGHKEEPSIE MSA LMTD. PARTNERSHIP

---DATE---	DESCRIPTION-----	TRANS	---AMT-CHG	-AMT-PAID	---BAL-DUE
12/10/96	2% OF COST ESTIMATE 94,308.	CHG	1886.17		
01/06/97	REC. CK. #605984	PAID		1886.17	
		TOTAL:	1886.17	1886.17	0.00

12/10/96
(96-11)

SITE PLAN FEES - TOWN OF NEW WINDSOR
(INCLUDING SPECIAL PERMIT)

APPLICATION FEE:.....\$ 100.00 Pd

ESCROW:

SITE PLANS (\$750.00 - \$2,000.00).....\$ X

MULTI-FAMILY SITE PLANS:

 UNITS @ \$100.00 PER UNIT (UP TO 40 UNITS)....\$ X

 UNITS @ \$25.00 PER UNIT (AFTER 40 UNITS)....\$ X

TOTAL ESCROW PAID:.....\$ X

PLAN REVIEW FEE: (EXCEPT MULTI-FAMILY) \$ 100.00 (1)

PLAN REVIEW FEE (MULTI-FAMILY): A. \$100.00
PLUS \$25.00/UNIT B.

TOTAL OF A & B: \$ X

RECREATION FEE: (MULTI-FAMILY)

\$500.00 PER UNIT

 @ \$500.00 EA. EQUALS: \$ X
NUMBER OF UNITS

SITE IMPROVEMENT COST ESTIMATE: \$ 94,308.61

2% OF COST ESTIMATE \$ 1,886.17 EQUALS \$ 1,886.17 (2)

TOTAL ESCROW PAID:.....\$ 750.00

TO BE DEDUCTED FROM ESCROW: 778.00

RETURN TO APPLICANT: \$

ADDITIONAL DUE: \$ 28.00 (3)

Bell Atlantic NYNEX Mobile

180 WASHINGTON VALLEY ROAD
BEDMINSTER, NJ 07921

QUESTION? CALL 908-306-7000

B0000 0306337 V122198

DATE	CHECK NO
01-02-97	

DATE	INVOICE / CREDIT MEMO	TYPE	DESCRIPTION	GROSS	DISCOUNT	NET
121096	121096		12768	1,886.17		1,886.17
TOTAL				1,886.17		1,886.17

THE ATTACHED CHECK IS IN PAYMENT FOR ITEMS DESCRIBED ABOVE.

DROUGH HARBOUR ASSOCIATES LLP ENGINEERS, SURVEYORS, PLANNERS & LANDSCAPE ARCHITECTS
111 Winners Circle • P.O. Box 5269, Albany New York 12205-0269

CHECK NO. 008728

DATE	INVOICE NO.	DESCRIPTION	INVOIC AMOUNT	DEDUCTION	BALANCE		
12/10/96		APPROVAL FEE	12396	100.00	.00	100.00	
CHECK DATE	12/12/96	CHECK NUMBER	8728	TOTALS	100.00	.00	100.00

DROUGH HARBOUR ASSOCIATES LLP ENGINEERS, SURVEYORS, PLANNERS & LANDSCAPE ARCHITECTS
111 Winners Circle • P.O. Box 5269, Albany New York 12205-0269

CHECK NO. 008727

DATE	INVOICE NO.	DESCRIPTION	INVOIC AMOUNT	DEDUCTION	BALANCE		
12/10/96		ESCROW	12395	28.00	.00	28.00	
CHECK DATE	12/12/96	CHECK NUMBER	8727	TOTALS	28.00	.00	28.00



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.
JAMES M. FARR, P.E.

- Main Office**
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
- Branch Office**
507 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

21 November 1996

MEMORANDUM

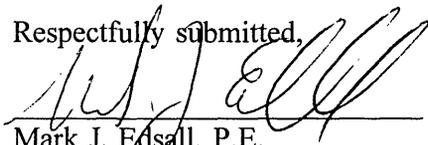
TO: Myra Mason, Planning Board Secretary

FROM: Mark J. Edsall, P.E., Planning Board Engineer

SUBJECT: O.C. POUGHKEEPSIE MSA (NYNEX) SITE PLAN
SITE IMPROVEMENT COST ESTIMATE
NEW WINDSOR PLANNING BOARD NO. 96-11

Attached hereto, please find a mark-up copy of the cost estimate as submitted for the subject project. Please note that I have deleted unnecessary items from the cost estimate. Based on same, the cost estimate has been reduced from the indicated \$134,600.00 to \$94,308.61.

If you have any questions regarding this cost estimate and review, please contact me.

Respectfully submitted,

Mark J. Edsall, P.E.
Planning Board Engineer

MJEmk
Encl.as

A:11-21-E.mk

fees 484.00

Comp By: MJC
 Check By:
 Project #: 4734.Q1.29



Date: 05-Nov-96 Sheet: 1 of 1
 Time: 03:36 PM
 Project Eng. B. Buff

File Name: u:\civil\campagna\estimate\4734EST

Subject: Bell Atlantic NYNEX Mobile Public Utility Communications Facility Location: Dean Hill Road, Town of New Windsor, Orange County, New York

CONSTRUCTION COST ESTIMATE

Item Number	Item Description	Unit	Quantity	Material Cost	Labor Cost	Equip. Cost	Total Bare Unit Cost	Total Bare Cost	OH & P Cost	Total w/ OH & P Cost	
SITE WORK											
1	Survey Services	DAY	2.00		\$375.00		\$408.75	\$807.50	\$764.75	\$1,529.50	
2	Clearing & Grubbing	Acres	0.75		\$1,293.00	\$1,010.00	\$4,260.00	\$3,104.00	\$5,486.25	\$4,114.89	
3	Trenching 4' Wide 6' Deep 0 on 1	LF	105.00		\$5.80	\$3.66	\$12.58	\$1,321.09	\$13.83	\$1,452.15	
4	Pipe Bedding 4' Wide, 24" Dia. 0 on 1	LF	105.00	\$1.62	\$2.36		\$5.29	\$555.81	\$5.83	\$612.15	
5	15" Dia. H.D.P.E. Pipe	LF	40.00	\$7.00	\$2.94	\$0.49	\$13.87	\$554.88	\$17.16	\$686.40	
6	18" Dia. H.D.P.E. Pipe	LF	65.00	\$8.15	\$3.16	\$0.53	\$15.75	\$1,023.57	\$19.35	\$1,257.75	
7	15" Flared End Section	EA	4.00	\$78.00	\$39.25	\$6.75	\$164.92	\$659.68	\$199.50	\$798.00	
8	18" Flared End Section	EA	4.00	\$81.50	\$40.50	\$6.75	\$171.24	\$684.95	\$214.13	\$856.52	
9	Cut and Fill Common Earth	CY	1,630.00		\$4.00	\$6.10	\$6.00	\$9,777.20	\$6.00	\$10,750.00	
10	Grade Subgrade for Subbase Course Roadways	SY	4,500.00		\$0.03	\$0.07	\$0.13	\$590.50	\$0.17	\$765.00	
11	Geotextile Stabilization Fabric	SY	5,465.00	\$1.55	\$0.05	\$0.02	\$2.15	\$11,774.89	\$2.39	\$13,061.35	
12	Crushed Stone Subbase	CY	1,600.00	\$15.00	\$1.15	\$1.46	\$23.42	\$37,474.08	\$26.45	\$42,320.00	
13	Fine Grade Subbase for Paving Lg. Parking Lots	SY	4,500.00		\$0.22	\$0.32	\$0.72	\$3,231.90	\$0.94	\$4,230.00	
14	Bedding Material	CY	11.00	\$20.99	\$1.42	\$1.81	\$42.05	\$462.00	\$47.22	\$519.42	
15	Medium Stone Filling	CY	46.00	\$10.00	\$6.20	\$10.00	\$41.99	\$1,929.01	\$50.34	\$2,324.84	
16	Silt Fence	LF	2,140.00	\$1.23	\$0.99		\$2.95	\$6,318.56	\$3.46	\$7,404.40	
17	Haybales	Ton	4.00	\$46.00	\$160.00	\$56.50	\$349.13	\$1,396.50	\$485.45	\$1,941.80	
18	Chain Link Fence 8' High W/ Barb	LF	212.00	\$14.72	\$6.23	\$5.15	\$34.71	\$7,359.16	\$42.23	\$8,952.76	
19	Double Swing Gate 8' High 20 ft Opening	EA	1.00	\$575.00	\$555.00	\$370.00	\$1,995.00	\$1,995.00	\$2,593.50	\$2,593.50	
20	Gate for 8' High Chain Link Fence	EA	1.00	\$91.48	\$132.73	\$108.91	\$443.05	\$443.05	\$582.54	\$582.54	
21	Bollards	EA	2.00	\$200.00	\$50.00		\$332.50	\$665.00	\$332.50	\$665.00	
22	Topsoil	CY	300.00	\$12.50	\$0.36	\$0.54	\$17.82	\$5,346.60	\$19.82	\$5,946.00	
23	Seeding	MSF	31.00	\$11.90	\$3.80	\$3.65	\$25.74	\$797.80	\$30.59	\$948.29	
24	Mobilization, Gen. Cond. & Bond	LS	100%				\$8,046.50	\$8,046.50	\$8,046.50	\$8,046.50	
							Bare Subtotal	\$106,608.84			
									Subtotal	=	\$122,366.56
									10% Contingency	=	\$12,236.66
									Say	=	\$134,603.22

REVISED AMT. 94,308.61

[Handwritten Signature]
 11/21/96

~~\$134,603.22~~

Comp By: MJC
 Check By:
 Project #: 4734.01.29



Date: 05-Nov-96 Sheet: 1_of_1
 Time: 03:36 PM
 Project Eng. B. Buff
 File Name: u:\civil\campagna\estimate\4734EST

Subject: Bell Atlantic NYNEX Mobile Public Utility Communications Facility Location: Dean Hill Road, Town of New Windsor, Orange County, New York

CONSTRUCTION COST ESTIMATE

Item Number	Item Description	Unit	Quantity	Material Cost	Labor Cost	Equip. Cost	Total Bare Unit Cost	Total Bare Cost	OH & P Cost	Total w/ OH & P Cost
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17	Haybales	Ton	4.00	\$46.00	\$160.00	\$56.50	\$349.13	\$1,396.50	\$485.45	\$1,941.80
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24	Mob/Demobilization, Gen. Cond. & Bond	LS	100%				\$8,046.50	\$8,046.50	\$8,046.50	\$8,046.50
							Bare Subtotal	\$106,608.84		
									Subtotal	= \$122,366.56
									10% Contingency	= \$12,236.66
									Say	= \$134,600.00

PUBLIC HEARING:O.C. POUGHKEEPSIE MSA, LTD, PARTNERSHIP SITE PLAN & SPECIAL PERMIT (96-11) - DEAN HILL ROAD

Ms. Ruth Rosenberg, Esq. appeared before the board for this proposal.

MS. ROSENBERG: My name is Ruth Rosenberg, I'm an attorney with the law firm of Nixon, Hargrave, Devans & Doyle and I'm here representing Orange County Poughkeepsie Limited Partnership, which is a public utility telephone company that delivers cellular service throughout this market and other markets in New York State. This is an application for a cell site consisting of 160 foot tall cellular freestanding tower and equipment shelter which houses the equipment together with the antennas on the tower produces the complete cell site. It is surrounded by a chain link fence, that is the tower and the equipment shelter. We get to it by Dean Hill Road through an existing dirt and rock access road and then when we get to the land now or well they are now Hudson Valley Development Group of New Windsor, we take a slight jog in the road, continue up through the lands of Kartiganer to the proposed site. Now, this access road is 25 feet that is also the place our utilities will be. The jog in the road was on request, on behalf of the developer, Hudson Valley Development Group of New Windsor because they have a tentative plan for a subdivision there and they would like us to jog so we don't cut right through one of their lots and that is the reason for the jog. We appeared before the Zoning Board for two items of relief, two area variances, one was for the height variance because it's 160 foot communication tower, the other was because we have no frontage, no street frontage on a public street. Both of those variances were granted. What I was pointing to for the record is a drawing which is called public utility communications facility site description drawing. And each of the members of the planning board has been sent a book of testimony, it's called Orange County Poughkeepsie Limited Partnership doing business as Bell Atlantic NYNEX Mobile Application for Special Permit for Public Utility Communications. That facility and site plan

approval was before the planning board of the Town of New Windsor. This is a green bound set containing written testimony and also some exhibits and separate enclosures consisting of the visual resource evaluation by Clough Harbor, an opinion relative to proposed transmission tower by American Property Counselors. I'd like to offer them as part of the record. Before I go any further, so I don't forget, I also want to make part of the record a letter from Bryan J. Quinn, attorney for Hudson Valley Development Group of New Windsor which is the owner of this property through which we're passing from Dean Hill Road all the way up to the Kartiganer property line, not only have they given us the easement for access and utility purposes but this letter states they support our application to the board of appeals and the planning board for the required approvals. I'm going to, let me show you the site itself, let me turn this around in case anybody from the audience wants to see it.

MR. PETRO: Don't go too far, address the board and later we'll turn it to the members of the public.

MS. ROSENBERG: This is an enlargement of the actual area of the improvements. This is a gravel driveway ending in a turnaround with enough parking spaces for two vehicles. This facility is unmanned, there are no employees on the site. There's no water, there's no bathroom facility, it is simply an enclosure, a building to house very expensive telephone equipment. It will be silent alarmed. It as a prefabricated structure that is dropped onto a slab on the site, this clearing around the tower and the building itself will be gravel. There will be natural drainage into the ground, surrounding the improvements is a chain link fence with a gate on it, three strands of barbed wire on top, it is a typical public utility substation type or switching type structure. Only those trees that are absolutely necessary to be removed, this is a wooded area. In fact, we were up there today counting, just in case you should ask and I hope you will, how many eight inch wide diameter trees we'll be removing and the answer is five. It's part of your requirements for site plan approval, I believe. This is a heavily wooded area. You'll see on this drawing, well, you

won't see it too well, you'll see on the site description drawing just passed the circle that shows the site, a Central Hudson Gas and Electric right-of-way, that right-of-way is I think about 100 feet wide and there are transmission lines going up to, up that hill or down the hill as the case is from this location. There's also a telephone company I believe it's New York Tel easement, where there used to be a telephone line that went all the way to Albany in that location. I'm going to ask Bernie Buff, who did a perspective, a site viewshed evaluation to come up and walk through that quickly for you so that you will have an understanding of what will be the visual impact of this facility on the surrounding community.

MR. BUFF: My name is Bernie Buff. The purpose of this process was to locate the tower and its environment and analyze the areas from which the tower will be visible within your locale. The first step in this process is we obtained maps, USGS maps of the area and we determined which areas the tower will not be visible from based on topo. And if you look on this map, I believe all this is in one of the submittals, this area--

MS. ROSENBERG: For the record, since the steno's taking this down, it's on a board which is called Proposed Communications Tower, Town of New Windsor Viewshed Analysis Map and Photo Perspectives, also contained in a separate evaluation which we're submitting in booklet form.

MR. BUFF: The taken areas here with the striped patching represent areas within this municipality from which the tower is not visible due to topo. The next step in this process is we overlay vegetation maps of the municipality thus eliminating areas from which the tower won't be visible due to vegetation. This area on this map is represented in green. The remaining areas located or represented in the bright yellow represent areas within the municipality from which the tower will be visible. Within the general area of the viewshed, we have taken photos from key vantage points, photos represented with a red dot, corresponding number on these boards and within the submittal, you'll notice

that there's a number and a description just on the bottom of each photo, photos that we took, some are within areas from which the tower is visible, some are from areas which the tower is not visible. We tried to concentrate on population centers major intersection areas of historical or visual impacts of interest. It's somewhat hard to see, you'll notice anywhere the proposed tower is visible some of the photos are from a great distance, the balloon wasn't visible.

MR. ROSENBERG: You haven't said anything about the balloon.

MR. BUFF: To actually perform the test, we used helium filled weather balloons approximately four feet in diameter, we tethered the balloons at the approximate location of the tower site with line and thus and with this map, which we created in the office, we did a field verification of our results from the office using the maps, we showed all the adjoining roads within the area, we drove the. This is when these photos were taken. Where the balloon is visible, we have enlarged the balloon location, an arrow and label to aid the viewers in finding the balloon in the photo because as I said before, some of them are quite small due to the distance.

MR. ROSENBERG: First of all, I think you want to say that the balloon as tethered at a height of 180 feet which was the height we thought we would originally need. The proposed tower before you tonight is 160 feet, so wherever you see balloon in the photographs, can you if you could, in your mind's eye lower it about 20 feet.

MR. PETRO: I'm sure would make the yellow areas even less.

MR. BUFF: It would diminish visible areas, yes.

MR. ROSENBERG: Would you just read for the record where the views were taken from, where you can see it, where you cannot.

MR. LUCAS: These are the ones you supplied?

MR. ROSENBERG: Exactly the same.

MR. BUFF: View number one taken from the historical site entitled Knox Headquarters State Historic Site View towards the proposed facility would be in the northwest direction from this site, the proposed facility will not be visible. View number 2 was taken from Riley Road looking west towards the proposed tower along the existing power lines. I also have a perspective view taken from this location.

MR. ROSENBERG: It's labeled C5 and it's called Perspective.

MR. BUFF: This is just an artist's rendering of that original photo instead of the balloon, the artist drawn representation.

MR. ROSENBERG: And this is 180 feet.

MR. BUFF: Yes, this is 180 feet as well, so you have to consider that. View number 3 is taken from Route 300 looking southwest towards the proposed tower, proposed tower will be visible in the center of the photo as labeled. View number 4 from the entry gate at New Windsor Encampment State Historic Site View towards the proposed facility is southwest and proposed tower is visible as labeled.

MR. ROSENBERG: That view is from the parking lot, that is the only place in that facility you can see that tower is from the parking lot.

MR. BUFF: View number 5 is taken from a monument within the Encampment Historic Site grounds, as you can see, it is not visible once someone leaves the parking lot and moves into the site itself.

MR. PETRO: Okay, I think we have covered that pretty well. You want to do other sites or just for the minutes, you're saying you want to read each one of them? I think we have covered it sufficiently.

MR. ROSENBERG: That is fine. The rest of them are in

the booklet that you have and there are, we tried to do a very good job of identifying where it might be visible from.

MR. PETRO: From the overlay you have looks like you have a dime on a football field. So I think we have gone over this. Also for the minutes, we have municipal fire approval on 7/23/96 and highway approval on 7/19/96.

MR. ROSENBERG: Let me just go right to the special permit standards and I'll try to be brief. The special permit requirements the following. We must show that all proposed structures equipment and materials shall be readily accessible to fire and police protection, actually the zoning board has already determined that when it gave us a variance for lack of street frontage, they applied Section 280A which specifically addresses the issue of accessibility for fire and police protection. That the proposed use shall be of such location, size and character that it will be in harmony with the, appropriate harmony, it will not be a detriment to the orderly development of adjacent properties in accordance with the zoning classification. This is an R-5 District, I believe this use, this particular use is a special use permit in this district so it already is considered by the town planning board to be a use that it appropriate consideration by this board. I have submitted to you a real estate impact statement which compares resale values of residential homes near towers and not near towers in the same period. This establishes by as near as we can evidence that there is no evidence that there is any adverse impact on residential properties that exist, we're her the middle of the woods and there's no residential development there now. Mr. Kartiganer, who owns this property and adjacent property and who may some day develop it for residential purposes does not believe it will impede that because he has provided this site for us. The adjacent developer, Hudson Valley Limited Partnership Group of I'm not sure of the name at the moment, has also made that determination because they too have given us both the easement and this letter saying that they approve our application. The statement of opinion I think is most compelling

when you look at the photographs, Timberline at Alpine, New Jersey. This is a 416 foot high tower built in 1937, a huge monstrous thing, you have seen this thing and in the recent years, lots near there have sold at 700,000 and up for two acre lot, the houses there that are built on there are a million and half to four million dollars and from these photographs, you can see this monstrous tower and these brand new huge homes that are going up near it. That is a rather compelling statement about the lack of detriment to the proper development for all housing of all kinds of purposes and frankly, I have been doing towers for 20 years now and whatever in the of State of New York we have done these impact statements, the conclusion has always been the same, there is no adverse impact that we can determine from an empirical perspective on the property values or on development after area. The third criteria is that the size and location of the use, nature and intensity of operations and site layout and its relation to access streets shall be such that pedestrian and vehicular traffic to and from will not be hazardous, there will be no pedestrian traffic, this is a communication sort of substation. There will be no employees. We expect on a routine basis vehicles will be up there maybe twice a month. There's no impact on traffic, there's no draining away of public utilities or the community resources whatsoever. In fact, to the contrary, this site will provide good and adequate cellular wireless service to people who live in this community, people who travel by emergency workers, people who need to reach the police, fire, ambulance, this is a facility that will serve this community. Location and height of buildings, location of water and nature and extent of landscaping will not hinder or disturb the development. The height of the structure which is the tower has already been reviewed by the zoning board. The building is a single story pre-fabricated fireproof structure, it will not be seen by anyone who's living anywhere near this site because it's a ways in the woods. The fence is intended to discourage anybody climbing in and it's got three strands of barbed wire on top. It's a chain link fence and the property is silently alarmed to a manned site off-site. Since it's in the middle of the woods we're not proposing any landscaping, it really would be a

waste, natural landscaping is more than adequate. And that is the standard for the special use permit. Now, site plan approval, I'm not sure that we even need that under your zoning ordinance but in case we do, the standards are really nearly the same as for special use permit. And I have addressed all of them one by one in the testimony so I would like not to take more of your time and entertain any questions and ask that you first of course consider this an unlisted action and issue a negative dec and hopefully tonight if you can please give us a special use permit and if you think we need site plan approval.

MR. PETRO: I feel like clapping, that is one hell of a presentation. Where is Greg Shaw? Take notes. Number one, I want to hit upon this here, the variances were granted by the zoning board, I see on page C2, she has them listed on the bottom of the right-hand part of the page, is that adequate?

MR. EDSALL: Yeah, I just indicated that they, we had received them and they are properly noted.

MR. PETRO: Secondly, your note number 2A, I believe we have a letter her there, did you see it already?

MR. EDSALL: Well, no, I have not seen it but Mrs. Rosenberg in her presentation indicated that information was submitted that responds to that.

MR. KRIEGER: Bottom line it refers to me, yes, I looked at it, yes, it's adequate.

MR. PETRO: That takes care of 2A. I just wanted to get those two out of the way. I think Mike some time ago at one of the meetings, you had talked to them about the diesel fuel.

MR. LUCAS: No, what's the underground for the utilities, and they show on the map the other one was the generator, but I think what they were going to do just, I don't think it had that much specifications of the unit.

MR. ROSENBERG: Which we did.

MR. EDSALL: The applicant's submitted information I believe for a skid mount type fuel storage system for the generator but did offer in their submittal that if the board still felt uncomfortable with that type of system that they would be willing to change the system to a propane fired generator so they have left it to the board's input.

MR. LUCAS: Whatever, just that is not going to affect it.

MR. EDSALL: Skid mount is interior with the generator in an enclosure.

MR. ROSENBERG: Correct.

MR. STENT: It's really self-contained.

MR. EDSALL: It's not a buried fuel tank so I would--

MR. LUCAS: Just as long as you get the specs.

MR. EDSALL: We have got the specs and I would think that both are reasonable and I, unless the board has an objection, we can leave it to the applicant.

MR. PETRO: I agree with that a hundred percent. Any other questions on that?

MR. LUCAS: Just generator. No, that is fine.

MR. PETRO: Before we go any further, I read also into the minutes the fire approval and the highway approval. This is a public hearing tonight and what I'd like to do is open it up for a public hearing and on August 23, 1996, 21 addressed envelopes did go out, notice of public hearing, sworn to me before this 23rd day of August, 1996, Deborah Green, notary public. So at this time, if there's anyone in the audience who would like to speak on behalf of this application, please come forward, state your name and address for the board. Is there from anyone here who'd like to speak on behalf of this application? If not, I'll entertain a motion to close the public hearing.

MR. STENT: Motion to close the public hearing.

MR. LUCAS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the Orange County NYNEX facility. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. STENT	AYE
MR. LANDER	AYE
MR. LUCAS	AYE
MR. PETRO	AYE

MR. PETRO: Now that the public hearing is closed, I open it back up to the board members and to the attorney for further comments.

MR. ROSENBERG: Mr. Chairman, you asked if anyone wanted to speak on behalf, you also meant in opposition to it?

MR. PETRO: Obviously, yes.

MS. ROSENBERG: I just wanted to make sure everybody had a chance to speak.

MR. LUCAS: You answered two of my questions, the other one is for general public knowledge, it has no other affect on any other communications.

MR. ROSENBERG: No, it does not, it's a very low powered facility. I think I mentioned it in my presentation that under Telecommunications Act of 1996, the congress has legislated that there is no environmental considerations so as long as you comply with the FCC guidelines and I have shown that we have, I think over something like 1,260 times lower than those applicable guidelines, it is a very low powered facility.

MR. LUCAS: Stewart Field basically knows?

MR. ROSENBERG: Yes, we have FAA approval for 180 foot tower, we're putting 160 foot tower.

MR. LUCAS: That is fine, very good.

MR. EDSALL: Just for the record, they have just responded I think wholly to comment 2B which was to close the issue of any other agencies involved, they have resolved FAA issue and I'm not quite sure that you have made a determination. There are no other agencies involved under SEQRA, so you can proceed with that.

MR. PETRO: Yes we did.

MR. EDSALL: So--

MR. PETRO: We took lead agency and being that we just discussed number 2B, a motion to declare negative dec on the O.C. Poughkeepsie MSA.

MR. LUCAS: Make a motion.

MR. STENT: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec for the Mobile NYNEX Mobile Phone facility. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. STENT	AYE
MR. LANDER	AYE
MR. LUCAS	AYE
MR. PETRO	AYE

MR. PETRO: I think we have gone full circle on this, gentlemen, we have seen it a number of times, it's been to the zoning board, everything seems to be in order. I don't think the attorney says the right-of-way looks to be in order, Mr. Edsall says we have done everything else with due diligence so with that, can I have a motion?

MR. STENT: Make a motion we approve the application of O.C. Poughkeepsie MSA located off Dean Hill Road.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grants final approval to the mobile phone facility on Dean Hill Road. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. STENT	AYE
MR. LANDER	AYE
MR. LUCAS	AYE
MR. PETRO	AYE

MR. PETRO: Thank you very much for a great presentation.

BIRBROWER, MONTALBANO, CONDON & FRANK, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

LEONARD J BIRBROWER
ANTHONY MONTALBANO
THOMAS A. CONDON
WILLIAM FRANK
KEVIN F. HOBBS
RICHARD H SARAJIAN*
GERARD AMALFITANO
ALAN C ROSENBLATT
BRIAN J QUINN

67 NORTH MAIN STREET
P.O. BOX 1070
NEW CITY, NEW YORK 10956-8070
(914) 634-7010
FAX (914) 634-8993

JOSEPH F ROMANO
(1946-1987)
SYDELL J. GREEN
STEPHEN D DONOHUE
ROBERT H. FREJREICH
VALERIE J CROWN
RACHEL TRANQUILLO GROBE**

July 3, 1996

*ADMITTED IN NY & NJ.
**ADMITTED IN NY, NJ & CT

Board of Appeals
Town of New Windsor
Town Hall
555 Union Avenue
New Windsor, NY 12553

**Re: Application of Orange County Poughkeepsie Limited
Partnership for Area Variances and Special Use
Permit and Site Plan Approval**

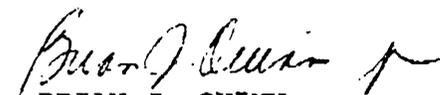
Dear Board of Appeals and Planning Board Members:

I represent Hudson Valley Development Group of New Windsor LP and am familiar with the application of Orange County Poughkeepsie Limited Partnership d/b/a Bell Atlantic NYNEX Mobile, to construct a communications facility on a portion of land owned by the Kartiganers adjacent to lands of my client.

My client has granted an easement of access and for utilities to the applicant for this communications facility and support applications to the Board of Appeals and to the Planning Board for the required approvals.

Very truly yours,

BIRBROWER, MONTALBANO,
CONDON & FRANK, P.C.


BRIAN J. QUINN

BJQ/jh
cc. Ruth B. Rosenberg, P.C.

2A



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
 WILLIAM J. HAUSER, P.E.
 MARK J. EDSALL, P.E.
 JAMES M. FARR, P.E.

- Main Office**
 45 Quassaick Ave. (Route 9W)
 New Windsor, New York 12553
 (914) 562-8640
- Branch Office**
 507 Broad Street
 Milford, Pennsylvania 18337
 (717) 296-2765

TOWN OF NEW WINDSOR
PLANNING BOARD
REVIEW COMMENTS

REVIEW NAME: O.C. POUGHKEEPSIE MSA, LP
PROJECT LOCATION: NYNEX MOBILE PHONE FACILITY
 OFF DEAN HILL ROAD
 SECTION 65-BLOCK 1-LOT 17
PROJECT NUMBER: 96-11
DATE: 11 SEPTEMBER 1996
DESCRIPTION: THE APPLICATION INVOLVES A PROPOSED NYNEX COMMUNICATIONS FACILITY TO INCLUDE AN EQUIPMENT BUILDING AND TOWER. THE PLAN WAS PREVIOUSLY REVIEWED AT THE 24 APRIL 1996 AND 24 JULY 1996 PLANNING BOARD MEETINGS. AT THIS TIME THE APPLICANT IS BEFORE THE BOARD FOR A PUBLIC HEARING.

1. I have received no new plans for this application, although I did receive some additional information from the Applicant's Engineers in response to my 24 July 1996 review comment sheet.

In response to comment 4 in my aforementioned review, the Applicant has submitted information for the proposed standby electrical generator for the project. A diesel type generator is proposed, although the Applicant indicates that the facility is approximately 1,200 feet from the public water supply reservoir. The Applicant's representative indicates that Nynex would be willing to substitute a propane generator if the Board remains concerned with regard to this issue. This should be further discussed.

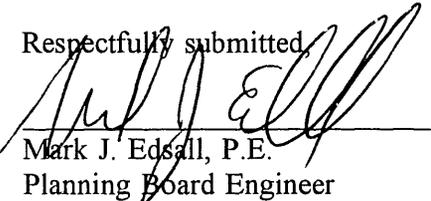
2. Some questions from my 24 July 1996 review comment sheet have not been addressed. These are as follows:
 - a. The Applicant was to provide appropriate documentation to verify access via the right-of-way from Dean Hill Road. I am not aware whether this information was or was not submitted to the Planning Board Attorney.

**TOWN OF NEW WINDSOR
PLANNING BOARD
REVIEW COMMENTS
PAGE 2**

REVIEW NAME: O.C. POUGHKEEPSIE MSA, LP
NYNEX MOBILE PHONE FACILITY
PROJECT LOCATION: OFF DEAN HILL ROAD
SECTION 65-BLOCK 1-LOT 17
PROJECT NUMBER: 96-11
DATE: 11 SEPTEMBER 1996

- b. I am not aware as to whether the Planning and/or Applicant were able to determine whether this application requires approvals from any other agencies. This, and the status of the SEQRA review process, should be discussed.
3. Once the Planning Board has the opportunity of receiving comments from the public concerning this application, should there be any additional areas of concern which require review, I will be pleased to do so, as deemed appropriate by the Planning Board.

Respectfully submitted,


Mark J. Edsall, P.E.
Planning Board Engineer

MJEmk

A:OC3.mk

"Public Hearing"

RESULTS OF P.B. MEETING

DATE: September 11, 1996

PROJECT NAME: O.C. Poughkeepsie M.S.A. PROJECT NUMBER 96-11

LEAD AGENCY: NEGATIVE DEC:

M) S) VOTE: A N M) S) VOTE: A 4 N 0

CARRIED: YES NO CARRIED: YES: [check] NO

PUBLIC HEARING: M) S) VOTE: A N

WAIVED: YES NO

SEND TO OR. CO. PLANNING: M) S) VOTE: A N YES NO

SEND TO DEPT. OF TRANSPORT: M) S) VOTE: A N YES NO

DISAPP: REFER TO Z.B.A.: M) S) VOTE: A N YES NO

RETURN TO WORK SHOP: YES NO

APPROVAL:

M) S) N VOTE: A 4 N 0 APPROVED: 9/11/96

M) S) VOTE: A N APPR. CONDITIONALLY:

NEED NEW PLANS: YES NO

DISCUSSION/APPROVAL CONDITIONS:

Generator - OK

Public Hearing Closed *No Public present*

Do we need cost estimate - Yes

10/13/96 Asked Ruth Rosenberg for cost estimate

PLANNING BOARD : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----X
In the Matter of Application for Site Plan / ~~Subdivision~~ of

D.C. Poughkeepsie - MSA Ltd Partnership _____,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

-----X

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

MYRA L. MASON, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at ~~550~~⁶⁷ Bethlehem Road, New Windsor, NY 12553.

On August 23, 1996, I compared the 21 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for Site Plan/Subdivision and I find that the addressees are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

Myra L. Mason
Myra L. Mason, Secretary for
the Planning Board

Sworn to before me this
23rd day of August, 1996

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

AFFIMAIL.PLB - DISC#1 P.B.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

August 7, 1996

Orange County Poukeepsie
MSA Limited Partnership
46 Broadway
Menands, NY 12204

RE: Tax Parcel: 65-1-17

Mr. Buff:

According to our records, the attached list of property are within five hundred (500) feet of the above referenced property.

The charge for this service is \$35.00, minus your deposit of \$25.00. Please remit the balance of \$10.00 to the Town Clerk's Office.

Sincerely,

A handwritten signature in cursive script that reads "L. Cook" followed by a circled "cd".

LESLIE COOK
Sole Assessor

/cd
Attachment

cc: Myra Mason, Planning Board

Central Hudson Gas & Electric Corp
c/o Tax Agent South Road
Poughkeepsie, NY 12601 ✓

NY City Dept of EP
c/o City of New York Dep.
Bureau of water Supply-OWSL
Suite 350
465 Columbus Ave
Valhalla, NY 10595 ✓

Village of Cornwall
c/o Distribution System of Cornwall on Hudson ✓
PO Box 337
Cornwall, NY 12520

The Town of New Windsor ✓
555 Union Ave.
New Windsor, NY 12553

Gamble, Robert & Patricia ✓
RD2 Riley RD
New Windsor, NY 12553

McClellan, John & Genevieve ✓
390 Riley Rd.
New Windsor, NY 12553

Tornetta, Paul & Phyllis ✓
15 Laurel Hill Road
Cruger's, NY 10521

Bergknoff, Irwin ✓
RT 32
Highland Mills, NY 10930

Nemeth, Attila & Ruby ✓
P.O. Box 81
Vails Gate, New York 12584

Hudson Valley Development ✓
Group of New Windsor LP
7 Becker Farm Road
Roseland, NJ 07068

Maurice, Elaine P & Frank J ✓
Dean Hill RD
Vails Gate, NY 12584

Kartiganer, Herbert L & Majority N ✓
557 Bloomingrove Tpke.
New Windsor, NY 12553

Anderson, Herbert
267 Riley RD
New Windsor, NY 12553 ✓

Longcore, Williams &
Maciel Christine
258 Riley RD
New Windsor, NY 12553 ✓

Newburgh Water Supply
City Hall
Newburgh, NY 12550 ✓

Anderson, Dane B. & Monica L.
232-D Riley Rd.
New Windsor, NY 12553 ✓

16 Envelopes from above list
5 Town Reps

21 Envelopes mailed 8/23/96

END

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the PLANNING BOARD of the TOWN OF NEW WINDSOR, County of Orange, State of New York will hold a PUBLIC HEARING at Town Hall, 555 Union Avenue, New Windsor, New York on September 11, 1996 at 7:30 P.M. on the approval of the public utility communications facility proposed ~~XXXXXXXXXXXXXXXXXXXX~~

(Site Plan)* OF Orange County Poughkeepsie MSA Limited Partnership located on north side of Dean Hill Road, adjacent to existing telephone company right-of-way. (65-1-17) Map of the ~~(SUBDIVISION OF LOTS)~~ (Site Plan)* is on file and may be inspected at the Planning Board Office, Town Hall, 555 Union Avenue, New Windsor, N.Y. prior to the Public Hearing.

Dated: August 19, 1996

By Order of

TOWN OF NEW WINDSOR PLANNING BOARD

James R. Petro, Jr.

Chairman

NOTES TO APPLICANT:

- 1). *Select Applicable Item.
- 2). A completed copy of this Notice must be approved prior to publication in The Sentinel.
- 3). The cost and responsibility for publication of this Notice is fully the Applicants.



**CLOUGH, HARBOUR
& ASSOCIATES LLP**
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

3FB

III WINNERS CIRCLE
P. O. BOX 5269, ALBANY, NEW YORK 12205-0269
TEL: 518-453-4500 • FAX: 518-458-1735

July 25, 1996

Mark J. Edsall, P.E.
McGoey, Hauser and Edsall P.C.
45 Quassaick Ave (Route 9W)
New Windsor, NY 12553

**RE: ORANGE COUNTY POUGHKEEPSIE MSA LIMITED PARTNERSHIP
STANDBY GENERATOR INFORMATION
CHA FILE NO: 4734.01.29**

Dear Mr. Edsall:

Per your Planning Board Review Comments letter of July 24, 1996, I am providing you with information addressing the standby generator (item four). The enclosed information consists of factory cut sheets and written description of the diesel generator proposed for this Communications Facility. Although concerns about the neighboring reservoir are important, It must be taken into consideration that our proposed facility is approximately 1200 feet from Silver Stream Reservoir. This 1200 foot distance and the generator's quality and safety features make this installation very safe and reliable. If concerns still exist, the applicant is willing to substitute the proposed generator with a propane version to alleviate these concerns.

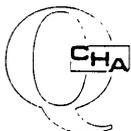
Please do not hesitate to call if you have any questions or require additional information.

Very truly yours,

CLOUGH, HARBOUR & ASSOCIATES LLP
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

Bernard R. Buff Jr., ASLA
Landscape Designer

me-ltr1/4734/01-29
cc: Myra Mason
Joe Ross
Ruth Rosenberg



Offices Throughout the Eastern United States

"Satisfying Our Clients by Meeting Their Needs Through Dedicated People Committed to Total Quality."

The following is a description of the equipment we are supplying for the Purchase Order No. 1524 in reference with Katolight Submittal No. F-39381.

MODEL D60FGP4 KATOLIGHT DIESEL ENGINE GENERATOR SET

GENERATOR: 60 KW, 60 KVA, 1.0 PF, 120/240 volt, single phase, 3 wire, 60 HZ, 1800 RPM, revolving field type with amortisseur windings and direct connected brushless exciter, Model SE100A voltage regulator, temperature rise NEMA MG1-22.40 & MG1-22.84, commercial RFI shielding, single bearing style, direct connected to the engine flywheel through a semi-flexible coupling and a space heater.

ENGINE: Perkins Model T4.236, unit mounted with fan guard. A 3.6 inch bore and 5" stroke and a 181 cubic inch displacement developing a 96.9 BHP at 1800 RPM. Engine equipped for operation on No. 2 diesel fuel and complete with all necessary accessories to include the following: 12 volt DC starting with charging alternator and regulator; and a standard mechanical governor with a 3-5% regulation.

KATOLIGHT STANDARD 45 SERIES CONTROL PANEL - AND OPTIONS:

NEMA I vibration isolated, unit-mounted and to contain the following: AC voltmeter, 3-1/2", 2% accuracy, 0-300 volts; AC ammeter, 3-1/2", 2% accuracy, 0-300 amps; dial type frequency meter, 55-65 HZ; combination voltmeter/ammeter selector switch; engine gauges to include: charge rate ammeter, water temperature, oil pressure and running time meter.

KASSEC Engine Control, 12 volt DC with cyclic cranking timer, 4 engine shutdowns with four failure lights (overcrank, overspeed, low oil pressure and high engine temperature), low water level with high water temp lite, low fuel level lite, leak detector lite, 3 position mode switch (auto-off-manual). Engine control is designed for switch grounding on failure.

HOUSING: Weather-protective housing with five removable panels and expanded metal openings for intake and exhaust air.

STARTING SYSTEM: Battery box with cables.

EXHAUST SYSTEM: JIS 2 1/2" industrial grade muffler with side inlets; 2 9/16" ID sleeve to 2 1/2" NPT stainless steel flexible exhaust connector. Housing mounted with mounting brackets and a 3" rain cap.

FUEL SYSTEM: IFS 200 gallon sub base fuel tank, rupture basin with leak detector (mounted and wired, Drawing 105-828-14, fuel gauge, fittings and low level water switch.

AUTOMATIC TRANSFER SWITCH: Zenith Model ZTS40B, 400 amp, single pole, NEMA 1 Enclosure, wall-mounted with the following Group 9 accessories: A3, A4 - auxiliary contacts; C/D - plant exercisor; E - engine starting contact; L1, L2 - pilot lights; P - time delay to engine start; R3 - solid-state adjustable voltage sensing relay; T - time delay to retransfer to normal; U - time delay to engine overrun; and W - time delay to emergency, U.L. #1008 approved.

CIRCUIT BREAKERS: GE Model TJD422250WL mainline circuit breakers, 250 amps, 240 volts, single pole with NEMA 1 Enclosure.

MISCELLANEOUS: (6) type "W" pad vibration dampners; unit painted Katolight Gold; One Year Katolight Limited Warranty; standard commercial tests; and (1) set(s) of instruction manual(s) for the installation, operation and maintenance of all equipment described herein.

KATOLIGHT CORPORATION

MAY 6, 1992



RON PETERSON
SALE ENGINEER

RP/bjh



PERFORMANCE ASSURANCE CERTIFICATION

This Performance Assurance Certification provided by Katolight Corporation certifies that each model and every production unit will reliably produce its rated output with all accessories with the selected fuel.

Katolight Corporation throughout its history since 1952 has always tested all equipment to the maximum. Certified tests for all units are on file for review and reference.

- Katolight Corporation Performance Assurance Certification is the most complete and extensive testing in the engine-generator industry and has always been the standard test performance of Katolight Corporation.
- Torsional vibration analysis is necessary to assure reliable performance and to prevent catastrophic failures. Matching of the engine-generator is verified by the analysis plus a mechanical torsigraph measurement test of the model which verifies the analysis.
- Unit operational general vibration analysis is also performed to eliminate fatigue failure of mechanical components. Noise level is measured at specified distances to provide data to meet noise level regulations.
- All models are tested under short circuit conditions at zero power factor and specific power factor to exceed the most severe load conditions. All models are designed, selected and tested to withstand the mechanical and electrical stresses of line to line short circuits. Properly designed engine-generator systems will not be damaged by short circuits.
- Each Katolight Corporation model is supported by extensive temperature rise testing. This insures continuous operation at rated load. All generators have NEMA Class F insulation or better. Continuous heat run tests for each model using thermocouple, hot spot detectors are used to verify each generator design.
- Operational model performance of all major components, engine, generator, regulator and governor is verified by voltage and frequency transient measurement by light beam oscillograph.

The standard unit test will include:

Full rated load at rated PF (.8) and maximum load, to verify engine power, overload and maximum capability.

KVA, kilowatts, amperes, voltage, frequency, time
frequency (speed) and voltage transients at 1/2 and rated load
frequency at: no load, full load rated and maximum output

Regulator range (adjust), phase sequence, phase voltage balance

Rated load at .3 PF to verify the motor starting capability

Stator & exciter field resistance

Insulation test, generator field, exciter armature, exciter field, generator armature or stator

Dielectric test, generator field, exciter armature, exciter field, generator armature or stator

* Short circuit performance (min. of 5 tests)

All safety shutdowns and automatic controls

Lube oil pressure (if applicable), water temperature (if applicable), battery charger (if applicable)

Heaters, jacket water and/or lube oil, starting aids

Accessories (annunciator panel, chargers, pumps, transfer switches as supplied)

** On all prototype tests and on each unit as specified.*

Standard testing includes these MIL-STD-705 Tests: Katolight Corporation has performed complete MIL-STD-705 testing for many critical, precise power, government and military installations.

MIL-STD-705 METHODS

301.1b - Insulation Resistance Test

302.1a - High Potential Test

401.1a - Winding Resistance Test

410.1a - Open Circuit Saturation
Curve Test

503.1b - Start and Stop Test

505.2a - Overspeed Protective Device Test

507.1c - Phase Sequence Test (Rotation)

508.1c - Phase Balance Test (Voltage)

510.1c - Rheostat Range Test

511.1c - Regulator Range Test

511.2b - Frequency Adjustment Range Test

513.2 - Indicating Instrument Test
(Electrical)

515.1a - Low Oil Pressure Protective
Device Test

515.2a - Overtemperature Protective Device Test

516.1 - Controls, Direction of Rotation

640.1c - Maximum Power Test

Application performance is certified by Katolight for every unit manufactured. This company philosophy and performance is regularly reviewed to insure continuity of the program and conformance with National and other codes or regulations affecting generator systems such as NFPA99 Health Care Facilities, NFPA70 National Electrical Code, NFPA110 Emergency and Standby Power Systems, State of Pennsylvania Department of Labor and Industry.

Every generator system application is unique. Design, manufacture and testing must be adaptable to the continuously variable and unique characteristics of each application.

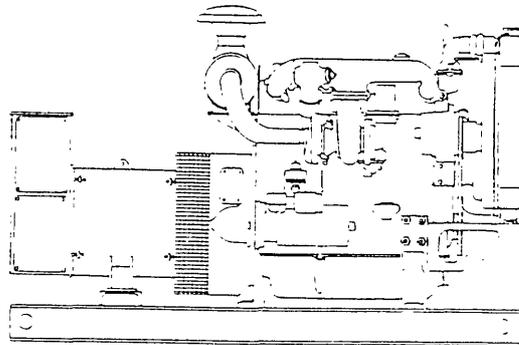
All Katolight Corporation equipment is designed, built and tested to this standard.



RATOLIGHT[®] Diesel ENGINE GENERATOR SETS

60 KW
60 Hz

50 KW
50 Hz



Model Selection / Rating Chart

MODEL NO. @ 60 Hz	STANDBY RATINGS & CHARACTERISTICS					
	KW*	RPM	VOLTS	KVA	PHASE	WIRE
D60FRP4	60	1800	277/480	75	3	12
D60FPP4	60	1800	120/208	75	3	12
D60FJR4	60	1800	120/240	75	3	12
D60FGP4	60	1800	120/240	60	1	12

MODEL NO. @ 50 Hz	STANDBY RATINGS & CHARACTERISTICS					
	KW*	RPM	VOLTS	KVA	PHASE	WIRE
D50FRP5	50	1500	220/380	62.5	3	12
D50FPP5	50	1500	110/190	62.5	3	12
D50FJP5	50	1500	110/220	62.5	3	12
D50FGP5	50	1500	110/220	50	1	12

General Specifications

ENGINE	
TYPE: Inline Multi-Cylinder, Turbocharged	
CYCLE: 4	
H.P.: 96.9 @ 1800 RPM	CYLINDER: 4
80.3 @ 1500 RPM	KW: 72.3 @ 1800 RPM
	59.9 @ 1500 RPM
BORE: 3.6 in. (9.14Y cm.)	STROKE: 5 in. (12.7 cm.)
PISTON DISPLACEMENT: 235.9 in. ³ (3.86 lit.)	
BMEP: 181 psi (1,246.2 kPa)	
ASPIRATING: 170 CFM @ 60 Hz (4.8 m ³ /m @ 60 Hz)	
142 CFM @ 50 Hz (4.0 m ³ /m @ 50 Hz)	
FUEL CONSUMPTION: 4.5 gal/hr (17 lit/hr)	

GENERATOR	
TYPE: Revolving Field-Brushless-Direct Connected Exciter	
CONSTRUCTION: Single Bearing-Shielded-Close Coupled	
REGULATION: Static Regulator Maintains 1% of rated voltage	
INSULATION: Class F (Epoxy Vacuum Impregnated)	
CONNECTION: WYE or DELTA	
AMBIENT TEMPERATURE: 40° C.	

Installation Facts

DIMENSION & WEIGHT	60 Hz Standby		50 Hz Standby	
Length	69 in.	(176 cm.)	69 in.	(176 cm.)
Width	32 in.	(66 cm.)	32 in.	(66 cm.)
Height	52 in.	(132 cm.)	52 in.	(132 cm.)
Weight	1,934 lb.	(877 kg.)	1,934 lb.	(877 kg.)
LIQUID CAPACITY (Refill)				
Oil Sump	2.5 gal.	(9.5 lit.)	2.5 gal.	(9.5 lit.)
Jacket Water, engine only	2.0 gal.	(7.6 lit.)	2.0 gal.	(7.6 lit.)
Radiator, including eng., jacket water system & lines-standard cap.	4.5 gal.	(17.0 lit.)	4.5 gal.	(17.0 lit.)
Water pump capacity	24.4 GPM	(92.4 l/m)	20.3 GPM	(76.8 l/m)
EXHAUST SYSTEM				
Gas Temperature (stack)	1,040° F	(560° C)	1,085° F.	(585° C.)
Gas Volume at Stack Temperature	459 CFM	(13 m ³ /m)	396 CFM	(11.2 m ³ /m)
Maximum allowable back pressure	41 in. H ₂ O	(76.2 mm. Hg)	41 in. H ₂ O	(76.2 mm. Hg)
COOLING SYSTEM				
Ambient Capability of Radiator	120° F.	(49° C.)	120° F.	(49° C.)
Maximum allowable static pressure on exhaust side of radiator	0.5 in. H ₂ O	(12.7 mm. H ₂ O)	0.5 in. H ₂ O	(12.7 mm. H ₂ O)
Heat rejection to engine jacket water (dry exhaust)	2,644 BTUM	(46.5 KW)	2,246 BTUM	(39.4 KW)
STARTING SYSTEM				
Electric volt DC	12 volt		12 volt	
Battery recommendation - Minimum temperature 0° F (-17.7° C.)	90 Amp-Hr		90 Amp-hr.	
AIR REQUIREMENTS				
Air flow required for Radiator Cooled unit	6,955 CFM	(197 m ³ /m)	5,935 CFM	(168 m ³ /m)
Air flow required for Heat Exchanger or Remote Radiator	2,741 CFM	(77.6 m ³ /m)	2,291 CFM	(64.9 m ³ /m)
Generator set radiated heat	987 BTUM	(17.3 KW)	898 BTUM	(15.8 KW)

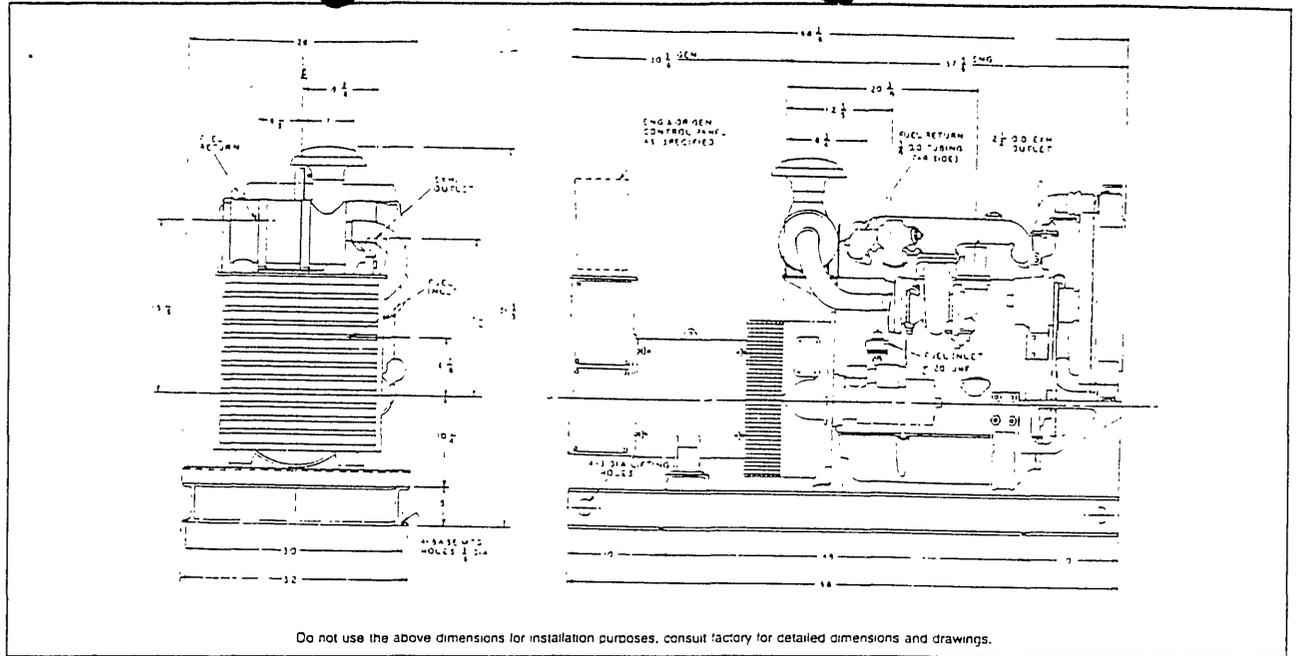
*Derate 1.5% per 1,000 feet (305 m) above 2,500 feet (762 m) and 1% per 10° F. (5.5° C.) above 85° F. (29° C.)

Other voltages available up to 600 volts AC.

Printed in the USA

Form P60/192

Drawings for 6054



Design & Performance

- Katolight Generator manufactured to meet NEMA-MG-1-22.40 and CSA standards.
- Engine and generator controls are designed and manufactured by Katolight.
- Telephone influence factor is well within NEMA standards.
- Wave form deviation factor is no more than 5%, well within NEMA standards.
- Voltage Regulation - Standard static regulators will keep voltage within 1% of rated voltage.
- Harmonic Content is 3% maximum.
- Permanently lubricated, double shielded, radial ball type bearings are used.

Standard Equipment

- Basic Engine - T4.236
- A.C. Generator
- Fuel Pump
- Primary & Secondary Fuel Filter
- Lube Oil Circulating Pump
- Lube Oil Cooler
- Full Flow Lube Oil Filter
- Jacket Water Circulating Pump
- Thermostat
- Air Filter
- Exhaust Manifold
- 12 Volt Electric Starting Motor, Solenoid, and Switch
- 12 Volt Battery Charging Alternator & D.C. Ammeter
- Oil Pressure -- Water Temperature Gauges -- Running Time Meter
- Generator Terminal Box
- Governor -- Mechanical to 3-5%
- Fabricated Steel Sub-base

Optional Accessories

- Special Voltages up to 600 volts.
- Frequency: 50-400 Hz.
- Special array of temperature rise (50°, 60°, 70°, 80°, 105° and 130° C) generators available, meeting NEMA-MG-1-22.84 standards.
- Custom designed control systems -- Special metering -- Bussing -- Switch gear.
- Cooling -- Remote radiator/hotwell tank -- Heat exchangers
- Fuel systems -- Pumps -- Valves -- Tanks -- Switches
- Batteries -- Lead acid -- Lead calcium -- Nickel cadmium
- Enclosures -- Weather resistant -- Thermal insulated -- Sound attenuated
- Custom designed trailer mounting
- Precision governing with electronic systems.

Material and Specifications May Change Without Notice.

KATOLIGHT CORPORATION

3201 Third Avenue

P. O. Box 3229

Mankato, Minnesota 56002-3229

Phone: (507) 625-7973 FAX: (507) 625-2968

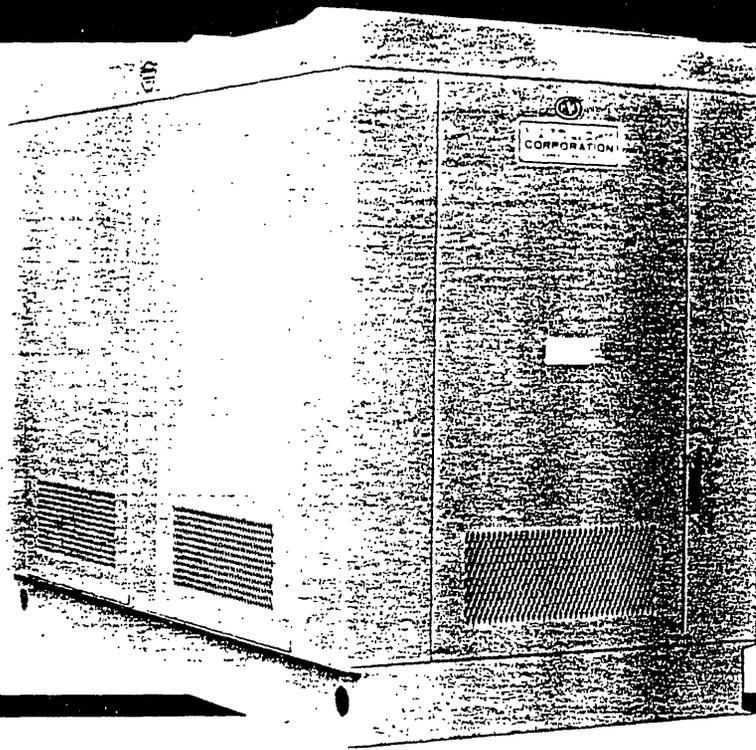
Printed in U.S.A.

For more information contact your nearest Representative, Distributor, or Dealer below:



WEATHER PROTECTIVE ENGINE — GENERATOR SET ENCLOSURES!

By Katolight®



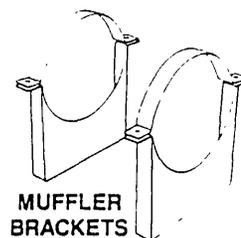
Katolight's Engine Generator Set Enclosures are designed to meet a wide variety of engine generator applications requiring convenient, attractive and weather protective design. The rugged units of all steel construction safely house engine driven equipment and assure protection of other mechanical and electrical equipment used with engine generator sets. These units are available in 4 basic modular sizes and heights. The Katolight enclosures are offered in 2 ways: 1) Assembled at the Katolight factory directly onto the skid base of the engine generator set, or 2) The housing shipped for field assembly with a minimum number of pieces and dropped over unit to be mounted directly to a concrete slab.

DESIGN FEATURES

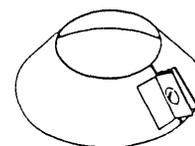
- ALL STEEL, MODULAR CONSTRUCTION
- BOLTED CONSTRUCTION
- INTERCHANGABLE PANELS
- LOCKS ON ALL DOORS

ACCESSORIES

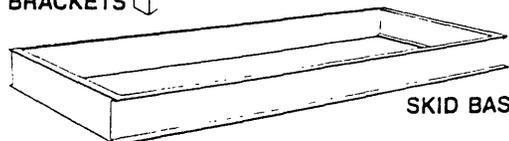
- EXHAUST HOLE CAP
- MUFFLER BRACKETS
- SUB & SKID BASES
- LIFTING EYES



MUFFLER
BRACKETS



EXHAUST HOLE CAP



SKID BASE

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the PLANNING BOARD of the TOWN OF NEW WINDSOR, County of Orange, State of New York will hold a PUBLIC HEARING at Town Hall, 555 Union Avenue, New Windsor, New York on September 11, 1996 at 7:30 P.M. on the approval of the public utility communications facility proposed XXXXXXXXXXXXXXXXXXXXXXXXXXXX

(Site Plan)* OF Orange County Poughkeepsie MSA Limited Partnership located on north side of Dean Hill Road, adjacent to existing telephone company right-of-way. (65-1-17) Map of the (XXXXXXXXXXXXXXXXXXXXXXXXXXXX) (Site Plan)* is on file and may be inspected at the Planning Board Office, Town Hall, 555 Union Avenue, New Windsor, N.Y. prior to the Public Hearing.

Dated: August 19, 1996

By Order of

TOWN OF NEW WINDSOR PLANNING BOARD

James R. Petro, Jr.

Chairman

NOTES TO APPLICANT:

- 1). *Select Applicable Item.
- 2). A completed copy of this Notice must be approved prior to publication in The Sentinel.
- 3). The cost and responsibility for publication of this Notice is fully the Applicants.

RESULTS OF P.B. MEETING

DATE: 8-24-76

PROJECT NAME: O.C. Poughkeepsie S.P. spec PROJECT NUMBER _____
Bum

LEAD AGENCY: _____ NEGATIVE DEC: _____

M) 5 S) LU VOTE: A 5 N 0 M) _____ S) _____ VOTE: A _____ N _____

CARRIED: YES NO _____ CARRIED: YES: _____ NO _____

PUBLIC HEARING: M) 0 S) LU VOTE: A 5 N 0

WAIVED: YES _____ NO

SEND TO OR. CO. PLANNING: M) _____ S) _____ VOTE: A _____ N _____ YES _____ NO _____

SEND TO DEPT. OF TRANSPORT: M) _____ S) _____ VOTE: A _____ N _____ YES _____ NO _____

DISAPP: REFER TO Z.B.A.: M) _____ S) _____ VOTE: A _____ N _____ YES _____ NO _____

RETURN TO WORK SHOP: YES _____ NO _____

APPROVAL:

M) _____ S) _____ VOTE: A _____ N _____ APPROVED: _____

M) _____ S) _____ VOTE: A _____ N _____ APPR. CONDITIONALLY: _____

NEED NEW PLANS: YES _____ NO _____

DISCUSSION/APPROVAL CONDITIONS: _____

Need specs on generator to Mark
Schedule P.H.

O.C. POUGHKEEPSIE MSA, LTD. SITE PLAN & SPECIAL PERMIT
(96-11) DEAN HILL ROAD

Mr. Joe Ross appeared before the board for this proposal.

MR. ROSS: I am Joe Ross. Ruth Rosenberg is not here.

MR. LUCAS: This is for the tower?

MR. ROSS: Yes, we're here basically to set the public hearing. We have been to the zoning board of appeals, we have received variances from the Zoning Board of Appeals, it's noted on the plans, this plan is no different than the last plan you have seen, I believe it's just got a note.

MR. LUCAS: I requested something about the underground utilities, just to show, was that done?

MR. PETRO: You wanted to see the underground utilities going down the road where they are placed?

MR. LUCAS: Yes.

MR. LANDER: I'd like a few minutes to see where we're at.

MR. PETRO: Sure.

MR. LUCAS: That is how you're going to do it with the underground utilities?

MR. ROSS: You wanted to see?

MR. LUCAS: Remember I asked if the underground utilities are going to be following the road that was going off because you're not to have overhead wires it's all going to be underground.

MR. PETRO: Well, I guess they've got to be located within the 25 foot easement between the dotted lines.

MR. ROSS: Correct.

MR. PETRO: So you want a further showing?

MR. LUCAS: No, I just wanted a note because I don't think--

MR. PETRO: Says it right here in the center, electric and telephone service to be located within 25 foot wide access and utility easement.

MR. LANDER: But that doesn't answer his question, he wants to know if it's overhead or underground or overhead or underground the lines itself?

MR. ROSS: We don't usually own the lines, the lines are owned by the utility company and traditionally it's up to their discretion if it's going to be overhead and underground, in this particular instance I believe we have agreed to put them underground.

MR. LUCAS: What were the variances that you were granted?

MR. ROSS: Says it right on the map, height variance and frontage road.

MR. STENT: Variances were based on the entire parcel, not just on that part that you are leasing?

MR. PETRO: Does everyone understand that?

MR. BABCOCK: Does Andy have a copy of Mark's comments?

MR. KRIEGER: Yes.

MR. BABCOCK: Did you read that comment?

MR. PETRO: We're saying that the entire property has been granted the variances so that we're only what is it, two variances granted?

MR. BABCOCK: Yes.

MR. PETRO: If it had been just on the leased property there would have been 8 variances so they took the easier road and granted it for the entire property but

we have to keep in mind that the variances granted go with the entire site, total lease parcel is 7,000 square feet.

MR. DUBALDI: I know we have to have a public hearing.

MR. PETRO: Parcel is 25 acres you see that is why there was only two.

MR. LANDER: Do we have proxy statements on file, Mr. Chairman?

MR. PETRO: Yes, Ron. Let's read Mark's comment about the lead agency, the board should determine if they are the only approving agency relative to this application. Now remember we have not taken lead agency yet. The only two other possibilities which I believe are possible are the possible need for FAA approval relative to the proximity to Stewart international Airport and the possible review of Orange County Department of Health and New York State Department of Health of the fuel storage for the generator in proximity to the public drinking water supply. If it is established that the Planning Board is lead agency they must consider if a short EAF is acceptable or if a full EAF or EIS is necessary. Any comments on that? So let me ask you this then Mike how are we going to determine if the FAA needs to be involved because of the proximity of the tower, is there a flight path or something we should need an overlay for this?

MR. KRIEGER: It was discussed at the zoning board meeting the construction of the, first of all, they've obtained FAA approval and input and they had to modify the painting of the structure if I remember correctly and install a light, otherwise, the FAA, which should be on the plans otherwise the FAA had no problem.

MR. PETRO: Do you have any correspondence with the FAA that you can give us for our files?

MR. ROSS: I have an FAA approval for the site.

MR. DUBALDI: That will do it. Can we see it?

MR. ROSS: It's not an involved agency for SEQRA purposes because it's a federal agency, federal agencies aren't involved.

MR. PETRO: Can we have this for our files?

MR. ROSS: I don't have another one, I'll have to make a copy.

MR. PETRO: The second part of this is Orange County Department of Health and New York State Department of Health for the fuel storage of generator in proximity to the public water drinking supply, how close are we to the public drinking water supply and what would be the appropriate distance?

MR. LUCAS: What you told us maybe you would bring the plans or specs on the generator itself, that it is a self-contained unit?

MR. ROSS: It's a self-contained unit, it's really no different than the laws that would govern if you are going to park a truck up there, there are certain standards I believe, I'm not an engineer, I work for the phone company and there are certain guidelines for this type of application, whether it be next to a water source or whatever. It really doesn't fall into anything, these are not, we're not talking about thousands of gallons or diesel fuel, we're talking about a--

MR. PETRO: Fuel for a generator.

MR. LANDER: How many gallons would that be and what type of--

MR. ROSS: The biggest ones we have are like 50 gallons.

MR. LANDER: Is it fuel oil, is it gasoline?

MR. ROSS: It's diesel.

MR. BABCOCK: But 50 gallons of fuel oil and what Mark is saying in a reservoir which is city drinking water

could do quite a bit of damage.

MR. STENT: But the standards that are set is going to be, to have to be totally self-contained, right Mike?

MR. LUCAS: But they were going to supply us with just the spec on the generator, I think it's the type of generator that is self-contained, it has a spill-over and it has like it's on retaining.

MR. BABCOCK: Have you supplied our engineer with that?

MR. ROSS: We have not.

MR. BABCOCK: Maybe that is why he's asking the question.

MR. PETRO: With that, I think we have taken care of the FAA, we're going to make a copy of that right now and we'll have that for our file, the approval. We have just discussed the tank so the New Windsor Planning Board should declare itself lead agency. We can make a motion to that effect.

MR. STENT: Make a motion we declare ourselves lead agency on the O.C. Poughkeepsie MSA, Ltd. off Dean Hill Road.

MR. LUCAS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency on the Poughkeepsie MSA Ltd. site plan. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. DUBALDI	AYE
MR. STENT	AYE
MR. LANDER	AYE
MR. LUCAS	AYE
MR. PETRO	AYE

MR. DUBALDI: I make a motion we schedule a public hearing.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board schedule a public hearing for this special permit for the O.C. Poughkeepsie MSA Ltd. site plan. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. DUBALDI	AYE
MR. STENT	AYE
MR. LANDER	AYE
MR. LUCAS	AYE
MR. PETRO	AYE

MR. PETRO: Also noted for the minutes, we have fire approval on 7/23/96, highway approval 4/15/96 and I'm sorry, highway is 7/19/96.

MR. DUBALDI: Jimmy, do you know what Mark's preference is on comment 3B of his, on his comments?

MR. PETRO: Can we make that determination maybe after the public hearing? Let's get some input and see what the people have to say. Is that necessary for you to know?

MR. KRIEGER: What if anything you should know that the zoning board public hearing there was one person who spoke if I remember correctly.

MR. ROSS: They were representing somebody else.

MR. DUBALDI: That is all that showed up?

MR. KRIEGER: That is it.

MR. ROSS: Again, I believe you have a full EAF in the application.

MR. BABCOCK: Short form.

MR. KRIEGER: Again, for the record, the zoning board

made a determination, they considered then all issues and they made a determination which they don't indicate the planning board should or shouldn't do, this is merely for information that there was nothing further that they wanted or needed. The determination was made after the public hearing, there was at the public hearing a considerable presentation with respect to view of the tower.

MR. PETRO: I'd like to have that here, Andrew, and I think we still should make the determination after the public hearing, we can say yes, we're going to go with the short EAF, let's do it at the same meeting of the public hearing. We already have it here, if we find that there's not a big outcry from the public hearing we have it here, it's acceptable.

MR. ROSS: I believe so, I know many boards make their determination, you know.

MR. PETRO: Well, if this was something not of the nature that it is, we would make that determination, being that it is a tower, people are going to call up and say what's going on and I don't want to have to have already said that a short EAF would be acceptable without hearing what they had to say so we can provide them with that opportunity. Number 2, Andrew, why don't you take that from Mark's comments. It goes with the right-of-way from Dean Hill Road, have you reviewed that?

MR. KRIEGER: Yes, I looked at it in connection with the zoning board hearing and they have adequate access or guaranteed access.

MR. BABCOCK: Mr. Chairman, one comment some of these comments that Mark has here, I'm sure he will be here at the public hearing and maybe could explain better than what we can understand from his writing here of why he would even put in whether short form or full EAF is necessary.

MR. STENT: I don't know if you have a copy of Mark's comments.

MR. BABCOCK: Yes, he does.

MR. STENT: And discuss them with Mark so you can try and clean them up a little bit before the public hearing.

MR. PETRO: There's not that many and we have already done a couple of them so I think we have made some progress and what we'll do is schedule you for a public hearing immediately.

MR. KRIEGER: There are not that many and I expect they are somewhat more than usual because he isn't here.

MR. PETRO: Ron, anything else?

MR. LANDER: No.

MR. PETRO: See them again at the public hearing.

MR. LUCAS: Nothing else.

MR. DUBALDI: No.

MR. STENT: No.

MR. PETRO: All right, we'll schedule a public hearing and we'll see you then.

MR. ROSS: Can we have a date?

MS. MASON: Order your list from the assessor first, you have to get a list of adjoining property owners from the assessor, order that and once you get that in your hand, I can give you a date.

MR. ROSS: Okay. Is there any possibility we can utilize the list which is identical to the one we're going to get that reads for the zoning board?

MR. KEIRGER: It's not identical, it's not the problem.

MR. BABCOCK: No, it's different requirements.

MR. PETRO: They'll get it for you in a day or two,

June 24, 1996

17

they might even have it by Friday, you can get the list.

MR. KRIEGER: It should be relatively easy for the assessor to generate the list.

MR. ROSS: Thank you. I just was looking for a date.

MR. PETRO: We meet twice a month.

MS. MASON: As soon as you get the list, give me a call and I'll give you a date.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TELEPHONE #914-563-4615
FAX NUMBER 914-563-4693

TO: A. Krueger - Carmex Dubaldi - Ed Stent

ATTN: Mike Lucas

FAX NUMBER: _____

NUMBER OF PAGES (INCLUDING COVER SHEET) 1

FROM: Myra

DATE SENT: 9/4/96 TIME SENT: _____

MESSAGE: Please note:

The public hearing for the communication tower on Riley + Dean Hill Rd. is scheduled for 9/11/96.

They delivered a written testimony (3 books) of what their presentation will cover.

If you would like to read it before the meeting, please stop in to get your copy.

(m)

TELEPHONE OR FAX ACKNOWLEDGEMENT OF THIS TRANSMISSION IS REQUESTED:

YES _____ NO ✓



U.S. Department of Transportation
Federal Aviation Administration

Eastern Region

Fitzgerald Federal Building
John F. Kennedy International Airport
Jamaica, New York 11430

#1840

ACKNOWLEDGEMENT OF NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION

CITY	STATE	LATITUDE/LONGITUDE	MSL	AGL	AMSL
VAILSGATE	NY	41-27-42.34 074-04-26.51	495	186	681

NYNEX MOBILE COMMUNICATIONS CO.
AVIATION SYSTEMS ASSOCIATES, INC.
23430 HAWTHORNE BLVD., SUITE 200
TORRANCE, CA 90505

AERONAUTICAL STUDY
No: 95-AEA-0508-OE

Type Structure: ANTENNA TOWER

The Federal Aviation Administration hereby acknowledges receipt of notice dated 03/13/95 concerning the proposed construction or alteration contained herein.

A study has been conducted under the provisions of Part 77 of the Federal Aviation Regulations to determine whether the proposed construction would be an obstruction to air navigation, whether it should be marked and lighted to enhance safety in air navigation, and whether supplemental notice of start and completion of construction is required to permit timely charting and notification to airmen. The findings of that study are as follows:

The proposed construction would not exceed FAA obstruction standards and would not be a hazard to air navigation. However, the following applies to the construction proposed:

The structure should be obstruction marked and lighted per FAA Advisory Circular AC 70/7460-1H, 'Obstruction Marking and Lighting. CHAPTERS: ~~X~~-3 ~~X~~-4 ~~X~~-5 []-6 []-7 []-8 []-9 []-10 []-11 []-12 ~~X~~-13.

This determination expires on 12/13/95 unless application is made, (if subject to the licensing authority of the Federal Communications Commission), to the FCC before that date, or it is otherwise extended, revised or terminated.

If the structure is subject to the licensing authority of the FCC, a copy of this acknowledgement will be sent to that agency.

NOTICE IS REQUIRED ANYTIME THE PROJECT IS ABANDONED OR THE PROPOSAL IS MODIFIED

SIGNED Robert P. Alexander Specialist, Systems Management Branch
Robert P. Alexander (718) 553-1230/1228
ISSUED IN: Jamaica, New York ON 06/13/95

NAD 83



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Office of Public Health

11 University Place

Albany, New York 12203-3399

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

CC: 6. Magus
A. King
of Petro
m. Edzell

May 3, 1996

James Petro
Town of New Windsor Planning Board
555 Union Ave.
New Windsor, NY 12553

RE: Cellular Phone Facility - New Windsor

Dear Mr. Petro:

I reviewed the information sent to me about the proposed Bell Atlantic NYNEX cellular facility in New Windsor, and offer the following comments.

New York State does not regulate radiofrequency emissions as this is done by the Federal Communications Commission. The FCC sets the requirements for the various frequency bands, and considers such questions as exposure of the general public, interference with other services, etc.

The attached sheet lists several organizations which have developed specific radiation protection guidelines. The best approach for a particular facility is to calculate or measure exposures at a point of interest near the facility and compare these levels to the protection guidelines.

The Report from Bell Laboratories shows that this facility will be well below any applicable radiofrequency guidelines. Similar facilities are being installed throughout New York State to insure continuous coverage for both cellular and mobile radio services. Due to the design of these systems, their low power, and their elevation, no one is likely to be exposed to any level of radiofrequency radiation in excess of a very small fraction of the NCRP or IEEE guidelines for exposure of the general public.

Please contact me at 518 458-6495 if you have any questions regarding this information or these comments.

Sincerely,

William Condon, CHP
Principal Radiological Health
Specialist
Bureau of Environmental Radiation
Protection

ATTACHMENT

REFERENCES FOR RADIOFREQUENCY PROTECTION GUIDELINES

1. Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation. OST Bulletin 65, October 1985 Federal Communications Commission, Washington, D.C. 20554
2. Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields. NCRP Report 86, 1986 National Council on Radiation Protection and Measurements, 7910 Woodmount Ave., Bethesda, MD 20814
3. IRPA Guidelines on Protection Against Non-Ionizing Radiation. International Radiation Protection Association 1991 Pergamon Press, Elmsford, NY 10523
4. Safety Levels with Respect to Human Exposure to Radiofrequency Electromagnetic Fields, 3 kHz to 100 GHz. C95 1-1991 Institute of Electrical and Electronic Engineers (replaces ANSI C95 1-1982)



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

April 29, 1996

State of New York, Department of Health
2 University Place
Albany, NY 12203

**ATTN: WILLIAM J. CONDON, CHP
CHIEF, BUREAU OF ENVIRONMENTAL RADIATION PROTECTION**

RE: COMMUNICATION TOWER WITHIN THE TOWN OF NEW WINDSOR

Dear Mr. Condon:

The Town of New Windsor Planning Board has before it an application for approval of a communication tower to be located within the Town of New Windsor.

At its regular meeting of April 24, 1996, the Planning Board received a Safety Analysis of the Electromagnetic Environment in the Vicinity of a Proposed Cellular Radio Installation (copy enclosed).

The Board requests an additional information you may have on the subject project. Thank you for your anticipated cooperation in this matter and if you should have any questions, please contact our office.

Respectfully yours,

James R. Petro, Jr.

JAMES R. PETRO, JR., CHAIRMAN
TOWN OF NEW WINDSOR PLANNING BOARD

JRP/mlm ✓
Enclosure

cc: George J. Meyers, Supervisor
Mark Edsall, P.E. - P.B. Engineer
Andrew Krieger, Atty. - P.B. Attorney

**Safety Analysis of the Electromagnetic Environment in the
Vicinity of a Proposed Cellular Radio Installation,
Off Mt. Airy and Dean Hill Roads, Town of New Windsor, Orange County, New York**

R. C. Petersen
Radiation Protection and Product Safety Department
Bell Laboratories
Murray Hill, New Jersey 07974-0636

Summary

This report is a safety analysis of the electromagnetic environment surrounding the Bell Atlantic NYNEX Mobile (BANM) cellular radio facility proposed for installation in the Town of New Windsor, New York. The analysis utilizes engineering data provided by BANM, together with well-established analytical techniques for calculating the radiofrequency (RF) electromagnetic fields associated with cellular radio transmitting antennas. Worst-case assumptions were used to ensure safe-side estimates, i.e., the actual values will be significantly lower than the corresponding analytical values.

The results of this analysis indicate that the maximum level of RF energy to which the public may be exposed is below all applicable health and safety limits. Specifically, in all normally accessible areas surrounding the facility, the maximum level of RF energy associated with *simultaneous and continuous operation of all transmitters* will be at least 1375 times below the exposure limits of OSHA, ANSI, IEEE, NCRP and the limits of all states that regulate RF exposure.

Prepared for
Joseph Ross
Bell Atlantic NYNEX Mobile
46 Broadway
Menands, New York 12204

February 21, 1996

1. Introduction

This report was prepared in response to a request from BANM for a safety analysis of the radiofrequency (RF) electromagnetic environment in the vicinity of the proposed cellular radio installation, and an opinion regarding the concern for public health associated with long-term exposure in this environment.

2. Technical Data

The antennas of the proposed cellular radio installation are to be located on a lattice tower-type structure located off Mt. Airy and Dean Hill Roads, Town of New Windsor, NY. The antennas will transmit at frequencies between 869 and 894 million hertz (MHz). (These frequencies were formerly allocated for UHF television channels 79 through 83.)

For a cellular radio system, the radiated power is typically less than 10 watts per transmitter (channel) and the actual *total* radiated power is usually less than 200 watts per sector (assuming the maximum number of transmitters are installed and operate *simultaneously and continuously*, which is rarely, if ever, the case). This is an extremely low power system when compared with other familiar radio systems, such as AM, FM, and television broadcast, which operate upwards of 50,000 watts. Figure 1 is a diagram of the electromagnetic spectrum which also lists common uses of RF energy. Table 1 below lists engineering specifications for the proposed system.

Table 1
Engineering Specifications for the
Proposed Cellular Radio System, Town of New Windsor, New York

Site Specifications	Bell Atlantic NYNEX Mobile
antenna centerline height above grade	165 ft
maximum ERP per channel†	100 watts
actual radiated power per channel	7 watts
actual <i>total</i> radiated power per sector	133 watts
number of transmit antennas	2 per sector
number of receive antennas	2 per sector
maximum number of transmitters	19 per sector
antenna manufacturer	Swedcom
model number	ALP9212
gain	14.15 dBi
type	directional
downtilt	0°

†ERP - *Effective Radiated Power*. ERP is a measure of how well an antenna concentrates RF energy; it is not the actual power radiated from the antenna. To illustrate the difference, compare the brightness of an ordinary 100 watt light bulb with that from a 100 watt spot-light. Even though both are 100 watts, the spot-light appears brighter because it concentrates the light in one direction. In this direction, the spot-light effectively appears to be emitting more than 100 watts. In other directions, there is almost no light emitted by the spot-light and it effectively appears to be much less than 100 watts.

3. Environmental Levels of RF Energy

The antennas used for cellular radio propagate energy in a relatively narrow beam (in the vertical plane) which is directed toward the horizon. The reason for this is to provide uniform coverage. Hence, levels of RF energy directly under the antennas are not remarkably different from the levels at points more distant.

For the case at hand, the maximal potential exposure levels associated with *simultaneous and continuous* operation of all BANM transmitters can be readily calculated at any point in a plane at any height above grade. Based on the information shown in Table 1, the maximum power density at any point in a horizontal plane 6 ft above grade will be less than 0.4 millionths of a watt per centimeter squared ($0.4 \mu\text{W}/\text{cm}^2$) and will be less than $0.5 \mu\text{W}/\text{cm}^2$ at any point in a corresponding plane 16 ft above grade. The latter is representative of the maximum power density immediately outside the upper floor of nearby private homes (assuming level terrain).

The above values are the theoretical maxima that could occur and are not typical values. The calculations include the effect of field reinforcement from in-phase reflections. The assumption was also made that the maximum number of transmitters are installed and operate continuously and at the highest power that normally would be used. Because of the intermittent nature of the transmission from these antennas, the actual time-weighted-average values will be lower than those above. Moreover, experience has shown that the analytical technique used is extremely conservative. That is, actual power density levels have always been found to be smaller than the corresponding calculated levels¹. Also, levels inside nearby homes and buildings will be lower than those immediately outside because of the high attenuation of common building materials at these frequencies and, hence, will not be significantly different from typical ambient levels.

4. Comparison of Environmental Levels with RF Standards

Table 2 shows the calculated maximal RF power density levels in the vicinity of the installation; Table 3 shows the pertinent federal, state and consensus exposure limits for human exposure to RF energy. The various exposure limits range from $550 \mu\text{W}/\text{cm}^2$ (public exposure) to $10,000 \mu\text{W}/\text{cm}^2$ (occupational exposure), while the corresponding calculated maximum power density levels in the environment around the proposed installation are $0.4 \mu\text{W}/\text{cm}^2$ (at 6 ft above grade) and $0.5 \mu\text{W}/\text{cm}^2$ (at 16 ft above grade). The power density in the main beam will be less than $10.0 \mu\text{W}/\text{cm}^2$ at any distance greater than 166 ft from the antennas.

Table 2
Calculated Maximal Levels for the Proposed
Cellular Radio Antennas, Town of New Windsor, New York

<u>Location</u>	<u>Power Density ($\mu\text{W}/\text{cm}^2$)</u>
6 ft above grade	< 0.4
16 ft above grade.....	< 0.5
In the main beam, at any distance greater than 166 ft from the antennas	< 10.0

1. Petersen, R.C., and Testagrossa, P.A., Radiofrequency Fields Associated with Cellular-Radio Cell-Site Antennas, *Bioelectromagnetics*, Vol. 13, No. 6 (1992).

Table 3
Summary of State, Federal and Consensus Guidelines
for Exposure to Radiofrequency Energy at
Frequencies Used for Cellular Radio

<u>Organization/Government Agency</u>	<u>Exposure Population</u>	<u>Exposure Limits ($\mu\text{W}/\text{cm}^2$)</u>
Occupational Safety & Health Administration..... (OSHA - 29 CFR 1910.97)	Occupational	10,000
American National Standards Institute..... (ANSI C95.1 - 1982)	Occupational Public	2,750 2,750
Institute of Electrical and Electronic Engineers [†] (ANSI/IEEE C95.1-1992)	Occupational Public	2,750 550
National Council on Radiation Protection & Measurements (NCRP Report 86 - 1986)	Occupational Public	2,750 550
U.S. Federal Communications Commission ^{††} (requires FCC licensees to comply with ANSI C95.1-1982)	Occupational Public	2,750 2,750
New Jersey Administrative Code..... (NJAC 7:28-42)	Public	2,750
Massachusetts Department of Health (105 CMR 122)	Public	550
New York State, Department of Health (follows NCRP Report 86)	Public	550

[†] Latest revision of ANSI C95.1 - 1982.

^{††} Because of the low transmitter power, the FCC has categorically excluded cellular-radio from hazard analyses by the licensee.

5. Discussion of Health Standards

Recently, press coverage has suggested an association between health effects and exposure to magnetic fields from electric-power distribution lines, and from the use of hand-held cellular telephones. This press coverage has heightened concern among some members of the public about the possibility that health effects may be associated with any exposure to electromagnetic energy. Many people feel uneasy about new or unfamiliar technology and often want absolute proof that something is safe. Such absolute guarantees are not possible since it is virtually impossible to prove that something does not exist. However, sound judgments can be made as to the safety of a physical agent based on the weight of the pertinent scientific evidence. This is exactly how safety guidelines are developed.

The overwhelming weight of scientific evidence unequivocally indicates that biological effects associated with exposure to RF energy are threshold effects, i.e., unless the exposure level is sufficiently high the effect will not occur regardless of exposure duration. (Unlike ionizing radiation, e.g., X-rays and nuclear radiation, repeated exposures to low level RF radiation, or nonionizing radiation, are not cumulative.) Thus, it is relatively straightforward to derive safety limits. By adding safety factors to the threshold level at which the most sensitive effect occurs, conservative exposure guidelines have been developed to ensure safety.

At present, there are more than 10,000 reports in the scientific literature which address the subject of RF bioeffects. These reports, most of which describe the results of epidemiological

studies and animal studies, have been critically reviewed by leading researchers in the field and all new studies are continuously being reviewed by various groups and organizations whose interest is developing health standards. These include the U.S. Environmental Protection Agency, the National Institute for Occupational Safety and Health, the National Council on Radiation Protection and Measurements, the standards committees sponsored by the Institute of Electrical and Electronics Engineers, the International Radiation Protection Association under the sponsorship of the World Health Organization, and the National Radiological Protection Board of the UK. All of these groups have recently either reaffirmed existing health standards, developed and adopted new health standards, or proposed health standards for exposure to RF energy.

For example, in 1986, the National Council on Radiation Protection and Measurements (NCRP) published recommended limits for occupational and public exposure². These recommendations were based on the results of an extensive critical review of the scientific literature by a committee of the leading researchers in the field of bioelectromagnetics. The literature selected included many controversial studies reporting effects at low levels. The results of all studies were weighed, analyzed and a consensus obtained establishing a conservative threshold upon which safety guidelines should be based. This threshold corresponds to the level at which the most sensitive, reproducible effects were reported in the scientific literature. Safety factors were incorporated to ensure that the resulting guidelines would be at least ten to fifty times lower than the established threshold, even under worst-case exposure conditions. The NCRP recommended that continuous occupational exposure to cellular radio frequencies should not exceed approximately $2,750 \mu\text{W}/\text{cm}^2$, and continuous exposure of the public should not exceed $550 \mu\text{W}/\text{cm}^2$. (Although the State of New York does not have a regulatory program for the RF portion of the electromagnetic spectrum, the New York Department of Health (DOH) compares potential exposure levels with the above recommendations of the NCRP to assess public safety.)

In July of 1986, the Environmental Protection Agency published a notice in the Federal Register, calling for public comment on recommended guidance for exposure of the public³. Three different limits, ranging from approximately 275 to $2,750 \mu\text{W}/\text{cm}^2$, were proposed. In 1987 the EPA abandoned its efforts and failed to adopt official federal exposure guidelines. However, in 1993 the EPA, in its comments on the Federal Communications Commission's (FCC) Notice of Proposed Rule Making⁴, recommended adoption of the 1986 NCRP limits.

Also, in September 1991, the RF safety standard developed by Subcommittee 4 of the Institute of Electrical and Electronics Engineers (IEEE) Standards Coordinating Committee SCC-28 was approved by the IEEE Standards Board⁵. (IEEE SCC-28 was formerly the American National Standards Institute C95 Committee.) In November 1992, the ANSI Board of Standards Review approved the IEEE standard for use as an American National Standard. The limits of this standard are identical to the 1982 ANSI RFPGs⁶ for occupational exposure and approximately $550 \mu\text{W}/\text{cm}^2$ for exposure of the general public at cellular radio frequencies. Like those of the NCRP, these limits resulted from an extensive critical review of the scientific literature by a large committee of preeminently qualified scientists, most of whom were from academia and federal research laboratories.

2. NCRP - *Biological Effects and Exposure Criteria for Radio Frequency Electromagnetic Fields*, NCRP Report No. 86, National Council on Radiation Protection and Measurements, Bethesda, MD, (1986).
3. Federal Register, Vol. 51, No. 146, Wednesday, July 30, 1986.
4. Notice of Proposed Rule Making *In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, August 13, 1993. ET Docket No. 93-62
5. *IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz*, ANSI/IEEE C95.1-1992, Institute of Electrical and Electronics Engineers, Piscataway, NJ.
6. *American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz*, ANSI C95.1-1982, American National Standards Institute, New York, NY.

In implementing the National Environmental Policy Act⁷ regarding potentially hazardous RF radiation from radio services regulated by the FCC, the FCC categorically excluded land mobile services, including cellular radio, from hazard analyses because "individually or cumulatively they do not have a significant effect on the quality of the human environment"⁸. The FCC pointed out that there was no evidence of excessive exposure to RF radiation during routine normal operation of these radio services. The FCC is now in the process of reviewing comments on its 1993 Notice of Proposed Rule Making⁴ to adopt the 1992 ANSI/IEEE guidelines.

More recently, the World Health Organization's International Commission on Non-Ionizing Radiation Protection⁹ and the National Radiological Protection Board in the United Kingdom¹⁰ independently developed and published guidelines similar to those of ANSI/IEEE. Finally, what was formerly the USSR, which traditionally had the lowest exposure guides, twice has revised upward its limits for public exposure. Thus, there is a converging consensus of the world's scientific community as to what constitutes safe levels of exposure.

With respect to the proposed cellular radio antennas, be assured that the actual exposure levels in the vicinity of the Town of New Windsor, NY installation will be below any health standard used anywhere in the world and literally thousands of times below any level reported to be associated with any verifiable functional change in humans or laboratory animals. This holds true even when all transmitters operate *simultaneously and continuously*. Power density levels of this magnitude are not even a subject of speculation with regard to an association with adverse health effects.

6. For Further Information

Anyone interested can obtain additional information about the environmental impact of cellular radio communications from:

Dr. Robert Cleveland, Jr.
Federal Communications Commission
Office of Engineering and Technology
Room 7002
1919 M Street NW
Washington, DC 20554
(202) 653-8169

and

William J. Condon, CHP
Chief, Bureau of Environmental Radiation Protection
State of New York, Department of Health
2 University Place
Albany, NY 12203
(518)458-6495

-
7. Although there are no federal limits per se, in order to fulfill its obligation under the National Environmental Policy Act, the FCC requires licensees to comply with the 1982 ANSI C95.1 limits.
 8. Action by the Commission February 12, 1987, by Second Report and Order (FCC 87-63), and Third Notice of Proposed Rulemaking (FCC 87-64). General Docket No. 79-144.
 9. *Electromagnetic Fields (300 Hz to 300 GHz)*, Environmental Health Criteria 137, World Health Organization, Geneva, Switzerland (1993).
 10. *Board Statement on Restrictions on Human Exposure to Static and Time Varying Electromagnetic Fields and Radiation*, Documents of the NRPB, Vol. 4, No. 5, National Radiological Protection Board, Chilton, Didcot, Oxon, United Kingdom (1993).

7. Conclusion

A safety analysis has been performed with respect to potential public exposure to RF energy in the environment associated with BANM cellular radio antennas proposed for installation in the Town of New Windsor, New York. The analysis utilized engineering data provided by BANM, together with well-established analytical techniques for estimating the environmental levels of RF energy associated with cellular radio transmitting antennas. Worst-case assumptions were used to ensure safe-side estimates, i.e., the actual values will be significantly lower than the corresponding analytical values.

The results of this analysis indicate that the maximum level of RF energy to which the public may be exposed will meet all applicable health and safety limits. Specifically, in all normally accessible areas surrounding the facility, the maximum level of RF energy associated with *simultaneous and continuous operation of all transmitters* will be at least 1375 times below the exposure limits of OSHA, ANSI, IEEE, NCRP and the limits of all states that regulate RF exposure.

Enclosure: Figure 1. Electromagnetic Spectrum

BIRBROWER, MONTALBANO, CONDON & FRANK, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

LEONARD J. BIRBROWER
ANTHONY MONTALBANO
THOMAS A. CONDON
WILLIAM FRANK
KEVIN F. HOBBS
RICHARD H. SARAJIAN*
GERARD AMALFITANO
ALAN G. ROSENBLATT
BRIAN J. QUINN

67 NORTH MAIN STREET
P.O. Box 1070
NEW CITY, NEW YORK 10956-8070

(914) 634-7010
FAX (914) 634-8993

JOSEPH F. ROMANO
(1948-1987)
SYDELL J. GREEN
STEPHEN D. DONOHUE
ROBERT H. FREIREICH
VALERIE J. CROWN
RACHEL TRANQUILLO GROBE**

*ADMITTED IN N.Y. & N.J.
**ADMITTED IN N.Y., N.J. & CT

July 8, 1996

Board of Appeals and Planning Board
Town of New Windsor
Town Hall
555 Union Avenue
New Windsor, NY 12553

**Re: Application of Orange County Poughkeepsie Limited
Partnership for Area Variances and Special Use Permit
and Site Plan Approval**

Dear Board of Appeals and Planning Board Members:

I represent Hudson valley Development Group of New Windsor LP and am familiar with the application of Orange County Poughkeepsie Limited Partnership d/b/a Bell Atlantic NYNEX Mobile, to construct a communications facility on a portion of land owned by the Kartiganers adjacent to lands of my client.

My client has granted an easement of access and for utilities to the applicant for this communications facility and supports applications to the Board of Appeals and to the Planning Board for the required approvals.

Very truly yours,

BIRBROWER, MONTALBANO,
CONDON & FRANK, P.C.


BRIAN J. QUINN

BJQ/mjh
c:\m\fioretti\hvease.ltr

7/15/96 cc: KRIEGER

B.c

ZONING BOARD OF APPEALS
Regular Session
June 24, 1996

AGENDA: *Revised*

7:30 P.M. - Roll Call

Motion to accept minutes of the 06/10/96 meeting as written if available.

PRELIMINARY MEETING:

- ✓ 1. RADICH, STEVE - Request for 2 ft. rear yard variance for deck at 27 Guernsey Drive in a CL-1 zone. (78-9-25).
SET UP P/H 4-0 CARRIED
- ✓ 2. BILA PARTNERS/M&T BANK - Request for 2 wall signs at the Shoprite Supermarket location on Route 32 in C zone. Section 48-18H(1)(b)[1] states that only one wall sign is allowed. Present: Mr. Joseph Critelli of M&T Bank. (65-2-12).
SET UP P/H 4-0 CARRIED
- 3. KARTIGANER/O.C. POUGHKEEPSIE MSA - Referred by Planning Board for 100 ft. frontage and 142 ft. maximum bldg. height variance and/or interpretation for construction of a public utility communications facility with transmission tower off Dean Hill Road in an R-2 zone. (65-1-17).
SET UP P/H 4-0 CARRIED MOTION LEAD AGENCY CARRIED 4-
- ✓ 4. LUJAN HOME BUILDERS - Referred by Planning Board for variance for road frontage for access to public roadway at MacNary Road in an R-4 zone. (4-1-30.1).
CANCEL

PUBLIC HEARING:

- ✓ 5. TEPPER, ESTHER - Request for ^{6' 8"} 8 ft. rear yard variance for existing deck at 328 Nina Street in an R-4 zone. Present: Filomena Sousa of Coldwell Banker. (73-2-20).
APPROVED CARRIED 4-0
- 6. SCHULTZ, ROBERT - Request for 19.2 ft. Rear yard variance for existing deck at 23 Farmstead Road in an R-4 zone. (27-2-6.1).
APPROVED CARRIED 4-0

FORMAL DECISIONS: (1) LOMBARDI

APPROVED 4-0

Pat Barnhart - 563-4630 (o)
562-7107 (h)

SNAKER CT - SHED W/VEN IN FRONT YARD

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 96-11

DATE: 10 JUNE 96

APPLICANT: D.C. Poughkeepsie MSA L.P.

46 BROADWAY

MENANDS N.Y. 12204

ATT: JOE ROSS

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 19 MARCH 96

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT NORTH SIDE DEAN HILL RD

ZONE R-2

DESCRIPTION OF EXISTING SITE: SEC: 65 BLOCK: 1 LOT: 17

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

VARIANCE REQ'D FOR FRONTAGE.

VARIANCE OR INTERPRETATION CONCERNING

TOWER HEIGHT.



MARK J. EDSCALL P.E., FOR
MICHAEL BABCOCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R-2</u> USE <u>B-6</u>	<u>TOTAL PARCEL</u>	
MIN. LOT AREA	<u>3 ACRES</u>	<u>25.63 A</u>
MIN. LOT WIDTH	<u>300 FT</u>	<u>492</u>
REQ'D FRONT YD	<u>100 FT</u>	<u>923</u>
REQ'D SIDE YD.	<u>100 FT</u>	<u>132</u>
REQ'D TOTAL SIDE YD.	<u>200 FT</u>	<u>313</u>
REQ'D REAR YD.	<u>100 FT</u>	<u>191</u>
REQ'D FRONTAGE	<u>100 FT</u>	<u>0</u>
MAX. BLDG. HT. ^{ALSO TOWER PER DEF'N DN p.4891}	<u>12 FT</u>	<u>BUILDINGS = 10 FT. TOWER = 160 FT</u>
FLOOR AREA RATIO	<u>N/A</u>	<u>BLDG — TDWER 142</u>
MIN. LIVABLE AREA	<u>750</u>	<u>—</u>
DEV. COVERAGE	<u>30 %</u>	<u>0.6 %</u>
O/S PARKING SPACES	<u>2</u>	<u>2</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT: (914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

REGULAR ITEMS:

O.C. POUGHKEEPSIE MSA LIMITED PARTNERSHIP (96-11) MT.
AIRY ROAD

Ruth Rosenberg, Esq. appeared before the board for this proposal.

MS. ROSENBERG: Good evening, my name is Ruth Rosenberg, I'm an attorney with the law firm of Nixon, Hargrave, Evans and Doyle, I represent Orange County Poughkeepsie Limited Partnership, managing partner Bell Atlantic NYNEX Mobile. The application tonight is for a public utility communications facility off of Dean Hill Road. Under your definition, under your zoning ordinance, it's consensual service. The site is far back off Dean Hill Road, as you can see, on the site plan that you have in front of you, there's an existing hundred foot wide, I think it's an AT&T or New York Tel right-of-way that goes back from Dean Hill Road and continues on an intersection with Central Hudson Gas and Electric transmission lines. There's an existing road that is accessed along the hundred foot wide right-of-way and I believe that right-of-way has been there since 30's or 40's, I don't have it with me tonight but it's been there a very long time. Mr. Kartiganer and Mrs. Kartiganer purchased this triangular piece and it goes on over this way some time ago. We have a lease to place this public utility facility right adjacent to the boundary line of the hundred foot wide New York Tel or AT&T right-of-way almost at the intersection of the Central Hudson Gas and Electric transmission line. This site will consist of--

MR. PETRO: Excuse me one second, the Central Hudson, is that the gas power lines so it will be right next to the power lines?

MS. ROSENBERG: Yes. The access will be a 20 foot wide easement and now this whole property below the Kartiganers to Dean Hill Road as it comes around as I'm pointing out with my pointer is now owned by Hudson Valley Development Group of New Windsor LLP. At their request, first of all, they granted us a 20 foot wide

easement through their property and at their request, they have asked us to make this jog here and we have done so and we pick up the, within the hundred foot wide New York Tel right-of-way, but also specific 20 foot, 25 foot wide easement for access for utilities up to the facility site.

MR. PETRO: Why did they want the jog?

MS. ROSENBERG: If they ever develop their subdivision, that would be the place where they think they logically would have a street that would eventually become a public street, they asked us to do that so they can take advantage and won't have to relocate anything when they plan their subdivision.

MR. PETRO: Off your right-of-way?

MS. ROSENBERG: No, here. They are planning some lots in here or something but they asked us to do the jog since we haven't gone up there and improved the road, we agreed to do that.

MR. PETRO: Can you see any reason for the jog?

MR. EDSALL: I would only assume as Mrs. Rosenberg has indicated it may coincide with some layout they had done in the past. I'm sure that the existing NYNEX right-of-way would cut through some lots but maybe their layout has structures on the far side and driveways over the right-of-way.

MS. ROSENBERG: In any event, we have in hand an easement from them.

MR. LUCAS: I'm sorry just worried about the restriction for the emergency trucks, something going up their road.

MS. ROSENBERG: It's 25 feet wide.

MR. PETRO: 20, 25 or 20?

MS. ROSENBERG: 25.

MR. PETRO: All right, it's 25, I see it.

MS. ROSENBERG: Yes.

MR. BABCOCK: The road width will be 25 feet wide.

MS. ROSENBERG: No, roadway will be 12 feet wide. As we get to the top, there's an enlargement, this is the northwesterly boundary line and the easement, here's the easterly boundary line of it, so you see our gravel driveway as it will be ultimately finished will continue right up within that hundred feet width and the turnaround which will accommodate two parking spaces. The site is woods now and only those trees that will be required to be removed will be. And in the site that I am pointing to now with the pointer will be 160 foot high freestanding tower and equipment shelter and connecting ice bridge. All around the site will be gravel. There will be natural drainage into the ground. This is an unmanned facility like the substation. There are no employees that are going to be up there. There's no water. There's no bathroom. The drainage will be natural into the ground. The site will be serviced probably twice a month by a telephone company van and it will, it is, as I said before, almost at the point of the Central Hudson Gas and Electric transmission line, cleared right-of-way as you're probably very familiar with takes a jog right there and the AT&T or New York Tel easement continues on across that Central Hudson right-of-way.

MR. LUCAS: What services power to this, electricity come up the--

MR. JOE ROSS: We're going to run the line up, I think that is really, my name is Joe Ross, by the way, I'm project manager on this site for the real estate and I think really what the jog in the right-of-way is mainly for, see I think he wants to take in the power somehow or another up there so we're running a line of electricity in our telephone lines up through the site.

MS. ROSENBERG: Over here?

MR. ROSS: In the easement.

MS. ROSENBERG: In the easement, yeah, it's actually at the end of what he feels may some day, if he ever gets to it to put a subdivision, there's no plan, you know, he may have plans, I don't really know. We approached him we didn't want any problems with the landowner. We asked him if everything was okay. We didn't want to have any futuristic things here or there so we told him what we were doing.

MR. PETRO: How big is the substation, the building itself, 20 X 30?

MS. ROSENBERG: They are like 12 X 26.

MR. PETRO: That is the building itself.

MS. ROSENBERG: 11'3" X 26, that is one story pre-fabricated building dropped onto a slab, it comes with the equipment inside, very sensitive, very expensive equipment that comes in inside and it's silently monitored, secured monitored, the site, you see a chain link fence surrounding it just the tower and the equipment shed, the chain link fence we're asking for eight feet of which the top foot will be 3 strands of barbed wire. As I said, it's silently secured to an off-site always manned station.

MR. PETRO: Services it would have would be the electric that is going to be needed?

MS. ROSENBERG: And telephone.

MR. LUCAS: Also concrete pad for generator. What's going to fuel the generator?

MS. ROSENBERG: Diesel.

MR. LUCAS: Storage tank on site too?

MR. ROSS: Tanks on these I believe are up on top of them.

MR. LUCAS: Like a one unit piece thing?

MR. ROSS: Yes.

MR. PETRO: You have a tower that is to be constructed on this site, what's the height of the tower?

MS. ROSENBERG: 160 feet.

MR. PETRO: Mark, my question to you would be 160 hundred foot, obviously might be close to property line if you go to the normal procedure that you could do, would they need a variance for the height?

MR. EDSALL: In this particular zone, any height restrictions aren't based on setback, they are purely based on the established 18 foot elevation so.

MS. ROSENBERG: Per building, we're not a building, we're a structure, that doesn't fit within the definition of the building and the Central Hudson towers are 60 feet high right next to us.

MR. BABCOCK: I think they do fit in the definition of a building.

MR. PETRO: We have had this before when we had tanks, they say they are not a building but obviously it's a structure, I just want to hear the building inspector out what he feels.

MS. ROSENBERG: I didn't know who that was.

MR. PETRO: New Windsor building inspector.

MS. ROSENBERG: What's your name, sir?

MR. PETRO: Mike Babcock.

MS. ROSENBERG: We spoke on the phone, I believe.

MR. PETRO: While you're looking that up--

MR. BABCOCK: It falls into radio and television receiving and transmitting towers, it's considered a building.

MS. ROSENBERG: Mr. Babcock, let's start with definition of essential service in the code in the definition section we fall--

MR. BABCOCK: Address Andy, look on page 4819, do you have your code?

MR. KRIEGER: No, I don't.

MR. BABCOCK: Then that is where we considered it before, I think, you know, discuss it with him and whatever you two can resolve.

MS. ROSENBERG: Mr. Krieger, if you can follow with me as soon as you finish looking at that start with essential services, the definition of that on page 4894, we're under New York Law Cellular One versus Rosenberg determined by the Court of Appeals, which is the highest court, for a public utility under your definition of essential services, we're equivalent of telephone public utility, and just as I believe Central Hudson Power, I'm sorry, gas and electric is a public utility, we fall within the same definition, same purview as Central Hudson. Mr. Babcock is looking at the definition of building which your town has a very unusual building definition. First of all, structure is everything, everything is a structure and all buildings are structures but not necessarily are structures buildings. Your definition of building includes fences, signs, wall, other than certain kind of retaining and radio and television receiving and transmitting towers and antennas. My contention is that those are non-public utility, radio and transmission towers and antennas, like radio station or telephone stations, this is a public utility essential service.

MR. PETRO: Being that you are a public utility, you're saying that you don't need to have--

MS. ROSENBERG: Just like Central Hudson, all I'm saying that height restriction of 18 feet for a building in that district we contend does not apply to us because that would be if you'd consider that it applied to us you'd be saying that Central Hudson can

have 160 foot high freestanding or connected transmission line tower without any height restrictions but a telephone communication facility on a single freestanding tower has a building restriction of 18 feet and that is just incongruous. You can't mean that.

MR. PETRO: Want to explain it or would you like time to address it?

MR. KRIEGER: Yes and no. A couple things I wanted to say now with respect to status of NYNEX as a public utility, I don't think there is now, there can be any argument about the fact that they are a public utility, that has been established. What troubles me more is whether we're not, even as a public utility they are entitled to automatic exemption from the code with respect to height. I know that they are entitled to different treatment when they make, if they have to make application from the zoning board, there are different, very different rules that apply. Whether or not they are entitled to automatic exemption that is the one point that troubles me.

MS. ROSENBERG: I'm not suggesting that we're, I'm saying I'm trying to apply your code to your facility. And I'm saying that your code says that we're an essential service, start with that. Secondly, your code does not have any height restrictions on transmission lines and we're a telephone facility, same thing as the transmission lines and all I'm saying is it would be a very strange and I don't know if it's a portable distinction between a Central Hudson tower or transmission line that can be for the height under your code because it's a structure and not a building whereas we're a building because we're a telephone facility. I'm saying we're not a, we're not a building under your definition of building under this section of radio and television receiving and transmitting towers cause that is not intended a public utility communication facilities, that is something else entirely.

MR. PETRO: That is what I wanted to clear up. Your just exemption, because you may happen to be a utility

because if that were the case, if you came in here with a 14 story skyscraper.

MS. ROSENBERG: Not saying that.

MR. PETRO: Because it's a tower.

MS. ROSENBERG: The only question is are we a building because of your unusual definition of building, your definition includes radio and television receiving and transmitting and towers and antennas, I'm saying we're not within your definition of building under that scenario because we're a public utility communications facility, just like Central Hudson is a public utility transmission line facility and we're not a private for profit facility which I think this particular provision was intended to reach.

MR. PETRO: Mark, let me ask you just while he's looking, do you have any input? I won't belabor this now because it's very important if we don't come to a decision, we need to send you to the zoning board for a variance or we should continue. That is why I want to get down to it now.

MR. EDSALL: It appears that there is some need for interpretation or at least some attempts being made to interpret what was intended or what the code says. And I would think that if an interpretation has to be made, the code is clear who makes the interpretation. I don't think it's myself. I don't think it's the board. I think it's the zoning board. Maybe there's some information that appears to be unclear to the applicant or different sections that appear to be inconsistent, that is their opinion. I think it's something the ZBA, if there is a dispute, the Zoning Board has to make that decision.

MR. KRIEGER: I would, first of all, I would agree with Mark and I would say this. I would advise the board at this point to continue at least preliminary review. Refer the application to the zoning board. I anticipate I'll be in contact with the applicant with Mrs. Rosenberg and we can sort this out. If it turns out that that is unnecessary, they can simply come

back. If it turns out that it is necessary, they are already on their way.

MR. PETRO: Mr. Krieger is also the zoning board attorney so it's--

MS. ROSENBERG: I'll leave my card.

MR. LUCAS: We can continue with the preliminary.

MR. PETRO: We can but we'd have to make a referral tonight. We'll take a motion to approve and the normal procedure but we can continue looking at it and do that later on.

MS. ROSENBERG: You can also I might ask that you do a designation as lead agency and perhaps designate unlisted, you can do that tonight.

MR. DUBALDI: I don't know if we can.

MR. PETRO: I think that we might be able to take lead agency. I don't want to go any further with that until we send it to the zoning board and obviously no other SEQRA process and if there is going to be a public hearing, I'd like to have all that done. Also obviously, you'd have to have a public hearing at zoning board.

MR. KRIEGER: If the application, I'm not entirely sure at this point, because of its peculiar nature, I can't say at this point that as I can with most of the applications that it will surely go to the zoning board and they'll have to have a public hearing and so forth.

MR. PETRO: You want to read more about it and understand it? You're suggestion is well taken. I don't think they have an objection. We'll review it further, we'll take a motion later and what we're going to do is obviously we'll take a roll call and once we deny you and you're sent to the zoning board, during that time when you get set up at the zoning board, Mr. Krieger will do his research.

MS. ROSENBERG: I thought Mr. Krieger was suggesting

that you not deny, that you just continue it.

MR. PETRO: It's a matter of procedure.

MR. KRIEGER: The way they do it here procedurally if it appears that it has to go to the zoning board then, they deny it solely for the purpose, it's not denying the application ultimately but for the purpose of providing a mechanism so it can go to the zoning board, if that is not necessary then it can come back, it's not a denial in the sense that it ends the application.

MR. PETRO: If there's something really wrong or of course it would be, probably won't be heard in the first place, kind of saves a step. Gentlemen of the board, any other comments as far as the layout? There's not going to be any people working there.

MR. LUCAS: I mean I don't see it on here but just a few things, if we can locate utilities coming into it, a little bit more explanation about the, or if it requires anything with fuel on it as far as like a deck.

MS. ROSENBERG: It's got all that.

MR. LUCAS: Whatever you can do that would help.

MS. ROSENBERG: You want no see it on a sheet of plans, is that what you're saying?

MR. STENT: We'd like to have that, show the existing poles and lines.

MR. BABCOCK: Yes.

MR. LUCAS: I'm talking about utilities to feed this, the power to feed the underground service coming in.

MR. BABCOCK: Also the tanks, the size of the tanks, if it's got the containment or not.

MR. LARRY WOODS: We can provide a catalogue cut sheet.

MR. LUCAS: That would be fine for me. It's a

self-containing unit?

MR. WOODS: Rather than put it on the plan, we can give you catalogue cut sheets.

MR. LUCAS: We want to go along as quick as we can.

MR. WOODS: Larry Woods with Gulf Harbor Associates representing the applicant.

MR. PETRO: The chain link fence, the height of it around the property here, you may need a variance for the eight feet. Do you count the barbed wire and the second part of the question is there any problems with the barbed wire around the top of this? Do we have any codes against this?

MR. BABCOCK: I don't believe we do, Jimmy, I think it's a matter of this board understanding that they are doing that for security purposes, I'm sure.

MR. LUCAS: Alarm system here?

MS. ROSENBERG: Yes.

MR. PETRO: Mike, I know the eight feet needs the variance, six feet doesn't, being the chain link is only six, and the barbed might bring it up to that other two foot, is that the type of fence that it is?

MS. ROSENBERG: That is correct.

MR. BABCOCK: There's some other fence on here too, is that a stockade fence possibly?

MS. ROSENBERG: Chain link fence. What section of the code limits the fence to six feet?

MR. BABCOCK: It's 4814.

MR. ROSS: One of the things about these, there's really nothing to burn and we tell fire departments if there ever was a fire at the facility, to just let it burn. There's really nothing, it's got, on most of them they've got their own fire suppression system

within the item, there's nothing really to burn within the compound. The building is fire rated for certain amount of time. There's really not enough space, you know to--

MR. PETRO: You can get into that with the building inspector. Let me ask you this, cause I'm somewhat ignorant when it comes to emissions and stuff that might come off the tower, maybe electric lines having radios that make toasters go up in people's houses and will this make somebody's hair go gray, tell me what exactly kind of emissions emit from this tower and what does it really do?

MR. ROSS: They are absolutely safe. We don't broadcast at anything more than a hundred watts which is similar to this light bulb up here. It's actually it's FM radio, it's the top band of the spectrum that used to belong to UHFTC that the FCC decided wasn't being used anymore, some of the higher channels. We have got health and safety study report application, I believe that is done by AT&T, Bell Labs.

MR. PETRO: Are you monitored by any outside agency?

MS. ROSENBERG: FCC, FCC regulates this part of the industry and indeed the new Tele Communications act that is preempted, here's a report that was done by Lucent Technologist, Inc. which used to be AT&T Bell Labs that analyzed the worst possible case, anything we can use that the conclusions by every standard were at least 1,075 times below the exposure limits of OSHA, Occupational Safety Health and so forth, ANSI which is a national standard group, IENCRP and lists all of the stats on the exposure and you're welcome to have that.

MR. PETRO: Can we keep this in the files?

MS. ROSENBERG: Absolutely.

MR. BABCOCK: Jim, to answer your question on the fence it says that fences in excess of 6 foot are considered buildings.

MS. ROSENBERG: Then it says building height is 18 feet

so we don't need to get a variance then.

MR. BABCOCK: But your setbacks would be a hundred feet off any property line, you know, it says, which I'm not sure, I don't see anything on the plan that shows how far from a property line you are.

MS. ROSENBERG: Doesn't show the property line? Here's the facility and the property line, as you can see on the site, do you have that drawing?

MR. PETRO: Can you show us on the plans the setbacks from the property lines the next time you appear so I know approximately where the building sits?

MR. BERNIE GULF: I believe in the, Bernie Gulf, Gulf Harbor Associates.

MS. ROSENBERG: Setbacks, Bernie?

MR. GULF: Front setback is 923 feet, the side yard is 132 and 181 and the other, the rear is 191.

MR. PETRO: That suffices for me and it's in the bulk table, Mike, they are pretty far into the site?

MR. BABCOCK: Jim, that is the entire parcel, the 27.

MS. ROSENBERG: This is not a subdivided parcel.

MR. BABCOCK: Well, I guess Andy can answer that one too, you know, they are using the 25 acre entire piece to obtain their hundred foot setbacks.

MR. PETRO: If there is no problem, why wouldn't that be okay?

MR. KRIEGER: If they want to use ten percent of their property, that is their property, they can do as they please.

MR. BABCOCK: That is fine.

MR. PETRO: I think the fence part of it, Mike, is basically the six foot and the wire on the top so I

don't know if we have, you have a problem with that, the building department.

MR. BABCOCK: Nope.

MR. KRIEGER: I think that you make a point they should be aware of the fact if they are going to locate it in the middle of a large parcel, which is, which as I said is fine, but they should be aware in the event that they seek to develop the parcel otherwise, in the future, that it may have an adverse impact here if you are looking at the fence and saying it's so far back from the property line, it doesn't matter if you change that, that may create a problem that does not now exist. I'm sure that--

MS. ROSENBERG: So long as it doesn't exist for us, that is fine.

MR. KRIEGER: I'm sure the residents of the area would be perfectly happy to have it located in the middle of a large parcel.

MR. PETRO: What he is stating if there is a subdivision later on, there's a property line that is close, it won't affect this if you are already done, it's not going to affect it, but if you come back in and say I want to make the fence bigger, it's going to be a different story, if the property line is 30 feet away, so you can't say well, we did it before. I think we have unless anyone else has anything that we can do lead agency.

MR. KRIEGER: If we do, the problem is procedural. If you do lead agency and then you deny the petition, you can't take lead agency on something that isn't in front of you. It's sort a cart before the horse.

MS. ROSENBERG: May I ask you this question? Even if you determine after discussion we have to go to the zoning board, we still have to come back for a special use permit to you and site plan approval?

MR. PETRO: Correct.

MS. ROSENBERG: So if you don't deny it and you just continue on those issues, why wouldn't that be okay to you?

MR. KRIEGER: Procedurally in order to, the only way that the matter can be considered by the zoning board is it has to be first referred by the planning board and there can't be a planning board application at the same time pending, it's got to be one or the other. So the way procedurally to get around that is to simply deny this, send it to the zoning board then when it comes back again, you have got a new in essence a new application without having to go through the reapplication process. And everything starts again. One of the problems is that with the timeframe under SEQRA, if you take, if this board were to take lead agency, then it would have to act within 20 days and it has no control over what happens when it goes to the zoning board than those 20 days may elapse without this board having an opportunity to take action which puts the entire, makes the entire thing problematic. In all candor, with this particular application, it appears to be very unlikely anybody's inclined to object. However, if you have somebody come in on another application, similar problem happens, not infrequently somebody has to be referred to the zoning board, if this board were to set a precedent of taking lead agency while it won't, it's unlikely to come back in, this application, it's likely to come back at a time when it really matters. And having SEQRA time expire some applications can be a problem.

MR. PETRO: I think we got that Andy, thank you, very good. Mike, Mark, one other thing before we move on, I had said and it was my opinion, I didn't poll the rest of the board, I felt that the bulk table reflected the setbacks well enough for us to continue on, I see on one of your comments you felt that it should be on the map. Do you still feel that way and want to expand on that?

MS. ROSENBERG: It is on the map.

MR. PETRO: On the plans, the actual setbacks to the building, it's only in the bulk tables.

MR. EDSALL: If I could answer?

MR. PETRO: Sure.

MR. EDSALL: Sure. One of my comments was that we have no metes and bounds on the plan and that was a little bit of a concern to me and I want the board to make a decision if they wanted to waive the requirement to reflect those boundaries. And secondly, although we understand that the bulk table shows the dimensions from the line, it would be beneficial to have metes and bounds and have the surveyor tell us where he's measuring so we understand where he is measuring and what the setback is. Obviously, if we're to believe that the boundary is shown correctly and scale it which I think is a very bad practice in this profession sure, they meet the bulk requirements, but I'd like to have a surveyor with a seal on the plans tell me that that is an accurate depiction of the boundary and tell us that the accurate number setback is a certain amount.

MS. ROSENBERG: But again, if the board cares to waive the requirement for metes and bounds survey or something to that sort, fine.

MR. PETRO: Why would we waive it for this application and not for others, what's the difference?

MS. ROSENBERG: We have asked them to relieve us from that obligation now this is an enormously expensive survey and we were hoping that we could wait for the actual metes and bounds cause we're well within the parcel and this is by deed, help me out, Bernie, how do we show where the parcel is?

MR. GULF: There's notes on sheet C2 in the lower left corner there it was done and it was plotted from a deed, I believe we discussed that.

MR. EDSALL: This is not something we haven't discussed. The catch 22 we're in here, we're looking at the information that we can rely upon and have it presented on the basis of a licensed professional presenting it. Unfortunately, licensed professional

doesn't feel comfortable certifying to dimensions on a deed plot so it is a catch 22. I think the answer might be is to not require it now but before the application comes to a close, we should at least locate the critical boundaries, I don't see any benefit in having a survey of the property lines that are not what we're concerned about.

MR. PETRO: Doesn't relate to the project.

MR. EDSALL: But the two property lines that parallel or are closest, let's say, to the lease parcel, it would be a benefit to locate those.

MS. ROSENBERG: We would appreciate your doing that, let us postpone it until the later in the application.

MR. PETRO: I don't think the board has a problem with that.

MR. EDSALL: Obviously, the only caution is if there is any gross error where a deed plot is not accurate, it may be a situation where they find they may need a variance they may require given the size of the parcel.

MR. PETRO: Okay, at this time, I think what we're going to do is accept a motion, I just want to say one more thing to Mrs. Rosenberg. We're going to send you, you're going to be sent on to the zoning board, obviously to possibly get variances that you may need for height variance for the tower, I think that might be the only thing we're seeking at this time.

MR. KRIEGER: Since the fence is ruled out.

MR. PETRO: Okay, if you go through your procedure there, they may have a public hearing there, if you do come back to this board, I would like to see more information on the, and I do appreciate what you have given me, some more information on any radiation or any waves that are coming out of the tower. I know you showed me the paper, maybe a little presentation, especially if we have a public hearing, I think it would be very beneficial to myself and maybe any people that would be interested.

MR. KRIEGER: Satisfy SEQRA as well.

MR. PETRO: Just prepare a little something on that.

MR. EDSALL: Jim, as follow up to Mike's comment, I think I'm familiar with some of the storage systems for the generators but it might be worthwhile that you have to have that available for SEQRA because you have a public water storage with the reservoir so that will be on record, they can make that part of the record indicate if there is secondary storage, if there is not.

MR. LUCAS: What about the underground utilities, do you want to show anything about that?

MR. EDSALL: I think--

MR. BABCOCK: How is it getting there?

MR. EDSALL: That would be beneficial to have it on the plans but I think from an environmental standpoint of potential effects, the issue Jim brought up and the storage of petroleum products near a public reservoir for municipal water those two are obviously things we want to get on record for the SEQRA process, the rest of the things are just site plan information.

MR. KRIEGER: I think it's as well as informative to the planning board, it's in the applicant's interest because the public hearing forms the function of being a hearing for those interested and if it is unknown to anybody at this point whether there is, whether there are persons or persons who might take a deep interest.

MS. ROSENBERG: We'd be happy to make a full presentation.

MR. PETRO: I'd entertain a motion to approve the O C Poughkeepsie MSA Limited Partnership facility.

MR. DUBALDI: So moved.

MR. STENT: Second it.

MR. PETRO: Is there any discussion from the board members? If not, roll call.

ROLL CALL

MR. DUBALDI NO
MR. STENT NO
MR. LUCAS NO
MR. PETRO NO

MR. PETRO: At this time, you have been asked to go to the Zoning Board of Appeals in the Town of New Windsor to seek the necessary variances you may need to go further with this application. As of the time you receive them and they are put on the map, you can make the application back to this board.

MS. ROSENBERG: Now, Mr. Krieger and I are going to have a conversation. By any chance he should conclude that I was correct in my interpretation, then I have to start all over again?

MR. PETRO: No, you cut me off really before I ended. In this particular application, Mr. Krieger is going to review your presentation and he is going to review the code of new Windsor to find out whether or not simply that if this tower is a structure or it's not or a building and if it really does need to have a variance supplied to it, if he finds that it is not and you may be just come back to this board and be put on the next agenda whenever you're ready and we'll proceed at that level for the planning board at the planning board.

MS. ROSENBERG: Thank you.

MR. KRIEGER: Your phone number, unless your office is actually in--where is your office?

MS. ROSENBERG: Washington.

MR. KRIEGER: I can get you there?

MS. ROSENBERG: We have an Albany number, if you prefer to call me there, they'll patch it down to me.

MR. KRIEGER: Okay.

MS. ROSENBERG: I have a number to give you.

MR. KRIEGER: Second thing is for zoning board purposes, again to move this along as fast as we can, I suggest that you call Mrs. Barnhart.

MS. ROSENBERG: Spell it.

MR. KRIEGER: B-A-R-N-H-A-R-D-T during normal business hours, she's the zoning boards secretary and she can get you on, it's to the applicant's interest that she be able to get you on for a preliminary as soon as possible. It is their general function to have preliminary before the public simply to determine what's going on so that if you just have a public hearing before anything else and it comes as a surprise to the members of the board, sometimes it's counterproductive.

MR. BABCOCK: Just one thing I'd like to say is that she should wait until she's received the denial from us because we don't get that done until we give it to Pat. If you call her, she won't even know what you're talking about so until we send her the paperwork and you'll get a copy of that then you can contact her.

MR. PETRO: We're not going to send her the paperwork until Mr. Krieger comes up with a determination.

MR. BABCOCK: No, we'll send it.

MR. KRIEGER: Because in the meantime, Mrs. Rosenberg and I can discuss the matters and exchange information and so forth but there's, I see no particular reason to hold up the applicant while we transfer information back and forth.

MR. PETRO: Do you have a timeframe?

MS. ROSENBERG: We wanted to begin construction no later than the fall and it's going to take some time to do that because it's nice and dry.

MS. ROSENBERG: We really can't do anything quickly, all right, and it takes a long time to build these things and this is not the best access for us and we would just like to get it underway as soon as possible during the busy season so we can schedule it.

MR. PETRO: Our procedures move rapidly, we don't deliberately hold anybody up so as long as sometimes instead of, I don't mean this in a mean way, but trying to find a loophole sometimes it's just easier to do it.

MR. KRIEGER: Faster to walk the walk rather than look for a short cut. We can talk in terms of the procedures.

MR. PETRO: Thank you.



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
 WILLIAM J. HAUSER, P.E.
 MARK J. EDSALL, P.E.
 JAMES M. FARR, P.E.

- Main Office**
 45 Quassaick Ave. (Route 9W)
 New Windsor, New York 12553
 (914) 562-8640
- Branch Office**
 507 Broad Street
 Milford, Pennsylvania 18337
 (717) 296-2765

**TOWN OF NEW WINDSOR
 PLANNING BOARD
 REVIEW COMMENTS**

REVIEW NAME: O.C. POUGHKEEPSIE MSA, LP
 NYNEX MOBILE PHONE FACILITY

PROJECT LOCATION: OFF DEAN HILL ROAD
 SECTION 65-BLOCK 1-LOT 17

PROJECT NUMBER: 96-11

DATE: 24 APRIL 1996

DESCRIPTION: THE APPLICATION INVOLVES A PROPOSED NYNEX COMMUNICATIONS FACILITY TO INCLUDE AN EQUIPMENT BUILDING AND TOWER. THE PLAN WAS REVIEWED ON A CONCEPT BASIS ONLY.

1. The project is located within the R-2 Zoning District of the Town. The Board should review the proposed use and the bulk regulations to verify the classification of this use. The "closest" classification appears to be Special Permit Use No. 6. The Applicant has referenced this use in the bulk table on Sheet C-2 of the submission.
2. Based on the use classification as referenced above, the Applicant has indicated the minimum bulk requirements for the site. These "required" values appear correct.

In reviewing the plan, the Board should keep in mind that the facility is proposed to be located on a parcel having an area of approximately 25.6 +/- acres. The Applicant is utilizing only 0.23 acres for this proposed facility and has apparently arranged for a lease parcel for this small area within the total parcel. Access to the lease parcel is via an existing Nynex right-of-way along the west side of the parcel.

In the bulk table, the Applicant has provided proposed values for both the lease parcel and overall parcel. A review of these bulk tables reveals that numerous variances would be required when considering just the lease parcel. Relative to the overall parcel, compliance improves, although I do believe some corrections are necessary to the values indicated. Further clarification is needed to verify whether any variances are necessary relative to the minimum bulk requirements.

**TOWN OF NEW WINDSOR
PLANNING BOARD
REVIEW COMMENTS
PAGE 2**

REVIEW NAME: O.C. POUGHKEEPSIE MSA, LP
NYNEX MOBILE PHONE FACILITY
PROJECT LOCATION: OFF DEAN HILL ROAD
SECTION 65-BLOCK 1-LOT 17
PROJECT NUMBER: 96-11
DATE: 24 APRIL 1996

3. One issue not reflected on the bulk table on the plan is the compliance status for the tower proposed on the site. It should be determined whether this structure is subject to setback requirements and height limitations. The Board may wish to discuss same with the Planning Board Attorney. If compliance with the bulk values is required, the bulk table should be revised to reference both the equipment building structure compliance values and the tower structure values.
4. The site plan drawings submitted do not provide survey metes and bounds data for the parcel as indicated. The Board should determine if metes and bounds information can be waived for this application. The need for same may become more important as there may be a need to verify actual structure setbacks from property lines to verify compliance with the bulk requirements (or determine the actual variances which may be required if non-compliance exists).
5. The parcel involved in this application appears to be "land locked". The access to the parcel appears to be through an existing Nynex right-of-way through adjoining parcels through Dean Hill Road. The Board may wish to have the Applicant provide appropriate documentation (deeds, etc.) to verify this access as part of this application package.
6. Once it is determined whether this application requires a referral to the Zoning Board of Appeals, the Board can determine when the SEQRA review process should be initiated. It would also be beneficial to verify whether any other outside agency approvals are required for the facility, thereby making it possible to determine if a coordinated review under SEQRA is necessary.
7. At such time that the Planning Board has made further review of this application, **further engineering reviews** and comments will be made, as deemed necessary by the Board.

Respectfully submitted,



Mark J. Edsall, P.E.
Planning Board Engineer
MJEmk
A:OC.mk

Special Permit / Site Plan

RESULTS OF P.B. MEETING

DATE: April 24, 1996

PROJECT NAME: O.C. Pough MSA, LP PROJECT NUMBER 96-11

LEAD AGENCY: _____ * NEGATIVE DEC: _____

M) ___ S) ___ VOTE: A _____ N _____ * M) ___ S) ___ VOTE: A _____ N _____

CARRIED: YES _____ NO _____ * CARRIED: YES: _____ NO _____

PUBLIC HEARING: M) ___ S) ___ VOTE: A _____ N _____

WAIVED: YES _____ NO _____

SEND TO OR. CO. PLANNING: M) ___ S) ___ VOTE: A _____ N _____ YES _____ NO _____

SEND TO DEPT. OF TRANSPORT: M) ___ S) ___ VOTE: A _____ N _____ YES _____ NO _____

DISAPP: REFER TO Z.B.A.: M) D S) S VOTE: A 0 N 5 YES NO _____

RETURN TO WORK SHOP: YES _____ NO _____

APPROVAL:

M) ___ S) ___ VOTE: A _____ N _____ APPROVED: _____

M) ___ S) ___ VOTE: A _____ N _____ APPR. CONDITIONALLY: _____

NEED NEW PLANS: YES _____ NO _____

DISCUSSION/APPROVAL CONDITIONS: _____

Bldg 12x26 (approx)

Need more info on radiation emissions from tower

8' fence w/ barbed wire - Does not need variance

Pg 4891 of Town Code Book defines "Bldg"

ZBA to make determination of "Bldg"

Locate utilities on property

Size of Tanks

Show set backs - in bulk table - Show set backs on plans - metes & bounds by surveyor w/ seal on plans before application approved

ZONING BOARD OF APPEALS
Summer Session
July 8, 1996

REVISED AGENDA:

7:30 P.M.-ROLL CALL

Motion to accept the minutes of the 6/10/96 and 6/24/96 meeting as written if available.

PRELIMINARY MEETING:

48-26

- ✓ 1. LUJAN HOME BUILDERS - Referred by Planning Board for variance for road frontage for access to public roadway at MacNary Road in an R-4 zone. (4-1-30.1).
SET UP P/H - 4-0 CARRIED
- ✓ 2. EACHUS, CHRISTOPHER - Request for variance for 22% developmental coverage to construct pool at 110 Clancy Avenue in an R-4 zone. (13-15-2).
SET UP P/H - 4-0 CARRIED
- ✓ 3. KWG REALTY - Request for 8 ft. sign area and 6 in. sign height variances for free-standing pole sign for vehicle showroom at 24 Windsor Highway (Gallagher Truck Center) in a C zone. (9-1-23.1).
SET UP P/A 4-0 CARRIED AMENDED TO INCLUDE 2ND FREEST SIGN ON LOT

PUBLIC HEARING:

- ✓ 4. VASQUEZ, CARLOS - Request for 1 ft. 7 in. rear yard variance for existing addition with open porch at 18 Provost Drive in an R-4 zone. (49-4-5).
APPROVED 4-0 CARRIED BYTN DECK AND SLED
- ✓ 5. RADICH, STEVEN - Request for 2 ft. rear yard variance for deck at 27 Guernsey Drive in a CL-1 zone. (78-9-25).
APPROVED 4-0 CARRIED
- X 6. KARTIGANER/O.C. POUGHKEEPSIE MSA - Referred by Planning Board for 100 ft. Frontage and 142 ft. max. bldg. height variance for construction of a public utility communications facility w/ transmission tower off Dean Hill Road in an R-2 zone. Present: Ruth Rosenberg, Esq. (65-1-17).
APPROVED 4-0 CARRIED

FORMAL DECISIONS:

PAT - 563-4630 (O)
562-7107 (H)



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

Dorothy H. Hansen
TOWN CLERK

REQUEST FOR PUBLIC RECORDS

DATE: 9/11/96

(Please specify or describe items(s) requested)

Copies of APPLICATIONS FILED WITH
TOWN IN REFERENCE TO THE
COMMUNICATION TOWER OFF
DEER HILL ROAD.

Name: MICHAEL P. MURPHY (SBA)
Address: 25 E. SPRING VALLEY RD.
MAYWOOD, NJ 07607
Phone: (201) 712-1232
Representing: SBA INC (SAPRINT)

Documents MUST NOT be taken from the office and MUST be returned
intact, no later than 4:15 p.m.

Time Out: _____
Time Returned: _____

1. B. #96-11 Application Spec

518-433-0188



CLOUGH, HARBOUR & ASSOCIATES LLP
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

III WINNERS CIRCLE • P.O. BOX 5269 • ALBANY, NY 12205-0269

CHECK NO. 002410

BANK & TRUST CO.
ALBANY, NEW YORK 12206

50 33/213

DATE 3/12/96 CHECK NO. 2410 AMOUNT \$100.00

PAY
TO THE ORDER OF
Town of New Windsor

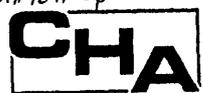
CLOUGH, HARBOUR & ASSOCIATES LLP
REGULAR ACCOUNT

AUTHORIZED SIGNATURE

⑈002410⑈ ⑆021300336⑆ 168⑈0009992⑈

1. B. #96-11 Spec. Perm. Application

518-433-0188



CLOUGH, HARBOUR & ASSOCIATES LLP
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

III WINNERS CIRCLE • P.O. BOX 5269 • ALBANY, NY 12205-0269

CHECK NO. 002103

ONBANK & TRUST CO.
ALBANY, NEW YORK 12208

50-33/213

DATE 02/27/96 CHECK NO. 2103 AMOUNT \$*****100.00

PAY
TO THE ORDER OF
TOWN OF NEW WINDSOR

CLOUGH, HARBOUR & ASSOCIATES LLP
REGULAR ACCOUNT

AUTHORIZED SIGNATURE

⑈002103⑈ ⑆021300336⑆ 168⑈0009992⑈

1. #96-11 ESCROW

518-433-0188

Bell Atlantic NYNEX Mobile

180 WASHINGTON VALLEY ROAD
BEDMINSTER, NJ 07921

Mellon Bank (East) N.A., Philadelphia, PA
Payable through
Mellon Bank (DE) N.A., Wilmington, DE

CHECK NO.

62-4
311

305717

PAY
SEVEN HUNDRED AND FIFTY DOLLARS

TO THE ORDER OF
TOWN OF NEW WINDSOR

DATE 03/26/96 CHECK AMOUNT 750.00

Please Cash Promptly. Void After 180 Days

AUTHORIZED SIGNATURE

THE BACK OF THIS CHECK HAS A BELL ATLANTIC NYNEX MOBILE LOGO PRINTED IN WHITE INK IN MULTIPLE POSITIONS • CAN BE SEEN AT AN ANGLE • VOID IF NOT PRESENT

⑈305717⑈ ⑆031100047⑆ 2⑈947 505⑈



**CLOUGH, HARBOUR
& ASSOCIATES LLP**
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

III WINNERS CIRCLE
P.O. BOX 5269, ALBANY, NEW YORK 12205-0269
TEL: 518-453-4500 • FAX: 518-458-1735

April 1, 1996

Myra Mason
Clerk, Town of New Windsor Planning Board
555 Union Avenue
New Windsor, NY 12553

**RE: APPLICATION OF ORANGE COUNTY POUGHKEEPSIE MSA
LIMITED PARTNERSHIP
CHA FILE NO: 4734.01.29**

Dear Ms. Mason:

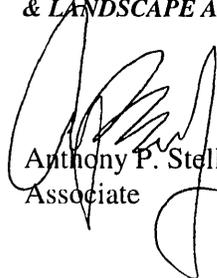
On behalf of Bell Atlantic NYNEX Mobile, the managing partner in Orange County Poughkeepsie MSA Limited Partnership, we are submitting ten copies of a Planning Board Application, the Site Plan Review fee of \$100.00, and the Special Permit fee of \$100.00. This application concerns a proposed communications facility off of Dean Hill Road located on the Kartiganer Parcel (Tax Map Parcel 65-1-17).

Our application consists of the Planning Board Application form, the Proxy Statement, a Short Environmental Assessment Form, a suggested Part II for the Short EAF, and Special Permit Drawings for the proposed facility. The EAF Part II is provided to assist the Planning Board in their discussions involving determination of significance.

Please do not hesitate to call if you have any questions regarding this submission.

Very truly yours,

CLOUGH, HARBOUR & ASSOCIATES LLP
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS



Anthony P. Stellato, Jr., P.E.
Associate

APS/nw-pbl

cc: Ruth Rosenberg, Nixon, Hargrave, Devans, & Doyle
Joe Ross, Bell Atlantic NYNEX Mobile



Offices Throughout the Eastern United States

"Satisfying Our Clients by Meeting Their Needs Through Dedicated People Committed to Total Quality."



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

RECEIVED

JUL 18 1996

N.W. HIGHWAY DEPT.

NEW WINDSOR PLANNING BOARD REVIEW FORM

TO: FIRE INSPECTOR, D.O.T., WATER, SEWER, HIGHWAY

PLEASE RETURN COMPLETED FORM TO:

MYRA MASON, SECRETARY FOR THE PLANNING BOARD

PLANNING BOARD FILE NUMBER: 96 - 11

DATE PLAN RECEIVED: RECEIVED JUL 12 1996

The maps and plans for the Site Approval

Subdivision _____ as submitted by

_____ for the building or subdivision of

_____ has been

reviewed by me and is approved

disapproved _____.

If disapproved, please list reason _____

[Signature] 7/19/96
HIGHWAY SUPERINTENDENT DATE

WATER SUPERINTENDENT DATE

SANITARY SUPERINTENDENT DATE



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

NEW WINDSOR PLANNING BOARD REVIEW FORM

TO: FIRE INSPECTOR, D.O.T., WATER, SEWER, HIGHWAY

PLEASE RETURN COMPLETED FORM TO:

MYRA MASON, SECRETARY FOR THE PLANNING BOARD

PLANNING BOARD FILE NUMBER: 96-11

DATE PLAN RECEIVED: RECEIVED JUL 12 1996

The maps and plans for the Site Approval _____

Subdivision _____ as submitted by

_____ for the building or subdivision of

Dean Hill rd. _____ has been

reviewed by me and is approved

disapproved _____.

~~If disapproved, please list reason~~ _____

There is a newly installed water line on Dean Hill rd. and part of Mt. Airy rd. This line is not yet charged. Please notify water dept. for further information.

HIGHWAY SUPERINTENDENT DATE

Jan 10 1996 CAHO 7-22-96

WATER SUPERINTENDENT DATE

SANITARY SUPERINTENDENT DATE

INTER-OFFICE CORRESPONDENCE

TO: Town Planning Board
FROM: Town Fire Inspector
DATE: 23 July 1996
SUBJECT: Bell Atlantic NYNEX Mobile

Planning Board Reference Number: PB-96-11
Dated: 12 July 1996
Fire Prevention Reference Number: FPS-96-039

A review of the above referenced subject site plan was conducted on 17 July 1996.

This site plan is acceptable.

Plans Dated: 21 May 1996 Revision 1


Robert F. Rodgers; C.C.A.

RFR/dh



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

NEW WINDSOR PLANNING BOARD REVIEW FORM

TO: FIRE INSPECTOR, D.O.T., WATER, SEWER, HIGHWAY

PLEASE RETURN COMPLETED FORM TO:

MYRA MASON, SECRETARY FOR THE PLANNING BOARD

PLANNING BOARD FILE NUMBER: 96-17

DATE PLAN RECEIVED: RECEIVED APR 15 1996

The maps and plans for the Site Approval _____

Subdivision _____ as submitted by

_____ for the building or subdivision of

OC Pough WSA Limited Partnership has been

reviewed by me and is approved _____,

~~disapproved~~ _____.

If disapproved, please list reason _____

Notify water Dept. for make-out

HIGHWAY SUPERINTENDENT DATE

Steve D. D. - C/MO - 4-17-96

WATER SUPERINTENDENT DATE

SANITARY SUPERINTENDENT DATE



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

NEW WINDSOR PLANNING BOARD REVIEW FORM

TO: FIRE INSPECTOR, D.O.T., WATER, SEWER, HIGHWAY

PLEASE RETURN COMPLETED FORM TO:

MYRA MASON, SECRETARY FOR THE PLANNING BOARD

PLANNING BOARD FILE NUMBER: 96 - 11

DATE PLAN RECEIVED: RECEIVED APR 15 1996

The maps and plans for the Site Approval _____
Subdivision _____ as submitted by
_____ for the building or subdivision of
_____ has been
reviewed by me and is approved _____,
disapproved _____.

If disapproved, please list reason _____

W. James Paulk 4/15/96
HIGHWAY SUPERINTENDENT DATE

WATER SUPERINTENDENT DATE

SANITARY SUPERINTENDENT DATE

INTER-OFFICE CORRESPONDENCE

TO: Town Planning Board

FROM: Town Fire Inspector

DATE: 18 April 1996

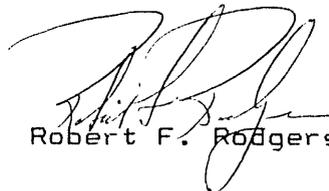
SUBJECT: Bell Atlantic NYNEX Mobile

Planning Board Reference Number: PB-96-11
Dated: 15 April 1996
Fire Prevention Reference Number: FPS-96-024

A review of the above referenced subject site plan was conducted on 18 April 1996.

This site plan is acceptable.

Plans Dated: 1 April 1996.


Robert F. Rodgers; C.C.A.

RFR/dh



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

- Main Office
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
- Branch Office
400 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

PLANNING BOARD WORK SESSION
RECORD OF APPEARANCE

1-3

TOWN/VILLAGE OF New Windsor P/B # 96-11

WORK SESSION DATE: 6 MARCH 96 APPLICANT RESUB.
REQUIRED:

REAPPEARANCE AT W/S REQUESTED: Their choice Full App

PROJECT NAME: WYNEX

PROJECT STATUS: NEW X OLD _____

REPRESENTATIVE PRESENT: Ruth Eisenberg Tony Stilleh, Clough Heiber
Jos Ross - Bell WYNEX

MUNIC REPS PRESENT: BLDG INSP. VAC
 FIRE INSP. Rick
 ENGINEER X
 PLANNER _____
 P/B CHMN. _____
 OTHER (Specify) _____

10²⁰ - 110

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

- R-2 (B-6)
- Kartiganer property near HTP
- access drive - we try to get easement over their easement
- lease area vs lot area
- lease lot does not meet bulk req'ts.
- proxy entire parcel
- Blsg vs Structure height (tower 160')
- Generator - critical
- deed plot (add note): topo info
- Adj owner, preferences

4MJE91 pbswform:



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

- Main Office
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
- Branch Office
400 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

PLANNING BOARD WORK SESSION
RECORD OF APPEARANCE

13

TOWN/VILLAGE OF New Windsor

P/B # 911

WORK SESSION DATE: 20 MAR 96

APPLICANT RESUB.
REQUIRED: Full App

REAPPEARANCE AT W/S REQUESTED: no

PROJECT NAME: UNEX

PROJECT STATUS: NEW X OLD _____

REPRESENTATIVE PRESENT: _____

MUNIC REPS PRESENT:

BLDG INSP.	_____
FIRE INSP.	<u>Kit</u>
ENGINEER	<u>X</u>
PLANNER	_____
P/B CHMN.	_____
OTHER (Specify)	_____

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

- Bulk table - 3 columns (Reg'd) (Pop. Load) (Pop Total)
- R-2 - B-6 use

Need to resolve issue of boundary
survey - must show something
re actual P location and their
setbacks.

4MJE91 pbwform

TOWN OF NEW WINDSOR

96-11

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

"XX"

APPLICATION TO:
TOWN OF NEW WINDSOR PLANNING BOARD

TYPE OF APPLICATION (check appropriate item):

Subdivision _____ Lot Line Chg. _____ Site Plan _____ Spec. Permit

1. Name of Project Public Utility Communications Facility
Orange County Poughkeepsie
2. Name of Applicant MSA Limited Partnership Phone 518-433-0188
Attn: Joe Ross
Address 46 Broadway, Menands, NY 12204
(Street No. & Name) (Post Office) (State) (zip)
3. Owner of Record Herbert & Marjorie Kartiganer phone (407) 496-3239
Address 3928 Live Oak Blvd., Delaire County Club, Delray Beach, FL 33445
(Street No. & Name) (Post Office) (State) (zip)
4. Person Preparing Plan Clough Harbour & Associates, LLP
Address III Winners Circle, PO Box 5269, Albany, NY 12205-5269
(Street No. & Name) (Post Office) (State) (zip)
5. Attorney Ruth B. Rosenberg, P.C. Phone 202-457-5315
Address Nixon Hargrave Devans & Doyle, LLP, One Thomas Cir. NW, Wash. DC. 20005
(Street No. & Name) (Post Office) (State) (zip) Suite 700
6. Person to be notified to represent applicant at Planning Board Meeting Joe Ross Phone (518) 433-0188
(Name)
7. Project Location: On the North side of Dean Hill Road
1006 feet North of Dean Hill Road
(direction) (street)
8. Project Data: Acreage of Parcel 25.63 acres Zone R-2,
School Dist. Newburgh
9. Is this property within an Agricultural District containing a farm operation or within 500 feet of a farm operation located in an Agricultural District? Y _____ N X

If you answer "yes" to question 9, please complete the attached Agricultural Data Statement.

10. Tax Map Designation: Section 65 Block 1 Lot 17

11. General Description of Project: A public utility communications facility consisting of a 180' high freestanding tower, an equipment shelter, generator pad, surrounded by a 8' high chain link fence with three strands of barbed wire; access to Dean Hill Road by 25' wide easement principally within existing NYNEX 100' wide easement.

12. Has the Zoning Board of Appeals granted any variances for this property? yes X no.

13. Has a Special Permit previously been granted for this property? yes X no.

ACKNOWLEDGEMENT:

If this acknowledgement is completed by anyone other than the property owner, a separate notarized statement from the owner must be submitted, authorizing this application.

STATE OF NEW YORK)

SS.:

COUNTY OF ORANGE)

The undersigned Applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application and supporting documents and drawings are true and accurate to the best of his/her knowledge and/or belief. The applicant further acknowledges responsibility to the Town for all fees and costs associated with the review of this application.

Sworn before me this 19TH day of MARCH 1996

[Signature]
Notary Public

[Signature]
Applicant's Signature

PETER M. CONWAY
Notary Public, State of New York
Qualified in Albany County
No. 4887533
Commission Expires Mar. 16, 1997

TOWN USE ONLY:

RECEIVED APR 15 1996
Date Application Received

96 - 11
Application Number

APPLICANT'S PROXY STATEMENT
(for professional representation)

for submittal to the
TOWN OF NEW WINDSOR PLANNING BOARD

Herbert Kartiganer, deposes and says that he
(Applicant)

resides at 3928 Live Oak Blvd., Delray County Club, Delray Beach, FL
(Applicant's Address) 33445

in the County of Palm Beach
and State of Florida

and that he is the applicant for the Public Utility Communications
Facility located on Dean Hill Road
(Project Name and Description)

which is the premises described in the foregoing application and
that he has authorized Orange County Poughkeepsie MSA Limited Partnership
and Mr. Joe E. Ross (Area Real Estate Project
(Professional Representative) Manager)

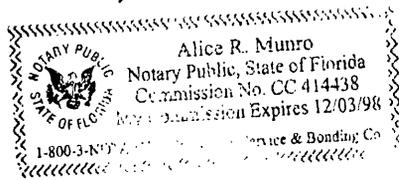
to make the foregoing application as described therein.

Date: 9 April 96

Herbert Kartiganer
(Owner's Signature)

Linda J. Means
(Witness' Signature)

4/9/96 Alice R. Munro



RECEIVED

APR 10 1996

CLOUGH, HARBOUR & ASSOCIATES

THIS FORM CANNOT BE WITNESSED BY THE PERSON OR REPRESENTATIVE OF THE COMPANY WHO IS BEING AUTHORIZED TO REPRESENT THE APPLICANT AND/OR OWNER AT THE MEETINGS.

RECEIVED APR 15 1996

"XX"

APPLICANT'S PROXY STATEMENT
(for professional representation)

for submittal to the
TOWN OF NEW WINDSOR PLANNING BOARD

Orange County Poughkeepsie
MSA Limited Partnership, deposes and says that he
(Applicant)

resides at 46 Broadway, Menands, NY 12204
(Applicant's Address)

in the County of Albany
and State of New York

and that he is the applicant for the Public Utility Communications
Facility located on Dean Hill Road.
(Project Name and Description)

which is the premises described in the foregoing application and
that he has authorized Ruth B. Rosenberg, P.C.
(Professional Representative)

to make the foregoing application as described therein.

Date: 28 Feb 96

Herbert Kartiganer
(Owner's Signature)
Herbert Kartiganer

Linda L Means
(Witness' Signature)

NOTARY PUBLIC
STATE OF FLORIDA
LINDA L. MEANS
COMMISSION # CC 421559
EXPIRES NOV 17, 1998
BONDED THRU
AT AND BONDING CO., INC.

THIS FORM CANNOT BE WITNESSED BY THE PERSON OR REPRESENTATIVE OF
THE COMPANY WHO IS BEING AUTHORIZED TO REPRESENT THE APPLICANT
AND/OR OWNER AT THE MEETINGS.

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

RECEIVED APR 15 1996

96-11

Part 1 - PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT/SPONSOR: Orange County Poughkeepsie MSA Limited Partnership	2. PROJECT NAME: Public Utility Communications Facility
3. PROJECT LOCATION: Municipality Town of New Windsor County Orange County	
4. PRECISE LOCATION: (Street address and road intersections, prominent landmarks, etc., or provide map) North side of Dean Hill Road, Tax Map Parcel 65-1-17, near existing NYNEX R.O.W.	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Construction of a public utility communications facility consisting of a 160' high freestanding tower, equipment shelter, and generator pad enclosed within a chain link fence.	
7. AMOUNT OF LAND AFFECTED: Initially 0.23 acres Ultimately 0.23 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly Special Permit from Planning Board required	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agricultural <input type="checkbox"/> Park/Forest/Open space <input checked="" type="checkbox"/> Other Describe: Public utility, reservoir, open space residential	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) name and permit/approvals Town Planning Board Special Permit FAA: Form 7460	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) name and permit/approval FCC License	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No FCC license will be amended when facility is constructed and placed on line.	
<p style="text-align: center;">I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/Sponsor name: <u>Anthony P. Stellato, Jr., P.E./Representing Orange County</u> Date: <u>April 1, 1996</u> Poughkeepsie MSA Limited Partnership</p> <p>Signature: <u></u></p>	

If the action is in a Coastal Area, and you are a state agency, complete a Coastal Assessment Form before proceeding with this assessment

PART II - ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE 1 THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF. Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible.)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? Yes No If Yes, explain briefly:

Part III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer(If different from responsible officer)

If applicable "X"

TOWN OF NEW WINDSOR PLANNING BOARD
SITE PLAN CHECKLIST

ITEM

- | | |
|--|---|
| <ul style="list-style-type: none"> 1. <u>X</u> Site Plan Title 2. <u>X</u> Applicant's Name(s) 3. <u>X</u> Applicant's Address(es) 4. <u>X</u> Site Plan Preparer's Name 5. <u>X</u> Site Plan Preparer's Address 6. <u>X</u> Drawing Date 7. <u>N/A</u> Revision Dates 8. <u>X</u> Area Map Inset 9. <u>X</u> Site Designation 10. <u>(1)</u> Properties Within 500' of Site 11. <u>(1)</u> Property Owners (Item #10) 12. <u>X</u> Plot Plan 13. <u>X</u> Scale (1" = 50' or lesser) 14. <u>(2)</u> Metes and Bounds 15. <u>X</u> Zoning Designation 16. <u>X</u> North Arrow 17. <u>X</u> Abutting Property Owners 18. <u>N/A</u> Existing Building Locations 19. <u>N/A</u> Existing Paved Areas 20. <u>X</u> Existing Vegetation 21. <u>X</u> Existing Access & Egress <p><u>PROPOSED IMPROVEMENTS</u></p> <ul style="list-style-type: none"> 22. <u>N/A</u> Landscaping 23. <u>X</u> Exterior Lighting 24. <u>X</u> Screening 25. <u>X</u> Access & Egress 26. <u>X</u> Parking Areas 27. <u>N/A</u> Loading Areas 28. <u>X</u> Paving Details
(Items 25-27) | <ul style="list-style-type: none"> 29. <u>N/A</u> Curbing Locations 30. <u>N/A</u> Curbing Through Section 31. <u>N/A</u> Catch Basin Locations 32. <u>N/A</u> Catch Basin Through Section 33. <u>N/A</u> Storm Drainage 34. <u>N/A</u> Refuse Storage 35. <u>N/A</u> Other Outdoor Storage 36. <u>N/A</u> Water Supply 37. <u>N/A</u> Sanitary Disposal System 38. <u>N/A</u> Fire Hydrants 39. <u>X</u> Building Locations 40. <u>X</u> Building Setbacks 41. <u>N/A</u> Front Building Elevations 42. <u>N/A</u> Divisions of Occupancy 43. <u>N/A</u> Sign Details 44. <u>X</u> Bulk Table Inset 45. <u>X</u> Property Area (Nearest
100 sq. ft.) 46. <u>X</u> Building Coverage (sq. ft.) 47. <u>X</u> Building Coverage (% of
Total Area) 48. <u>X</u> Pavement Coverage (sq. ft.) 49. <u>X</u> Pavement Coverage (% of
Total Area) 50. <u>X</u> Open Space (sq. ft.) 51. <u>X</u> Open Space (% of Total Area) 52. <u>X</u> No. of Parking Spaces Prop. 53. <u>X</u> No. of Parking Spaces Req. |
|--|---|

NOTES:

- 1) Property owners within 500' of site presently being compiled by Town of New Windsor Assessor's Office (\$25.00 fee paid).
- 2) Property lines plotted from deed. See map notes on Drawing C-2.

ACC/BY

"XX"

RECEIVED APR 15 1996

96-11

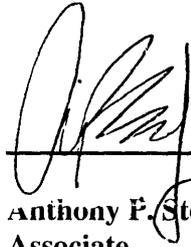
ATTACHMENTS

- A. Flood Hazard Area Development Permit Application Form.
- B. Certificate of Compliance

PLEASE NOTE: IF PROPERTY IS NOT IN A FLOOD ZONE, PLEASE INDICATE THAT ON THIS FORM AND SIGN YOUR NAME. RETURN FORM WITH PLANNING BOARD APPLICATION.

IF PROPERTY IS LOCATED IN A FLOOD ZONE, PLEASE COMPLETE THE ATTACHED (LEGAL SIZE) PAPERS AND RETURN WITH PLANNING BOARD APPLICATION.

The proposed Orange County Poughkeepsie MSA Limited Partnership Communications Facility located off of Dean Hill Road is not located in a flood zone according to Flood Insurance Rate Mapping.



Anthony F. Stellato, Jr., P.E.
Associate

CLOUGH, HARBOUR & ASSOCIATES LLP

RECEIVED

FEB 15 1996

CLOUGH, HARBOUR
& ASSOCIATES