

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES NOVEMBER 5, 2018
APPROVED**

CALL TO ORDER: The meeting was called to order at 7:05

ROLL CALL:

Mr. John Villani
Mr. George Dealaman
Mr. Richard Hewson
Mr. Fernando Castanheira
Mr. Frank Rica
Mr. Donald Huber
Mr. Foster Cooper
Mr. Scott Bowen, Alt. #1
Mr. Michael Galbraith, Alt. #2
Steven Warner, Esq.

ANNOUNCEMENT:

Adequate notice of this meeting has been provided by posting Public Notice on the Municipal Bulletin Board on the main floor of the Municipal Building, sending a copy to the Courier News and Echoes Sentinel, and filing a copy with the Municipal Clerk, all on January 15, 2018.

FLAG SALUTE:

MINUTES:

The minutes of the September 17, 2018 meetings were forwarded to members for review. Mr. Warner had some minor changes to the minutes that were noted.

Motion to approve was made by Mr. Villani, seconded by Mr. Galbraith. All in favor.

COMMUNICATIONS:

None.

PRIVILEGE OF THE FLOOR PORTION OF THE MEETING:

Does any member of the public wish to make a statement, which is unrelated to tonight's agenda?

Seeing no one come forward, Mr. Cooper closed this portion of the meeting.

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Mr. Cooper made an announcement that RETS application BA 18-05, for block 92 lot 1, 833 Mountain Blvd was asking to withdraw their application without prejudice. The case was not heard

MEMORIALIZATION OF RESOLUTIONS:

CASE No. BA18-07 Naz Realty LLC
Block 90 lot 16
20 Mountain Blvd
FAR variance and bulk variances (carried from July 2, 2018 and August 6) approved September 17, 2018

Motion was made by Mr. Huber, seconded by Mr. Bowen to adopt the resolution.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Castanheira, Mr. Rica, Mr. Huber, Mr. Cooper, and Mr. Bowen.
Against: None.

CASE No. BA18-09 Kenneth and Renee Burkert
Block 107 lot 16
44 Fairfield Avenue
FAR and Undersized lot.

Approved September 17, 2018

Motion was made by Mr. Galbraith, seconded by Mr. Castanheira to adopt the resolution.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Castanheira, Mr. Rica, Mr. Huber, Mr. Cooper, and Mr. Bowen.
Against: None.

AGENDA CASE APPLICATIONS:

CASE BA 18-10 Verizon/ATT 35 Old Smalleytown Cell Tower
Block 211 lot 11

The transcript of the hearing for the Verizon/ATT application portion of the meeting is attached to the minutes.

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The hearing for Verizon/ATT will carry to December 3 and the applicant agreed to an extension through December 2018.

CASE No BA18-08 Henrique Rocha
 Block 61 Lot 2.06
 2 Meyers Lane
 Exceeds Maximum coverage by building

Mr. Ricardo J. Monteiro came forward as the attorney for the applicant. He also introduced Mr. Rui Amaral, the architect, for the applicant. Mr. Amaral was sworn in and was accepted.

Mr. Amaral went over the applicant, a pool house with patio area behind the existing house. A swimming pool is under construction and they would like a pool house. The pool house proposed is 36 x 36 feet, with half of that will be a covered area and half will be indoor area. The indoor area will have a bathroom with a shower. There will also be some storage area and a play area, and a washer and dryer. The outdoor area will have a kitchen and most of it is covered.

The property is on the corner of Myers Lane and Midvale, the variance is due to maximizing the footprint of the house and it is existing undersized lot (by about 200 ft). The footprint of the house is 4767SF and it is a ranch and has a three-car garage. There is a building coverage variance but not for lot coverage. The shed on the plans has been removed.

Mr. Monteiro asked about the benefits and detriments. Mr. Amaral stated they have friends and family that get together it is a benefit. He did not see any detriment to the neighborhood. It is a landscaped property. It is only 14.5 high. There will be air conditioning.

There will be a sewer line for the building and only a construction permit is needed. Mr. Cooper felt that the backyard could be exposed and suggested more landscaping. The applicant agreed to landscaping conditions to the approval of the Township Planner.

Mr. Bowen asked if there would be any chance of using the game room as a bedroom. There is only an outdoor kitchen. The applicant agrees it would not be used as a dwelling for living.

Mr. Warner brought up that if it was a conforming lot, the proposal would still be over the coverage. It is a c(2) variance.

Mr. Cooper asked if anyone from the public had questions on the testimony given. Seeing none, he closed that portion. Mr. Chadwick asked about the building and asked if the review of the look of the building be subject to approval of the planner.

Sal Miklowcic came forward as the surveyor for the applicant. He was accepted as a licensed surveyor. Mr. Miklowcic designed the drainage for the proposal. He stated the system was designed at 16 ft x 11 ft wide by 6 ft deep and what was built was 21 ft. x 12 ft x 7ft because

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there was an issue with the engineer and he wanted to make sure there was enough volume to hold the rain water. The system installed will be able to handle the runoff from the structure. Mr. Christian Kastrud, the township engineer, stated that the soil movement for the building should include what is proposed, what is built, and calculations from the runoff of the adjoining house.

The applicant agreed to all conditions in Mr. Kastrud's report that was submitted for the meeting. Mr. Warner asked if the applicant will stipulate to the Health Department memo from June 20, 2018. They agree, although there was a note about a well and not having a record of sewer. There is no well and the house is connected to sewer. The applicant will clear that up with Health and Sewer. They have proof from the sewerage authority that there is sewer.

The applicant is proposing a salt water pool and there is less chemicals needed.

Mr. Cooper asked if there was anyone from the public that had questions for the witness. Seeing no public, this portion of the meeting was closed.

Mr. Monteiro gave a summary that the applicant wants to create a substantial improvement to his home. There is no detriment and Mr. Rocha is friendly with all his neighbors.

Mr. Warner went over the application with a bulk variance of maximum building coverage at 9.4 % proposed vs. 7.5% maximum. It is a flexible c variance, benefits outweigh the detriments.

The board deliberated and all agreed it was a good application. Mr. Bowen mentioned a deed restriction for the building to not be living area. Mr. Chadwick will look at the finish of the building and landscaping.

A motion was made by Mr. Hewson to approve, seconded by Mr. Cooper.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Hewson, Mr. Castanheira, Mr. Rica, Mr. Huber, and Mr. Cooper.

Against: None.

NEXT MEETING: December 3, 2018

MEETING ADJOURNED: 9:10 P.M.

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TOWNSHIP OF WARREN
ZONING BOARD OF ADJUSTMENT

_____	:	
IN THE MATTER OF:	:	
	:	TRANSCRIPT
BA 18-10, VERIZON/AT&T,	:	OF
35 OLD SMALLEYTOWN ROAD,	:	PROCEEDINGS
BLOCK 211, LOT 11	:	
_____	:	

Monday, November 5, 2018
Municipal Building
46 Mountain Boulevard
Warren, New Jersey
Commencing at 7:12 p.m.

BOARD MEMBERS PRESENT:

FOSTER COOPER, Chairman
JOHN VILLANI
GEORGE DEALAMAN
RICHARD HEWSON
FERNANDO CASTANHEIRA
FRANK RICA
DONALD HUBER
SCOTT BOWEN
MICHAEL GALBRAITH

ALSO PRESENT:

LISA SAMMARTINO, Secretary
JOHN CHADWICK, P.E., Engineer

ALISON GULINO, CCR, RPR
CERTIFIED COURT REPORTER

QUICK COURT REPORTING, LLC
47 BRIAN ROAD
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1 A P P E A R A N C E S:

3 STEVEN WARNER, ESQ.
4 Counsel for the Board

5 PINILIS HALPERN, LLP
6 160 Morris Street
7 Morristown, New Jersey 07960
8 BY: CHRISTOPHER QUINN, ESQ.
9 Counsel for the Applicant

1 MR. QUINN: For the record, my name is
2 Christopher Quinn, a partner with the firm Pinilis
3 Halpern, on behalf of the applicant, New Cingular
4 Wireless PCS, LLC, which is known in the marketplace
5 as AT&T, and Cellco Partnership, which does business
6 as Verizon Wireless.

7 The property in question here is Block
8 211, Lot 11, 35 Old Smalleytown Road in the R20B
9 residential district. Currently on the property is a
10 single-family home and an existing transmission tower
11 that supports Verizon Wireless' telecommunication
12 facility. That was approved back in 2004. It was
13 constructed shortly after that.

14 What AT&T is looking to do is to seek
15 approval to install a new telecommunications facility
16 on this property, and in order to do that, they are
17 required to construct a replacement transmission tower
18 with related equipment that would look like a barn
19 like Verizon's equipment near the base of the tower,
20 and then, relocate Verizon over to that new tower as
21 well so you would have Verizon and AT&T on the new
22 tower and the old tower would be removed.

23 CHAIRMAN COOPER: For clarification, is
24 this -- are you replacing entire existing structure?

25 MR. QUINN: Yes.

1 I N D E X

2	<u>APPLICANT'S WITNESSES:</u>	<u>PAGE</u>
3	COLLEEN CONNOLLY	8
4	MELISSA COOKE	38
5	DANIEL PENESSO	46

9 EXHIBITS MARKED INTO EVIDENCE

10	<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
11		(None marked)	

1 CHAIRMAN COOPER: The power lines as
2 well?

3 MR. QUINN: The power lines would be
4 attached to the new tower and the old tower would be
5 removed. The new tower would be constructed to
6 replace the existing lattice transmission tower. What
7 you may have seen throughout the area, and just by way
8 of an example, as you saw, whenever I drive through
9 Scotch Plains, Watchung, Livingston, Fanwood, all
10 those areas, a few years ago, PSE&G replaced the
11 lattice towers you see with the new monopole type
12 transmission towers. That's effectively what this is,
13 in terms of, it would be a new transmission tower in
14 the place of the prior lattice transmission tower.
15 It's done because of the code requirements which are
16 more stringent.

17 CHAIRMAN COOPER: Is that entire strip of
18 power lines being done or just this particular tower?

19 MR. QUINN: Just this particular tower
20 and it's done because that's the only way it could
21 accommodate AT&T's antennas here.

22 In any event, what we will talk about is,
23 because of the new structure and because of the new
24 requirements from the utility company, the tower has
25 to be taller and the antennas can no longer go below;

1 they have to go on top and have adequate separation
2 distances dictated by the utility company. Our
3 engineer can talk about that, but in any event, that's
4 where this project is. We are replacing the existing
5 transmission tower with a new tower. It would be a
6 net gain of no towers. There is one tower there now;
7 there would be one tower to replace it at the end of
8 the day.

9 The use is not permitted here. Your
10 ordinance does say to go to these types of utility
11 structures. We are seeking use variance relief
12 because it is not permitted in this zone. There's a
13 height and setback variance and we are seeking site
14 plan approval.

15 We have four witness. Our first is our
16 professional engineer, Colleen Connolly, to talk about
17 the site layout. We have a representative from the
18 utility company's agent, Melissa Cooke. We have our
19 radio frequency engineer and we have a planner as
20 well.

21 MR. CASTANHEIRA: Why do you need a new
22 tower?

23 MR. QUINN: That will be our first
24 witness. Okay?

25 If there's no other questions, I will

1 call her right up and we can start getting right into
2 it.

3 MR. WARNER: Mr. Chairman, let the record
4 reflect, I reviewed the content of the notice and
5 found it to be sufficient. The Board has jurisdiction
6 to proceed and hear the application this evening.

7 If everybody can raise their right
8 hand...

9 COLLEEN CONNOLLY, first having been
10 duly sworn, testified as follows:

11 MELISSA COOKE, first having been duly
12 sworn, testified as follows:

13 DANIEL PENESSO, first having been duly
14 sworn, testified as follows:

15 MR. WARNER: We already know where our
16 Board professionals work and live. You can give
17 addresses and -- name and address, sequentially, when
18 each witness testifies.

19 MR. QUINN: Okay.
20 First, we will start with our civil
21 engineer.

22 MS. CONNOLLY: Hi. My name is Colleen
23 Connolly. I'm with Scherer Design Group. Our address
24 is 53 Frontage Road in Hampton, New Jersey. I'm a
25 principle at Scherer Design Group and these plans were

1 done under my direct supervision.

2 MR. QUINN: Can you give the Board your
3 credentials?

4 MS. CONNOLLY: I have a Bachelor's of
5 Engineering in civil engineering and I'm a licensed
6 professional engineer in the State of New Jersey. I
7 have been practicing civil engineering for
8 approximately 25 years. Most of that has been in
9 support of the telecommunications industry and
10 involved with designs very similar to this. In
11 addition, I have been accepted as a witness before
12 numerous Boards throughout the state.

13 CHAIRMAN COOPER: Any locally?

14 MS. CONNOLLY: Oh, yes. I have been in
15 Hunterdon County. I have been before Flemington and
16 Raritan Township. I don't know about this county.

17 CHAIRMAN COOPER: Okay. Great. We are
18 good.

19 DIRECT EXAMINATION OF COLLEEN CONNOLLY BY MR. QUINN:

20 Q. You prepared the plans that were
21 submitted as part of this application?

22 A. Yes.

23 Q. You have a set of plans that were
24 submitted, right?

25 A. Correct.

1 Q. Any changes to them?

2 A. No.

3 Q. What I will ask you to do is to describe
4 for the Board the property, what is being proposed and
5 you heard the question already, the million-dollar
6 question, why are we proposing to replace this tower?

7 A. Okay.

8 So this application is on Block 211, Lot
9 11. There is an existing First Energy transmission
10 line right of way that goes through this property and
11 there are, as we already had stated, electrical
12 transmission lines that go through the
13 property. There is an existing 118-foot-high lattice
14 transmission tower. That transmission tower supports
15 not only the electrical lines but also has Verizon
16 Wireless. Their antennas are on top of the tower with
17 an approximate height to the top of Verizon of 127
18 feet.

19 Now, Verizon's antennas are not in
20 compliance with the current First Energy ruling for
21 the separation distance required between the top line,
22 the static line, of the tower itself and the bottom of
23 the antennas, so the tower, if we adjusted for that by
24 raising Verizon's antennas and also added AT&T's
25 antennas to that, it would not be structurally

10

1 adequate to support that additional loading.

2 MR. BOWEN: What's a static line?

3 MS. CONNOLLY: The top line of the

4 conductors.

5 MR. BOWEN: What's the conductors? I'm

6 not an engineer so, you know?

7 MS. CONNOLLY: The electric lines.

8 MR. BOWEN: The things that carry, like,

9 the power?

10 MS. CONNOLLY: Exactly, yes.

11 A. So what we are proposing is to put in a

12 new pole, a new transmission tower, which will be in

13 the monopole type design, so one single pole versus

14 the lattice, the truss-like structure that you see out

15 there now.

16 In order to get the -- maintain the

17 required clearances as per the National Electrical

18 Safety Code, the conductors or the transmission lines,

19 the electric lines that are on the tower will need to

20 get raised in elevation by 7 feet and that's just

21 because of current standards versus standards when the

22 old tower was put in place and, also, because we are

23 shifting the new tower by about 28 feet to the north.

24 With that increase, that would mean that the top of

25 the top electrical line that will be on the tower will

11

1 be at 125 feet above the ground.

2 CHAIRMAN COOPER: Versus -- what is it?

3 MS. CONNOLLY: Versus, right now, it's at

4 118 so an increase of 17.

5 A. Now, that increase, as I said, was

6 dictated by the electric lines themselves.

7 MR. BOWEN: What does that mean? Who are

8 the electric lines? The electric lines don't dictate,

9 right? So who is that?

10 MS. CONNOLLY: They were dictated by the

11 design of what clearance is allowable as per the

12 National Electrical Safety Code.

13 MR. BOWEN: That's code now. You have to

14 go to that height for that type of electrical line?

15 MS. CONNOLLY: Yes. Because of the

16 separation from that tower to the next tower. So in

17 order to maintain the clearances that are required, it

18 will need to be raised up.

19 MR. CASTANHEIRA: You are confusing me.

20 Is that electrical code or is that cell tower code?

21 MS. CONNOLLY: Electrical.

22 MR. CASTANHEIRA: If there was no

23 electrical tower or wire running there, probably you

24 wouldn't have to do any of this.

25 MS. CONNOLLY: If it was not supporting

12

1 electrical lines, you would not have to go to that

2 height, correct.

3 MR. CASTANHEIRA: So the electrical lines

4 are right next to this?

5 MS. CONNOLLY: The electrical lines will

6 be connected to the new tower.

7 MR. CASTANHEIRA: It's a shared tower?

8 MS. CONNOLLY: Exactly. They are

9 connected to the existing tower, and once the new

10 tower is put in place, they would be connected to the

11 new tower.

12 MR. CASTANHEIRA: So AT&T owns the tower

13 instead of the electrical company?

14 MS. CONNOLLY: No. First Energy will be

15 the one owning the tower. AT&T will just be putting

16 their antennas on it.

17 MR. CASTANHEIRA: Why aren't they here

18 instead of you guys?

19 MR. QUINN: We have a representative from

20 them here who will be one of our next witnesses.

21 MR. CASTANHEIRA: Because they are the

22 tower owners.

23 MR. QUINN: They have given us consent as

24 part of the application and their representative is

25 here tonight.

13

1 MR. CASTANHEIRA: So you are going from

2 118, it looks like, to 152; is that right?

3 MS. CONNOLLY: Yes.

4 Q. The first part, what you are testifying

5 to --

6 A. Yeah. The piece that I'm discussing --

7 MR. CASTANHEIRA: Yeah. Because --

8 MR. QUINN: We are getting there.

9 MR. CASTANHEIRA: We're an excited Board

10 here.

11 MS. CONNOLLY: I'm building you up to

12 that point.

13 MR. GALBRAITH: Is this one of these new

14 poles that they put down by Sears?

15 MR. QUINN: I think those were done by

16 PSE&G so it's a similar type monopole type structure.

17 MR. GALBRAITH: It's not a cell tower;

18 it's something the wires are going on?

19 MS. CONNOLLY: Exactly.

20 MR. GALBRAITH: How come you only put one

21 and go back to the old ones? Because this isn't high

22 enough; is that why it is? In other words, down

23 there, they continuously ran them.

24 MS. CONNOLLY: Exactly. We need a new

25 pole in order to structurally support both Verizon and

14

1 AT&T and provide --

2 MR. GALBRAITH: Their antennas and all?

3 MS. CONNOLLY: Exactly.

4 MR. QUINN: That project that happened by

5 PSE&G five years or so ago, that was done as part of

6 their way to upgrade all their utility lines

7 throughout that entire line. It ran from Metuchen

8 through Essex County, Union County.

9 MR. GALBRAITH: So that's what the pole

10 looks like.

11 MR. QUINN: I don't think it's the same

12 pole. It's a different utility company but it's that

13 style.

14 MS. CONNOLLY: It's similar in style.

15 MR. GALBRAITH: You will go back to the

16 old poles after that one?

17 MS. CONNOLLY: Correct.

18 MR. CASTANHEIRA: Another clarifying

19 question. If it wasn't for the additional carrier, in

20 this case, Verizon, you would still need the same

21 structure, the same height and everything?

22 MS. CONNOLLY: The --

23 MR. CASTANHEIRA: In other words, you are

24 saying what's driving this requirement is the new

25 regulations around wires. You just said before that,

15

1 because of an additional tenant, in this case,

2 Verizon, we need to build something bigger.

3 MS. CONNOLLY: Yes. Correct. The reason

4 why the pole is being replaced or needs to be replaced

5 is because AT&T is going to be collocating on it.

6 MR. CASTANHEIRA: Okay.

7 MS. CONNOLLY: Once we started looking,

8 now, we are putting in a new pole; we need to design

9 that new pole or that new pole has to be designed to

10 all the current standards and that's driving an

11 increase in the pole itself, an increase in where

12 those electric lines need to be connected to it.

13 MR. CASTANHEIRA: So that's the

14 requirement so why does AT&T need another tower?

15 MR. QUINN: That's another witness.

16 That's our radio frequency engineer, who, if you have

17 heard these types of applications before --

18 MR. CASTANHEIRA: I'm just trying to be

19 thorough in what's driving the requirement. It sounds

20 like it's more like AT&T needs to be collocated on

21 this tower than anything else.

22 MR. QUINN: AT&T is proposing to

23 collocate on this tower because it's needed for its

24 network.

25 MR. CASTANHEIRA: So that's the

16

1 requirement.

2 MR. QUINN: That is the reason why the

3 application is being filed. As a result of the

4 requirements of the utility company, as a result of

5 the requirements of this new separation requirement,

6 the new structural code requirements which are more

7 stringent, that is dictating why this tower has to

8 replace the existing tower.

9 MR. CASTANHEIRA: Can you be clearer,

10 though? If there is no additional tenant, are you

11 still required to build a new tower?

12 MR. QUINN: If nothing was changing

13 whatsoever?

14 MR. CASTANHEIRA: Right.

15 MS. CONNOLLY: If nothing was changing,

16 what's there now, as I said, although Verizon does not

17 have the separation required, it's grandfathered in so

18 it would not need to be replaced except for the fact

19 that AT&T is going on there.

20 MR. CASTANHEIRA: That's what's driving

21 it.

22 MS. CONNOLLY: Yes. Correct.

23 MR. QUINN: That's today. That is not to

24 say, if Verizon didn't need to change or upgrade their

25 system, they wouldn't have to go back.

17

1 MR. CASTANHEIRA: We are only here for

2 the today.

3 MR. QUINN: Also, that's not to say that

4 next year or five years from now that First Energy can

5 come and do exactly what Verizon did.

6 MR. CASTANHEIRA: We can only deal with

7 what's in front of us now.

8 MS. CONNOLLY: Correct. The reason I'm

9 explaining the change in code is because that is

10 what's driving why the new tower needs to be taller

11 than the existing.

12 MR. WARNER: If I may, am I correct in my

13 understanding that you have standing as an existing

14 lessee on the tower and on the site and a prospective

15 lessee on the prospective tower?

16 MR. QUINN: Yes. So Verizon is an

17 existing tenant, lessee, on the property. They have

18 an existing facility. Their reason for having to be

19 part of this application is because their antennas

20 will be moved onto the new tower as part of the

21 application, so therefore, since their facility is

22 being changed, an increase in height, they're part of

23 the application as well as AT&T because they are a new

24 tenant that would be on this property.

25 MR. WARNER: You would need AT&T involved

18

1 and you would need the owner of the property's
2 consent, which you also have, correct?
3 MR. QUINN: That's correct.
4 MR. WARNER: Thank you.
5 MR. HUBER: So I guess, logically, the
6 old tower would stay there until the new tower is up
7 if this project goes through. At what point after the
8 new tower is tentatively constructed and replaced to
9 functional would the old tower come down?
10 MS. CONNOLLY: It would get removed
11 almost immediately. As soon as everything has been
12 switched over to the new tower, then the old one would
13 be taken down.
14 MR. WARNER: Would there be able to be a
15 stipulation as to the time frame within which that
16 could be removed if the application is granted and the
17 Board so desired a time frame?
18 MR. QUINN: Yeah. I think so and I think
19 our First Energy representative would be the person
20 that would be able to give an appropriate time frame.
21 MR. WARNER: Thank you.
22 MR. GALBRAITH: Does this thing get
23 decorated to look like a tree or anything?
24 MS. CONNOLLY: Because it's carrying the
25 electrical transmission lines, we cannot use that type

19

1 of camouflaging like you would see on a monopole that
2 just had carriers on it.
3 A. I'll go through -- I went through that we
4 are going to be raising this tower itself for the
5 electrical lines attached it to 125 feet. Then,
6 Verizon Wireless' antennas would come next on the
7 pole. As I stated before, we need a 10-foot
8 separation from that top electrical line to the bottom
9 of Verizon's antennas. That's going to put the center
10 of Verizon's antennas at 139 feet. We require a
11 10-foot separation in between the two carriers. That
12 would put AT&T with a center of 149 feet, which is
13 also coincident with the top of the tower itself, and
14 then, that would be 152 feet to the top of the
15 antennas so that will be the highest of the new
16 structure.
17 Q. Can you talk about the property itself
18 and what else is on the property, the access, the site
19 plan itself, as well?
20 A. Oh. Okay.
21 The property itself has an existing
22 single-family home which is towards the front of the
23 property which fronts on Old Smalleytown Road. There
24 is an existing gravel driveway that has access off of
25 Old Smalleytown that accesses the single-family home

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1 itself and then also has an extension back that
2 provides access to the existing tower that's there now
3 for Verizon's use there.
4 It was noted that the existing driveway
5 currently does go off of the property line in one
6 location off of the property line and outside of First
7 Energy's right of way so we are proposing to relocate
8 that driveway to ensure that it's entirely on this
9 property. The relocation is approximately 110 feet of
10 the driveway itself.
11 MR. WARNER: As relocated, it will, in
12 and of itself, service both the single-family dwelling
13 and any maintenance required of the tower?
14 MS. CONNOLLY: Correct. The portion that
15 is getting relocated does not really serve the
16 residence itself. It's kind of beyond the point where
17 it splits off towards the tower but that new relocated
18 would be for the tower and also for First Energy's
19 access.
20 MR. WARNER: Perfect. And no change in
21 impervious coverage overall?
22 MS. CONNOLLY: There will be a slight
23 change in impervious. The driveway, because we are
24 removing gravel and replacing gravel, will not be an
25 increase but there will be a minor increase for the

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1 footprint for the sheds themselves.
2 MR. WARNER: And not the driveway.
3 Thank you.
4 A. As we said before, there's an existing
5 lattice tower on the property. There is also Verizon
6 Wireless' equipment shed to support their antennas.
7 Q. Why don't you talk about where the
8 proposed AT&T equipment, where it's located, its
9 setbacks and you could show them on the plan, if you
10 need to, and why that location was chosen?
11 A. Okay.
12 What we are proposing for AT&T is two
13 sections of an equipment shed or shelter. The shed
14 itself will be finished very similarly to the way that
15 Verizon Wireless is, which is a painted red, kind of,
16 wooden clapboard siding on it and then also white trim
17 to give it sort of a barn-like appearance and it will
18 have a sloped, a peaked roof, again, very much like
19 Verizon.
20 There will be one section of the
21 equipment shed that will be 18 foot 4 inches by 9 foot
22 10 inches. That is where the equipment itself would
23 be housed for AT&T. That will be cooled by two 5-ton
24 AC units. There will be a second section that will be
25 7 foot 10 inches by 12 foot 11 inches that will be

1 finished in the same manner and will house a 30-
2 kilowatt backup diesel generator. Each section of the
3 AT&T equipment will have its own access door to allow
4 the two sections to be separated from each other.

5 Q. Again, the goal is to appear like a barn-
6 like structure similar to the Verizon equipment?

7 A. Correct.

8 Q. In terms of the generator itself, it will
9 be located inside of the building?

10 A. It will be located inside of the
11 building, yeah.

12 Q. So it won't be visible whatsoever?

13 A. It will not be visible. There will be
14 some louver type vents in order for it to get the
15 proper ventilation and the exhaust itself will come
16 out through the roof of the shelter.

17 MR. WARNER: How about noise from this
18 generator? Any abatement?

19 MS. CONNOLLY: We will do noise
20 abatement. The louvres will be an acoustic dampening
21 louver in order to decrease the sound so that we will
22 meet the New Jersey sound ordinance.

23 MR. WARNER: Also, for the record -- my
24 apologies -- when you referred to the plans earlier,
25 you were referring to what was last revised

1 October 16, 2018?

2 MS. CONNOLLY: That's correct.

3 MR. WARNER: They were submitted more
4 than ten days in advance so we need not mark them as
5 exhibits.

6 Thank you.

7 MR. BOWEN: What's the limit for the
8 sound? Give me an example, a freight train, an
9 automobile, how far it travels.

10 MS. CONNOLLY: The sound limit is 60
11 decibels at the property line and we are going by the
12 daytime noise ordinance because the -- during -- when
13 it's actually running, it would be during an emergency
14 situation when there's no power available that it's
15 running. The testing of the generator will be done
16 once a week and during normal business daytime hours.

17 MR. WARNER: That will be a condition of
18 approval, correct?

19 MR. QUINN: Yes.

20 MR. WARNER: If it's an emergency that
21 it's operating in, which it would be, that is an
22 exception to the state noise regulations, correct?

23 MR. QUINN: Yes.

24 MR. WARNER: Usual decibel levels for
25 daytime and nighttime.

1 MR. QUINN: Effectively, when a generator
2 runs on any property, as an emergency perspective,
3 it's exempt from the noise standards but the concern
4 is always the regular testing that has to happen and
5 that has to comply with all noise standards. For that
6 reason, we have to meet the daytime running hours and
7 the generator --

8 Q. As you testified, the generator will
9 always be running for testing purposes during business
10 hours during a weekday?

11 A. Yes.

12 Q. So it would be within the daytime
13 standards for noise at the property line?

14 A. Correct. That's set to run automatically
15 to make sure that the generator is running properly.

16 MR. BOWEN: What's 60 dB equal to?
17 Automobile? 18-wheeler? Freight train?

18 MS. CONNOLLY: It's very variable to the
19 distance that you are away from it but it will be very
20 similar to Verizon's installation that they have there
21 now.

22 CHAIRMAN COOPER: Is it similar to a lawn
23 mower or a motorcycle without a muffler? What is 60
24 dB; that is what the question is. I'm trying to get a
25 comparison.

1 MS. CONNOLLY: I understand what you are
2 looking for.

3 MR. BOWEN: Should I Google it?

4 CHAIRMAN COOPER: That's fine. Go ahead.

5 MR. WARNER: I take it that, when
6 Verizon's generators could be tested, it's not going
7 to be the same time AT&T's is tested and vice versa so
8 you would not have a level that would exceed the
9 requirements?

10 MS. CONNOLLY: Yeah. We can coordinate
11 that.

12 MR. WARNER: I think the Board will
13 appreciate the stipulation, nonetheless.

14 MR. QUINN: That's fine.

15 CHAIRMAN COOPER: Okay. Let's keep
16 moving.

17 Q. With respect to in terms of the diesel,
18 the fuel would be delivered in the same way it's
19 delivered to -- anyone accessing the site, up the
20 driveway?

21 A. Correct. And Verizon also has as diesel
22 generator. It would be 109-gallon tank, which is of
23 double-hull construction and meets the required DEP
24 containment.

25 MR. DEALAMAN: Is this tank above ground?

1 MS. CONNOLLY: Correct. It also sits
 2 directly below the generator itself and it would be
 3 inside of the shed.
 4 Q. So let's talk about the location of the
 5 shed where we need setback relief variance for this,
 6 correct?
 7 A. Correct.
 8 Q. Can you describe why we are proposing the
 9 equipment barn in this location as opposed to being
 10 within the required setback? Is there a reason why
 11 the equipment can't be located right next to the pole?
 12 A. There are several requirements that First
 13 Energy has for where we can site equipment. The first
 14 is that we must have all of our equipment at least 3
 15 feet from the horizontal separation from the plane of
 16 the overhead lines, so if you take the electric lines,
 17 take that down to the ground, we have to be at least
 18 3- foot horizontal separation from that and that's
 19 just to allow First Energy to have the required access
 20 that they need to get to the lines and to service
 21 them.
 22 They also require a 15-foot separation
 23 from the lines to any generator so we need to push the
 24 generator further away from the lines than the
 25 equipment shed itself can be.

1 I will just note that Verizon's -- you
 2 can see by looking at the plans, Verizon's equipment
 3 currently violates that. That was grandfathered in.
 4 What we have to do is design by the current First
 5 Energy standards for separation.
 6 Q. So First Energy changed the requirements
 7 and that's why we have to adhere to that?
 8 A. Yes.
 9 Q. In terms of the Verizon equipment, is
 10 there any changes proposed to Verizon's equipment
 11 building?
 12 A. No. There will be no change to the
 13 equipment building. The only change to the
 14 installation is that their antennas would be moved to
 15 the new tower, and in addition, their cables, which
 16 are going to the existing tower, would be translated
 17 over to the new tower also.
 18 CHAIRMAN COOPER: So you said that the
 19 new tower is going to be 28 feet further north than
 20 the existing tower; is that correct?
 21 MS. CONNOLLY: Correct. So it will be
 22 closer to Verizon.
 23 CHAIRMAN COOPER: So it will be what?
 24 MS. CONNOLLY: Closer to Verizon.
 25 CHAIRMAN COOPER: Okay.

1 MS. CONNOLLY: Their cables will go
 2 shorter, not longer.
 3 Q. So if you are on Old Smalleytown Road, it
 4 will be 28 feet further away from the street?
 5 A. Correct. You will be further from the
 6 street.
 7 Q. In terms of the setback, there's other
 8 natural constraints and restrictions that limit where
 9 we can locate our equipment?
 10 A. Correct. The area just to the north of
 11 Verizon is all Wetlands area so we can't put the
 12 proposed AT&T equipment shed to the north of Verizon's
 13 shed because we would be in a Wetlands area.
 14 In addition, there is a Texas Eastern Gas
 15 easement which runs from approximately 5 or 10 feet to
 16 the west of where the center line of the towers are
 17 now and extends over to the other side of the easement
 18 so we are restricted from putting our equipment within
 19 that area because that's encumbered by the gas
 20 easements.
 21 Q. So we are really stricken where we can
 22 go?
 23 A. Yeah. We are very tied into, really,
 24 this location. We are pushing it as close as we can
 25 to the overhead lines in order to increase the

1 distance from the property line as much as we can.
 2 Q. But again, even though we are within the
 3 required setback, the site will still comply with all
 4 applicable noise standards here?
 5 A. Correct.
 6 Q. Now, with respect to the landscaping
 7 being proposed, there's no landscaping being proposed
 8 as part of this application?
 9 A. Currently, there is not.
 10 Q. Why is that?
 11 A. Again, First Energy and also the New
 12 Jersey Board of Public Utilities does restrict the
 13 height of landscaping that we can propose within the
 14 right of way so we are not allowed to propose any
 15 landscaping within 15 feet of the tower itself in
 16 order to give First Energy access to the tower and
 17 then from a discuss that is 15 feet out from the
 18 overhead lines. So take the lines, go out 15 feet in
 19 either direction, in that swath or that "wire zone,"
 20 as they call it, we can't have any landscaping that's
 21 higher than 3 feet at maturity from the outside of
 22 that, so 15 feet beyond the lines and out to the edge
 23 of the right of way, we can propose anything that's up
 24 to 10 feet high at maturity so those are our
 25 restrictions as far as what we can propose.

1 Q. So at this point, there's nothing that
2 would really screen this equipment?
3 A. Not really. A 3-foot-high shrub wouldn't
4 offer a lot of screening.
5 Q. Especially, we are proposing this to be
6 in a barn structure, like a garage that will conceal
7 it to make it not look like it's cell equipment.
8 A. Correct. And once we get to a point
9 where we are beyond the 15 feet from the overhead
10 lines, we could put in something that's up to 10 feet
11 but that is sort of getting more into the portion of
12 the property where there is existing tree coverage.
13 Q. There is tree coverage going up and down
14 the right of way in this area?
15 A. Correct. More towards the outside of the
16 right of way.
17 Q. Okay. Does the project require any
18 provision of water or sewer service?
19 A. No, it does not.
20 Q. Any lighting being proposed by the
21 applicant on the tower?
22 A. None on the tower.
23 Q. What about the equipment? Any changes to
24 the Verizon?
25 A. There will be no changes to any lighting

1 at Verizon. As far as the lighting for AT&T, there
2 will be a light at each one of the doors to the two
3 pieces of the shelter, the two parts of the shelter.
4 They will be aimed to the ground to limit the light
5 footprint and they won't be on a motion detector.
6 They would have a switched timer, so if a technician
7 comes to the site at night, they would turn the timer
8 on and it would go off automatically so no one could
9 accidentally leave the light on.
10 Q. There would be no situation where a deer
11 would turn the light on by accident?
12 A. No. You would have to turn the switch to
13 turn the light on.
14 MR. WARNER: Is there not an FAA
15 requirement with respect to lighting on towers?
16 MS. CONNOLLY: There is, but due to the
17 height of this, it's not required for this.
18 Q. Typically, it's a height restriction or
19 if you are right in the landing zone, correct? We
20 don't meet either of those requirements so we are not
21 required to light this tower?
22 A. No, we are not.
23 MR. WARNER: You are not tall enough to
24 require it?
25 MS. CONNOLLY: Correct.

1 MR. WARNER: Even at the proposed new
2 taller height?
3 MR. CONROY: It doesn't meet the
4 criteria, correct.
5 Q. It's 200 feet, the height?
6 A. It depends on where you are in relation
7 to an airport but it is close to that 200-foot limit.
8 MR. WARNER: Thank you.
9 Q. In terms of maintenance visits from a
10 technician, how often does that occur?
11 A. That can vary. We typically say it's
12 approximately monthly that a technician would need to
13 come to the site. Standardly, they would come to the
14 site in a regular type passenger vehicle, a truck or
15 an SUV, but nothing more significant than that unless
16 there was some kind of equipment failure or something
17 like that.
18 MR. CASTANHEIRA: One for each company?
19 MS. CONNOLLY: Yes. Verizon and AT&T
20 would have separate technicians.
21 Q. So you are taking about, with Verizon and
22 AT&T both, you are looking at approximately two
23 vehicles per month?
24 A. Yeah. Again, that can vary if there's an
25 issue that they need to troubleshoot but on average.

1 Q. Standard maintenance, we are talking
2 about, a technician would come once a month per
3 carrier less than an hour during daytime hours?
4 A. It depends what the specific issue is but
5 that's a standard.
6 Q. But again, for a typical maintenance
7 visit, they would just be someone driving to the site
8 with equipment; they can do their diagnostic test and
9 leave?
10 A. Correct.
11 MR. WARNER: For all standard
12 maintenance, that would be a condition of approval?
13 We can use the term "approximate."
14 MR. QUINN: Yes.
15 MR. WARNER: Thank you.
16 Q. The site and the facility and the
17 proposed tower will meet all code requirements as you
18 mentioned before?
19 A. Correct.
20 MR. QUINN: I have no further direct
21 questions. We can go through some of the review
22 letters. I know a lot of them had engineering, civil
23 engineering questions.
24 CHAIRMAN COOPER: Do that, and then, we
25 will see if any members of the Board have any

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1 questions before I go to the public.

2 MR. QUINN: Okay.

3 Q. Mr. Chadwick's letter, the September 26th

4 memorandum by Mr. Chadwick, talks about waivers from

5 the plans, the scale is appropriate and the waiver

6 being proposed for the landscaping, which, I think,

7 you already testified to?

8 A. Uh-huh.

9 Q. We talked about the increase of height,

10 Number 3.

11 Number 4, we talked about the side yard

12 setback variance for the new equipment.

13 Number 5, the existing tower is to be

14 removed by others. The time table, we said we would

15 have our representative but it would be shortly after

16 the tower would be constructed?

17 A. Correct.

18 Q. 6 and 7 are informational only.

19 8 would be an item talked about by the

20 planner.

21 9, the stormwater runoff, do you have any

22 comments about the stormwater runoff with the amount

23 of disturbance being proposed?

24 A. Because we don't have a large increase in

25 the impervious area and because of the drainage

35

1 pattern of the property itself, where the water is

2 currently, under existing and proposed conditions,

3 would be draining away from the property line and more

4 into the center of the property. There wouldn't be

5 any impact to the stormwater.

6 Q. Number 10 talks about the architecture of

7 the shed, that it be similar to the existing, which

8 you already testified it would be?

9 A. Correct. Similar to Verizon's.

10 Q. What about the fencing around the

11 equipment itself, can you talk to that? Number 12,

12 the border fence has been revised.

13 A. We are not proposing any fencing around

14 AT&T's equipment. Now that it is in a shed, we are

15 not putting any fencing around it. I think that was

16 from a previous plan iteration.

17 Q. Okay.

18 Next, we will go to the engineering

19 memorandum dated September 22, 2018. Have you had a

20 chance to review that?

21 A. Yes.

22 Q. I'll let you run through these comments.

23 A. Okay.

24 Q. Number 1 is explanatory. Start with

25 Number 2.

36

1 A. So the overhead wires, as I discussed

2 earlier, the overhead electrical wires would be

3 supported by the new tower and taken off the old one

4 and placed onto the new one.

5 Q. Number 3 talks about why this tower is

6 not a viable alternative. We will talk about that

7 with our next witness. We will talk about the other

8 transmission tower that's located to the north of this

9 site. I believe it has Sprint and T-Mobile on it.

10 That will be the next witness.

11 A. The Number 4 is related to the

12 generator. The generator that we are proposing is

13 within the shelter itself.

14 Q. Okay. Number 5 is informational.

15 Number 6 is asking for a survey, which we

16 will submit?

17 A. Yes. A survey has been done of the

18 property. We will submit that.

19 Q. Number 7 is about the lighting for

20 security. We talked about the lighting already.

21 A. That would be a timer, correct. We

22 discussed the visibility of it.

23 Q. And in terms of the zoning signs,

24 lighting and landscaping, it was deferred to Mr.

25 Chadwick?

37

1 A. Yes.

2 MR. WARNER: No signage, correct?

3 MS. CONNOLLY: The only signage at the

4 site would be what's required by the FCC, certain

5 warning signings that need to be posted on the shelter

6 itself.

7 MR. CHADWICK: Is there a telephone

8 number on the sign now?

9 MS. CONNOLLY: Yes. The sign will give

10 an identifying number, information on the site and who

11 you can call.

12 Q. That's on the Verizon one already?

13 A. Correct.

14 MR. QUINN: The other review letters from

15 the town offices and professionals did not generate

16 any other substantive comments.

17 MR. CHADWICK: All the fencing you had

18 originally planned is a barn?

19 MS. CONNOLLY: Correct.

20 MR. QUINN: Okay. I guess we can open to

21 questions from the Board or anyone from the public.

22 CHAIRMAN COOPER: Any Board members or

23 professionals?

24 MR. CHADWICK: I have no questions.

25 CHAIRMAN COOPER: Anyone from the Board?

38

1 (No response)

2 CHAIRMAN COOPER: Any members of the

3 public have questions of this witness based upon the

4 testimony that was given?

5 (No response)

6 CHAIRMAN COOPER: Seeing none, I will

7 close this portion.

8 MR. QUINN: Next, I will ask Melissa

9 Cooke; she's a representative of our landlord that can

10 answer questions with respect to what was asked and

11 also about the project, about the timeline in terms of

12 that and the like.

13 You were sworn in already.

14 DIRECT EXAMINATION OF MELISSA COOKE BY MR. QUINN:

15 Q. Can you state your name for the record

16 and give a business address, please?

17 A. Melissa Cooke, C-O-O-K-E, Diamond

18 Communications. We are located at 820 Morris

19 Turnpike, Suite 104 in Short Hills, New Jersey 07078.

20 Q. Can you state how Diamond is related to

21 the utility company that you are an agent of, First

22 Energy?

23 A. Correct. In 2009, Diamond Communications

24 entered into an agreement with First Energy to market

25 and manage all wireless collocations on First Energy's

39

1 assets.

2 Q. So you oversee -- you help Diamond

3 oversee and work with First Energy in terms of any of

4 the applications or projects by a carrier on this type

5 of utility structure?

6 A. That is correct. Any time a carrier has

7 an interest in placing equipment on a transmission

8 tower, a distribution pole, a substation, that would

9 all go through us.

10 Q. You are familiar with this particular

11 site and the project and the site selection process

12 and the proposed pole replacement?

13 A. I am, yes.

14 Q. Can you talk, again, about why we have to

15 propose a pole in the place of the existing

16 transmission tower that's there now for AT&T?

17 A. I would be happy to.

18 The transmission tower, as Colleen had

19 stated, First Energy does have certain requirements

20 about new installations. Whenever we install a new

21 carrier on a transmission tower, we do have to meet

22 certain clearance requirements, that being the 10 feet

23 above the -- from the top of the tower to the bottom

24 of the first carrier's antennas. By increasing the

25 height of this transmission tower of the carrier's

40

1 equipment, the transmission tower would no longer be

2 able to structurally hold that extra weight.

3 Q. So as a result of that, that is why we

4 are proposing the new tower?

5 A. Correct.

6 Q. In terms of time line that was mentioned

7 before, about how long would it be appropriate from

8 the completion of construction of the new tower to the

9 removal of the old tower?

10 A. It will happen in a matter of days, if

11 that long. Once the new tower goes up, they will

12 transfer the transmission lines over to the -- from

13 the old tower to the new tower. This old tower will

14 come down right away. The construction work all has

15 to be done within a certain outage period so we do

16 have a limited time frame in which to get it done.

17 MR. WARNER: Would there be a reasonable

18 maximum that the Board could impose a time frame for

19 you to -- for someone to remove the existing tower

20 when the new tower is constructed? And if it's

21 reasonable, the Board doesn't have to impose it. You

22 could just stipulate to it.

23 MS. COOKE: I would say the old tower

24 could come down with a week or two. I would add the

25 caveat: If anything were to happen, this is still an

41

1 electrical transmission tower and First Energy would

2 have the right to change that timeline depending on

3 what might happen, whether there's weather

4 implications...

5 Q. So would you say 30 days is appropriate?

6 A. Yeah, yes.

7 Q. Just to be overly conservative in terms

8 of any condition. It would, most likely, be much

9 quicker, though?

10 A. Yes.

11 CHAIRMAN COOPER: Does that include the

12 removal of the footings in the ground? Do they remain

13 in the ground when the tower comes down?

14 MS. COOKE: They are usually removed a

15 few feet below grade.

16 Q. Another question was raised about why --

17 it seems like AT&T, because they are proposing a site

18 on this particular tower, is really -- it's changing

19 this entire structure. Could it go to the tower to

20 the north, as was suggested with -- it already has two

21 other carriers on it. Is that a feasible location for

22 that -- for this project for AT&T?

23 A. T-Mobile and Sprint are installed on the

24 tower to the north. There is no -- that structure

25 would not be able to accommodate a third carrier

42

1 without being replaced, and unfortunately, that is
 2 located in somebody's front yard. There's really no
 3 place to put either a new tower or AT&T's equipment.
 4 Q. Again, you are talking about with the
 5 same type of structure but even being even taller?
 6 A. Correct.
 7 Q. It would have three carriers instead of
 8 two?
 9 A. Correct.
 10 Q. As you go to the south, the property
 11 starts dipping in elevation and having Wetlands issues
 12 too, correct, for the towers that are located on those
 13 properties?
 14 A. It is definitely lower in elevation.
 15 MR. QUINN: I think that's the questions
 16 that I had in terms of the concerns about First
 17 Energy. If there's any the Board may have, I will
 18 make her available.
 19 MR. CASTANHEIRA: Who's going to speak
 20 about the reason why AT&T needs it?
 21 MR. QUINN: That's our next witness, the
 22 radio frequency. That's the coverage and the plots
 23 that you typically see.
 24 CHAIRMAN COOPER: All the documentation
 25 that I see, everything from Somerset County Planning

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1 Board references a new 125-foot cellular transmission
 2 tower when there was testimony given before that is
 3 about 139 feet.
 4 MR. QUINN: So the tower itself will be
 5 125 feet for just the transmission tower itself?
 6 MS. COOKE: Correct.
 7 MR. QUINN: The replacement tower by
 8 itself will be only at 125 feet. AT&T and Verizon, as
 9 directed by the utility company, has to go above that
 10 so it would not be 139 feet for the tower. It's 125
 11 feet for the replacement transmission tower. With the
 12 carriers on top, it would be 152.
 13 CHAIRMAN COOPER: Okay. So the overall
 14 height of what's going in there is 152 feet?
 15 MR. QUINN: Yes.
 16 MS. COOKE: Correct.
 17 MR. WARNER: The antennas are above the
 18 top of the tower, correct?
 19 MS. COOKE: Correct.
 20 MR. CASTANHEIRA: With 10 feet of
 21 separation between the two.
 22 CHAIRMAN COOPER: Okay. All right.
 23 MR. QUINN: The maximum height of the
 24 actual extension to the pole itself are going to be
 25 149 feet, correct, with the antennas extending 3 feet

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1 above that?
 2 MS. COOKE: I don't have a set of plans
 3 in front of me but that sounds reasonable, yes.
 4 MR. GALBRAITH: About 30 feet higher
 5 according to this.
 6 CHAIRMAN COOPER: Any other questions of
 7 this witness?
 8 MR. CHADWICK: Is there any reason that
 9 that antenna can't go below the wires?
 10 MS. COOKE: Yes. Because First Energy --
 11 First Energy's primary use of this transmission tower
 12 is for the safe and reliable transmission of
 13 electricity. That's our first main concern on every
 14 installation. The reason for going above the top of
 15 the transmission tower is so we stay out of that work
 16 zone and out of the area where they would have people
 17 working on the tower for both safety of the equipment
 18 and also their employees.
 19 MR. QUINN: That's why First Energy
 20 dictates that carriers have to go above the lines?
 21 MS. COOKE: Correct.
 22 MR. WARNER: Do they dictate that they
 23 have to go above or are you saying that, if they go
 24 below the work zone, they would not have sufficient
 25 line of sight to get the propagations they need, the

45

1 coverage they need?
 2 MS. COOKE: If AT&T were to install below
 3 the transmission lines?
 4 MR. WARNER: Below the work zone.
 5 MS. COOKE: Which would be measured from
 6 the bottom of the lowest conductor. They would have
 7 to be 20 feet below that which would put them at
 8 probably 20 feet, so no, that would probably not work
 9 from an RF perspective.
 10 CHAIRMAN COOPER: Let's move along. Any
 11 other questions?
 12 (No response)
 13 CHAIRMAN COOPER: Any members of the
 14 public have questions for this witness based on the
 15 testimony that was given?
 16 (No response)
 17 CHAIRMAN COOPER: Seeing none, we will
 18 close that portion.
 19 MR. QUINN: Okay. I'll call Mr. Daniel
 20 Penesso. He's our radio frequency engineer.
 21 MR. PENESSO: Good evening. First name,
 22 Daniel; last name, Penesso, P-E-N-E-S-S-O. My address
 23 is 299 Madison Avenue, Morristown, New Jersey.
 24 MR. QUINN: Mr. Penesso, you are here
 25 acting as an agent for the applicant; is that correct?

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1 MR. PENESEO: Correct.

2 MR. QUINN: Can you give the Board the

3 benefit of your education and professional background,

4 please?

5 MR. PENESEO: Yes. I have a Bachelor's

6 of Science in electrical engineering. I have been

7 employed as an RF engineer for over 20 years. I have

8 been responsible for designing implementation such as

9 the site before you tonight and have been accepted as

10 an expert witness throughout hundreds of Boards with

11 regards to design implementation of wireless networks

12 and I'm not sure if I was before Warren but everywhere

13 around Warren.

14 CHAIRMAN COOPER: Okay. Thank you.

15 MR. WARNER: You are seeking to be

16 accepted as an expert in radio frequency engineering?

17 MR. PENESEO: Yes. Responsible for the

18 design of this site tonight.

19 CHAIRMAN COOPER: We will accept him.

20 DIRECT EXAMINATION OF DANIEL PENESEO BY MR. QUINN:

21 Q. Is the applicant a licensed FCC

22 telecommunications carrier?

23 A. Yes.

24 Q. Does that license require them to have

25 adequate service in the area in Warren including the

47

1 area surrounding the site?

2 A. Yes.

3 Q. Is there adequate service around this

4 location?

5 A. We have deficient coverage in the area.

6 I can illustrate that by the exhibits.

7 Q. Sure. The question was asked why we need

8 a site here and why we need the height and so on.

9 A. Sure. Currently, AT&T -- I'm referring

10 to Map 1 labeled "AT&T Neighboring Coverage."

11 Q. Before you get started --

12 MR. WARNER: We have these? These are

13 the same ones that were submitted, just a larger

14 version, to the Board?

15 MR. PENESEO: Yes.

16 MR. WARNER: They were submitted May

17 20th?

18 MR. PENESEO: That's correct.

19 MR. WARNER: They have not been changed

20 in any way; it's the same coverage?

21 MR. PENESEO: Yes; that is correct.

22 Q. You don't need to mark that. I'll ask

23 you to describe for the Board what that is, how you

24 generate it, what the different lines are and the

25 different colors and go from there.

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1 A. Sure.

2 Approximately, in the center of the map,

3 is the proposed location before the Board tonight. It

4 is labeled W1320. The green dots on the map represent

5 AT&T existing on-air sites within AT&T's network and

6 the coverage that is being provided is depicted by the

7 green and blue color on the map. The green represents

8 reliable in-vehicle and the blue-purple-ish color is

9 reliable in-building coverage. The area of white is

10 unreliable AT&T coverage, approximately, in the center

11 of the map.

12 This exhibit was done using an industry

13 standard prediction modeling tool that takes into

14 account the morphology and the different heights of

15 the cell sites that are currently existing and

16 integrated into AT&T's network and tuned with drive

17 test data so we get a representation of what the

18 coverage is to illustrate for you all AT&T's coverage

19 footprints for those sites, what we are trying to

20 fulfill with the site before the Board tonight.

21 I can go through and list the sites.

22 MR. BOWEN: How big is that area in

23 white?

24 MR. PENESEO: The area in white is

25 approximately -- to the north, maybe a little over a

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1 mile. The scale is on the upper left. We have --

2 MR. BOWEN: What is it in square miles,

3 yards, whatever you want to do?

4 MR. PENESEO: Approximately, maybe, I

5 would say, in spherical square miles for the whole

6 area, a little over 2.

7 MR. CASTANHEIRA: Is the coverage or lack

8 of coverage that you are referring to specific to

9 data, to cellular coverage, to text, SMS?

10 MR. PENESEO: Currently, AT&T is

11 upgrading its network to include all LTE as well as

12 FirstNet, which is a -- they were awarded the 700

13 megahertz band to allow first responders, if there was

14 ever an emergency, that band will be allocated just to

15 first responders and emergency workers. All of the

16 area, the sites that are on air are going to have that

17 as well as the proposed site that is before the Board

18 tonight. We are trying to fulfill this area, which I

19 will show in the next exhibit, so that this area has

20 seamless, reliable coverage --

21 MR. CASTANHEIRA: Can you be specific to

22 my question? Is this for cellular, data?

23 MR. PENESEO: It's for everything,

24 cellular, voice, data.

25 MR. CASTANHEIRA: The FCC requirement

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1 only mandates for cellular, right? They don't care
 2 about data.

3 MR. PENESEO: No. Everything.
 4 Everything -- anything that is wireless that's within
 5 AT&T's network.

6 MR. CASTANHEIRA: The FCC requirement, I
 7 think, refers to cellular and SMS, not data.

8 MR. PENESEO: Well, I can defer that to
 9 the attorney.

10 MR. QUINN: It refers to wireless
 11 communications services. It doesn't say "cellular
 12 only." The different bands are based upon what the
 13 frequency range is, correct?

14 MR. CASTANHEIRA: We can debate that. I
 15 think you guys should check that out. I think it
 16 refers to cellular, not data, correct? They don't
 17 care, like, if my kids are playing whatever game,
 18 Fortnite. They care about cellular, like telephone
 19 calls, texting.

20 My other question is: Did you look at
 21 other alternatives when you looked at this design?

22 MR. PENESEO: Yes. As was stated, there
 23 are no existing tall structures in the area.

24 MR. CASTANHEIRA: No. I mean other
 25 technologies, microcells.

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1 MR. QUINN: We are going to get to that.
 2 He just started.

3 Q. Again, can you talk a little bit about
 4 FirstNet and what that is? Because I think that is
 5 something that is new that hasn't been part of these
 6 types of applications before for AT&T. It's something
 7 that's new for just AT&T in this particular area?

8 A. That's correct. The FCC awarded AT&T
 9 that band of frequencies in the 700 megahertz band, as
 10 I stated, for municipal emergency services. If
 11 there's ever an issue where -- or a catastrophic
 12 incident where the first responders in the area need
 13 to utilize the network, that spectrum would be
 14 allocated specifically for that. It would not be used
 15 for the public use. It would just be used for the
 16 emergency responders, whether they are in Warren or
 17 coming from another county to serve Warren or to help
 18 any situation as well as serve in hospitals. We want
 19 to have coverage in hospitals because, whenever
 20 there's an emergency situation, you have, you know,
 21 citizens that have to go to the emergency or to the
 22 hospital and we want to make sure we have reliable
 23 services there as well.

24 Q. It's not just for AT&T subscribers but
 25 also for this FirstNet service, which is particular to

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1 AT&T's system but it's a component of AT&T's system,
 2 correct?

3 A. Yes.

4 Q. And that provides added service,
 5 dedicated coverage and service to first responders,
 6 hospitals, police, ambulances, fire departments?

7 A. Yes.

8 MR. BOWEN: Keeping in mind I'm not an
 9 engineer, do you ever share equipment?

10 MR. PENESEO: "Equipment," meaning...
 11 MR. BOWEN: Verizon and AT&T decide to
 12 share.

13 MR. PENESEO: No. Every network is
 14 independent and we don't --

15 MR. BOWEN: Can you share equipment if
 16 somebody decided it was a good idea?

17 MR. PENESEO: Each carrier is allocated a
 18 certain amount of spectrum and they are competing for
 19 each other's subscribers. That's why you have various
 20 carriers, Sprint, Verizon, T-Mobile, all competing for
 21 various subscribers based on their design and their
 22 network.

23 Q. Additionally, you mentioned before, when
 24 you say "spectrum," you are talking about every
 25 carrier operates within certain frequency ranges,

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1 correct?

2 A. Correct. That they have been awarded by
 3 the FCC.

4 Q. And they are distinct from one another?

5 A. That is correct.

6 Q. So AT&T doesn't operate within the same
 7 frequency band as Verizon?

8 A. They can operate within certain bands but
 9 it's separated by blocks of bands, 700 megahertz or
 10 850 megahertz. They can have various blocks that were
 11 allocated to them but it's only a certain amount of
 12 spectrum, small blocks.

13 Q. Okay. I'll let you keep going.

14 A. So I can list the neighboring sites if
 15 the Board desires to hear the existing on-air sites.

16 Q. Sure. Talk about the sites we have to
 17 hand off to, please.

18 A. So going to the north, we have a site
 19 which is identified as -- I'll give the four digits of
 20 the site -- 0F07. That's located on Route 78 and
 21 Hillcrest Road in Warren.

22 Just north of that, 18 Drift Road in
 23 Watchung. We have a monopole which we are located on.
 24 That's identified with the last four digits of 1081.
 25 Just north of that on Valley Road in

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1 Gillette, we are on a lattice tower. 3P09 is the site
2 ID.
3 South of that, on Warren Avenue, we have
4 a site in Sterling which is a monopole. That is 0412.
5 Just south of that, we have a site
6 located at 198 Mountain Avenue in Warren. That's a
7 lattice tower identified by Site 3090.
8 Then, due south, we have a site located
9 at 799 Mountain Boulevard which is in Watchung.
10 That's identified with the Site ID 1087.
11 Just west of that, we have a site at 7
12 Geiger Road which is a self-support tower. That is
13 identified by 0211.
14 Those are the immediate handoff sites to
15 the proposed site that is before the Board tonight.
16 MR. BOWEN: Is 78 running right through
17 that?
18 MR. PENESEO: Here, yes.
19 MR. BOWEN: If I'm on 78 on my AT&T
20 phone, does it die right there?
21 MR. PENESEO: You'll have spotty coverage
22 on 78 because of the cell sites that I mentioned, the
23 one located on Route 78 in Hillcrest and the tower to
24 the west at 198 Mountain Avenue, and as you can see in
25 the exhibit, it's an exhibit showing coverage and

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1 spotty coverage just north of the site so what we are
2 trying to fulfill with this site is that level of
3 coverage. We have unreliable coverage in this area of
4 white which we need to fill to bring it up to, at
5 least, as Mr. Castanheira was saying, the level of
6 coverage to have reliable mobile coverage, the
7 minimum. That's -- as you were stating, what the FCC
8 is stating. There is no case law, that I know of,
9 stating that we have to have reliable in-building
10 coverage but we do have to provide reliable in-vehicle
11 coverage and that's what this site is proposed to do.
12 MR. BOWEN: So you must have tested that,
13 right, and you know, if you drive through there,
14 whether it cuts out or not on a regular basis?
15 MR. PENESEO: That's correct.
16 MR. BOWEN: Does it cut out?
17 MR. PENESEO: That's correct. On 78, we
18 have areas that you can keep your call up on 78, but
19 in the area of white, we cannot so that's why we are
20 proposing this site tonight. It's not just for 78.
21 This is to cover this whole geographic area.
22 MR. WARNER: If I may, Mr. Chairman.
23 Are you aware of any complaints to the
24 FCC or to your -- any of the carriers that are
25 applicants here with respect to lost or spotty service

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1 in the alleged gap here? I don't mean -- when I say
2 "alleged," it's alleged until the Board determines.
3 The alleged service gap area?
4 MR. PENESEO: I am not, no.
5 MR. WARNER: Okay. Thank you.
6 Q. How is this site measured? Is that tool
7 calibrated and reliable in terms of your prediction of
8 coverage?
9 A. Yes. As I stated, it's tuned with actual
10 drive test data so you get an accurate representation
11 of what these existing on-air sites provide.
12 Q. When you measure, what does green mean in
13 terms of a signal strength? You said what it
14 basically boils down to is you have what's in-vehicle
15 coverage. That is measured by a certain strength of
16 signal, correct?
17 A. That's correct, yes.
18 Q. Can you elaborate on that a little bit
19 more? That's how you actually figure out what's green
20 and what's not and what does that effectively mean to
21 the end user?
22 A. For reliable in-vehicle coverage for the
23 LTE network, it's -105 dB. It is just a unit of
24 measurement and that is what the green depicts and -95
25 dBm for the reliable in-building LTE coverage. That

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1 is what's being shown on the maps.
2 Q. In terms of what those numbers mean, is
3 that, based upon AT&T's network, that's the level of
4 signal that would need to be received and sent between
5 the device and the facility?
6 A. That's correct. Whatever -- whichever
7 the serving cell is, it's a two-way communication
8 system and it has to be balanced that the user would
9 be able to transmit to the serving cell as well as the
10 serving cell back to the user.
11 MR. BOWEN: You seem to be able to get
12 coverage on 78 where you have those little patches,
13 right? Why doesn't that then, whatever you got there,
14 stretch north and south? You must have a repeater or
15 something over there.
16 MR. PENESEO: Because of the topography
17 and the existing clutter, trees, everything, the
18 topography that changes, these cell sites cannot serve
19 this area in white.
20 MR. CASTANHEIRA: Do you know the
21 population of that area in white? How many houses?
22 MR. PENESEO: No, I do not know.
23 Q. If this site were approved, what would
24 this generate?
25 A. If this site were approved and integrated

1 into AT&T's network -- I'll flip to Map Number 2.
 2 This is labeled "AT&T Proposed Composite Coverage."
 3 This is the same exhibit, basically, just showing, if
 4 this site were integrated into the network, what
 5 coverage would be provided by the site and how it
 6 would connect to the existing on-air sites. As you
 7 can see, the area in white is predominantly fulfilled
 8 with this proposed site and that we do meet the
 9 handoff and the seamless, reliable coverage between
 10 the neighboring cells.

11 Q. Again, the proposed height is what is
 12 needed to achieve this level of service?

13 A. That is correct, yes.

14 Q. Again, the height being proposed is not
 15 necessarily as much dictated by AT&T trying to go as
 16 high as it possibly can but instead rather -- to meet
 17 your needs but rather opposed to being dictated where
 18 it has to go by the utility company on the replacement
 19 pole?

20 A. Correct.

21 MR. WARNER: And the need for separation
 22 from the other collocator.

23 MR. PENESSO: Correct. And as was stated
 24 previously, to be away from the static line dictated
 25 by the First Energy.

1 Q. The question before was, if AT&T was
 2 below the whole work zone of all the -- 20 feet below
 3 all the power lines here --

4 A. Below the lowest conductor, we would not
 5 meet our coverage objective.

6 Q. About 40 feet, if you dropped it to about
 7 a quarter --

8 A. We wouldn't get the propagation of the
 9 cell site that we need to fulfill the gap.

10 MR. BOWEN: Is this strictly additive or
 11 do you get to delete a tower somewhere?

12 MR. PENESSO: No. There are no
 13 neighboring cells -- no. We are not removing any of
 14 the neighboring cells. This cell is to fulfill the
 15 gap in coverage that I spoke about.

16 MR. WARNER: Mr. Chairman, if I may.

17 Is there any way which you could shift or
 18 maneuver the direction of any one or more of the
 19 antennas on any one or more of neighboring towers in
 20 order to, at least, for in-vehicle coverage, to full
 21 that alleged coverage gap?

22 MR. PENESSO: No, there is no other way.

23 MR. WARNER: What would happen?

24 MR. PENESSO: The cell sites that I
 25 depicted in my first exhibit are based on the height

1 that was afforded to us when we installed the
 2 antennas. The footprint of coverage is being depicted
 3 on the map as it is. There's no way to increase the
 4 heights or change them to bring up the level of
 5 coverage to fulfill the gap in coverage within Warren.

6 MR. WARNER: Maybe I wasn't clear in my
 7 question. You can redirect the antennas, correct?

8 MR. PENESSO: Changing the azimuth on any
 9 of the existing sites would not change the need for a
 10 cell site here. The sites are optimally designed to
 11 provide coverage to the areas that they are designated
 12 for.

13 Q. In other words, if you turn some of the
 14 antennas that are to the north of the site, if you
 15 turned them more to the south or, say, the site
 16 immediately to the north, if you turned the
 17 antennas -- right now, it looks like they are directed
 18 to the south, but if they were directed to the
 19 southeast, it wouldn't make a difference; there would
 20 be still be a need?

21 A. There would still be a need, yes.

22 MR. WARNER: I take it, you might be
 23 compromising the levels of service in the other areas
 24 if you did that too, correct?

25 MR. PENESSO: Yes. Like for the site to

1 the north in Gillette, if we reoriented it slightly,
 2 make it at 180 degrees, you would open up a gap in
 3 coverage in another area. You would not fulfill the
 4 need here and you would open up another hole somewhere
 5 else.

6 MR. WARNER: Last one for now, I promise.
 7 It's -105 dBm for in-vehicle and -95 dBm
 8 for in-building. Did it not, in the olden days -- by
 9 "olden days," I mean about ten to fifteen years ago --
 10 wasn't the industry standard -85 dBm?

11 MR. PENESSO: Right. Now, that we are
 12 using LTE, 700 megahertz, I'm showing the 700
 13 megahertz so AT&T is allocated from 700 up to 2300
 14 megahertz.

15 MR. WARNER: So is that the higher
 16 megahertz?

17 MR. PENESSO: The 1900 megahertz, where
 18 -- I'm showing -- the 700 megahertz has a longer
 19 wavelength, physical characteristic. Even at that
 20 level -- and that can propagate further because it's
 21 got a longer wavelength. The higher the frequency,
 22 the shorter the wavelength, the less propagation that
 23 you would get out of the radio wave. So even at 700
 24 megahertz, which is the longer wavelength which can
 25 propagate further, we still have a need. If I were to

1 show you the higher frequencies, the gap in coverage
2 would be slightly larger than what you see.
3 We are designing utilizing 700 megahertz
4 because this is the new spectrum that was allocated to
5 AT&T that the existing on-air cell sites need to be
6 upgraded to as well as anything new needs to be
7 upgraded to because of the FirstNet that was awarded
8 to us by the FCC in addition to having the existing
9 spectrum that we already have within AT&T's network,
10 the 1900, 2300, 2100 megahertz.

11 Q. So this is the most forgiving service or
12 signal?

13 A. Correct.

14 Q. If you were to show the other signals
15 from the other frequencies that AT&T operates at, they
16 would be even smaller?

17 A. As I stated, yes. If I was to show 1900
18 megahertz, I would have a slightly larger gap in
19 coverage.

20 Q. And we need to provide service for all
21 those --

22 A. Yes. And because we are licensed in all
23 those bands, we have to have coverage within all of
24 those bands so that -- because it's only a small block
25 in each so we are going to be using that spectrum

1 throughout the network, all the different frequency
2 bands.

3 Q. The devices use different frequency
4 bands, not just one, so we have to provide service and
5 frequencies within all the frequency bands?

6 A. That's correct, yes.

7 MR. WARNER: I take it this would provide
8 sufficient coverage even at the higher megahertz
9 bandwidth?

10 MR. PENESSO: Yes. All of -- if I were
11 to show the other bands, we are going to show -- even
12 though it's at a different dBm level, it's still going
13 to match pretty closely because we have to operate in
14 all the bands. We can't have one propagating a lot
15 further because then we would not be able to utilize
16 the 1900 megahertz as well.

17 MR. CASTANHEIRA: Is the bigger spectrum
18 driven by data needs?

19 MR. PENESSO: As I stated, we have to
20 provide reliable mobile service. As far as data
21 needs, the network is being utilized by voice, data,
22 SMS, everything. As far as AT&T providing the
23 reliable coverage, I can state, for the record, for
24 the mobile use but we do see the trend of much more
25 data usage. All the carriers see the trend as far as

1 more data usage so that is the case.

2 Q. In terms of your question before about
3 what the standard is, is that just cell or is it, you
4 know, what different type of technology, what the New
5 Jersey courts have come down and said is that how you
6 evaluate these, and our planner says, you have to look
7 at the benefits as a whole, not just one limited use
8 of a phone or device, but rather, what does the
9 benefit of the entire site do? When you are looking
10 at the positive criteria here and particular
11 suitability and all that stuff which you will hear
12 from our planner, it's, really, you look at all the
13 positives so it's the fact that you are going to
14 have -- you know, people will be able to not just look
15 at their phone and make a phone call when it's
16 operating at one particular frequency band, but
17 rather, the fact that someone is going to be able to
18 FaceTime with their children as well, as I did before
19 I came here tonight.

20 As we mentioned before, the FirstNet
21 responders, they are going to be able to have high-
22 speed allocation of a service designated just for them
23 and they wouldn't get bounced by your kid playing on
24 Fortnite. They can oversee that and they will have
25 their own dedicated bandwidth for their needs as well.

1 MR. CASTANHEIRA: So you were able to
2 FaceTime with no issues?

3 MR. QUINN: In Morristown.

4 CHAIRMAN COOPER: Okay. Why don't we
5 keep moving along here.

6 Q. The question of alternative technology
7 came up before. You did show the other coverage, what
8 it would have in this area?

9 A. Yes.

10 Q. Approximately, what's the footprint of
11 coverage being provided by this site?

12 A. As I stated, the whole area, the
13 footprint of coverage that's being provided by the
14 site, is approximately 2 spherical miles.

15 Q. In terms of the question raised before
16 about alternative technology, is there any system that
17 could realistically provide the service this would
18 provide?

19 A. No. There is not, no. As far as a
20 distributed antenna system which would normally be
21 installed in tunnels or in schools, campus grounds
22 where they have poles where they can be mounted on
23 because each of these nodes would provide a small
24 footprint of coverage. In order for you to have a
25 distributed antenna system to cover this large

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1 geographic area, it's not feasible because you have to
 2 have the poles in order install the antennas and the
 3 radio equipment.
 4 MR. CASTANHEIRA: Isn't there existing
 5 poles there already on the streets?
 6 MR. PENESEO: Yes. But you have to have
 7 the right of way access to put them on the poles
 8 whether they -- usually, in areas like a campus, they
 9 have access to those.
 10 MR. CASTANHEIRA: Yeah. Other towns have
 11 done this before. Did you even try it or are you just
 12 assuming that it can't be done?
 13 MR. PENESEO: No. We know that, for this
 14 large geographic area, it's not a small area like
 15 Staten Island that's small, this is too large of an
 16 area for you to cover with a DAS.
 17 MR. CASTANHEIRA: 2 miles, you said?
 18 MR. PENESEO: Spherical, yes. It's very
 19 large.
 20 Q. In terms of that, not only is it just the
 21 antennas on the pole but it's also the equipment on
 22 the ground that's adjacent to these poles too?
 23 A. Correct, yes.
 24 Q. All over the place.
 25 A. Correct.

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1 Q. And they don't give much of a footprint
 2 of coverage so it would be throughout the area having
 3 to extend above trees, correct?
 4 A. With this factor, we do have the existing
 5 tree lines and all the topography changes. That falls
 6 into it as well, yes.
 7 Q. So the example that was raised about a
 8 repeater station or site that might be located right
 9 on the highway if you needed to have one little spot
 10 on the highway covered, that might be where you might
 11 find one of these types of sites but not in areas
 12 covering this geographic area?
 13 A. That's correct.
 14 Q. Not only that, but if -- the other
 15 problem with this is those sites don't offer any form
 16 of emergency service. If there's an outage, this site
 17 goes down. There's no backup battery; there's no
 18 generator associated like we are proposing here?
 19 A. Correct.
 20 MR. WARNER: If this application is
 21 approved, would it be your opinion that distributed
 22 antenna systems and other similar microcells would not
 23 be needed in the right of way in this area?
 24 MR. PENESEO: If this cell site were
 25 approved, it would not be needed, no.

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1 MR. WARNER: Would that cover anticipated
 2 5G as well?
 3 MR. PENESEO: There are no future sites
 4 prosed in this immediate vicinity. I can't say that
 5 AT&T would never be back before the Board again. As
 6 you can see, the only area that may be needing
 7 coverage is south and west of the proposed area.
 8 MR. WARNER: So you wouldn't need any
 9 microcells, in your opinion, for either 4G or 5G in
 10 the area of the subject gap, correct?
 11 MR. PENESEO: That is correct, yes.
 12 MR. WARNER: Thank you.
 13 MR. CASTANHEIRA: Are DAS systems
 14 traditionally more expensive than cell tower systems?
 15 MR. PENESEO: That, I can't answer. I
 16 don't know, cost-wise.
 17 Q. Your job is just to design the system?
 18 A. Correct.
 19 MR. CASTANHEIRA: Do you know?
 20 MR. QUINN: I don't design the systems.
 21 I don't pay for the systems.
 22 MR. BOWEN: Has this area always been a
 23 problem for AT&T? It's always been a bad spot?
 24 MR. PENESEO: Well, I can say, we were
 25 trying to get a site built for quite a while. As you

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1 can see, T-Mobile and Sprint are just north of us and
 2 Verizon is here as well. There are no other monopoles
 3 or tall structures to collocate onto to provide the
 4 reliable coverage that the carriers need, so yes, this
 5 area is an area that needs coverage.
 6 Q. We talked about the two towers,
 7 transmission towers, that are located, this particular
 8 site, the one to the north of it. If you go further
 9 south of it, the topography drops.
 10 A. Yes. Approximately, 20 feet lower.
 11 Q. So that would make it an issue in terms
 12 of your service area and you would go farther away.
 13 What would happen in terms of your coverage?
 14 A. Well, the cell site would be further
 15 south. We would have to even increase the height of
 16 the proposed structure to provide a similar footprint
 17 of coverage that this structure provides so the
 18 structure would be much taller.
 19 Q. And it would still have a problem going
 20 further to the north?
 21 A. Correct, yes. As you can see, with this
 22 site, this is Indiana Rock Road in this area. If we
 23 were to go further south, this area of unreliable
 24 coverage would get greater, would be larger.
 25 MR. QUINN: Okay. I hope I answered your

1 questions. I know there was some open issues in terms
2 of population or other data. If you like, we can
3 certainly provide that for you. I don't know. I know
4 there was a question that was raised. I don't know if
5 the Board would like us to come back with that?

6 MR. CASTANHEIRA: Yeah. Because I think
7 the testimony was that you are impacting that white
8 area there. It would be good to know who you are
9 impacting to create another tower that's going to be
10 34 feet taller than the existing one.

11 MR. HUBER: How do you make that
12 assessment in terms of mobile activity? You can tell
13 what the population is.

14 MR. CASTANHEIRA: There's not a lot of
15 visiting, right, based upon population?

16 MR. QUINN: I mean -- I disagree. I
17 think, quite frankly, in this area, I think you have
18 people that come in and out and drive through Warren
19 to go back and forth to work. They come to -- the
20 Warren Fall Baseball League has people coming in and
21 out of it. They just wrapped up last week. There's
22 stuff that goes on in Warren. There's businesses
23 here.

24 MR. CASTANHEIRA: I take that road every
25 day. I have AT&T. I never lose phone coverage.

1 Q. Can you talk about that?

2 A. As I stated, we have an area -- in the
3 first map that I showed, we have areas on 78. Route
4 78 has coverage, but throughout the whole area, we
5 have unreliable coverage. It's not reliable and we
6 need to bring the level of coverage up to have
7 reliable, seamless coverage. That's the need for the
8 site.

9 MR. BOWEN: If you put it on an existing
10 tower to the south of 78 that doesn't have anybody on
11 it right now, you are going to lose your ability to
12 get some to the north, right?

13 MR. PENESEO: And we still have to
14 rebuild that tower, as was stated by First Energy.
15 You get above the static line --

16 MR. BOWEN: That was already done. There
17 are three of them over there. You already got Verizon
18 up there and whoever, right? That already exists.

19 MR. QUINN: No matter what we do, we have
20 to replace the tower.

21 MR. PENESEO: We have to go by the
22 standards of the new guidelines. The existing tower
23 that we are proposing, Verizon is currently on that
24 tower based on old guidelines. No matter where we
25 would go now, at this time, we have to comply with the

1 new standards, so whether -- even if we were to go to
2 the tower to the north which has T-Mobile and Sprint,
3 that tower would have to be upgraded and everybody
4 would have to be bumped above and go taller.

5 MR. BOWEN: If you were by yourself on
6 top of one of the towers, how high would the tower be?

7 MR. PENESEO: If we were by ourself to
8 the south, the tower is going to have to be 20 feet
9 taller than where we are now to provide the similar
10 footprint of coverage that I'm showing you because of
11 the drop in elevation.

12 Q. But on top of that, you would have the
13 new height of the new pole, which would be determined
14 by, as you heard mentioned before, where it would be
15 located, that it moved 10, 20, 30 feet away from the
16 other one, how high the lines would have to be under
17 the current First Energy standards, and then, on top
18 of that, you heard that there would have to be a
19 10-foot increase in height there as well so you would
20 have that same structure going elsewhere.

21 MR. BOWEN: I got it at about 135, if I'm
22 doing the math right, versus 152.

23 MR. PENESEO: Based on the elevation
24 drop, 152 where we are at the current elevation. If I
25 go there, I need to be 172 to make the similar

1 footprint of coverage.

2 MR. BOWEN: You are 135 covering the
3 southern end. You wouldn't get past northern 78.
4 Let's just pretend. Is there another tower up on 78
5 that exists where you could do it at 135 and have two
6 towers?

7 MR. PENESEO: No, there's not.

8 MR. BOWEN: Nothing up on that side?

9 MR. PENESEO: Nope.

10 MR. WARNER: Who is paying for the new
11 tower?

12 MR. PENESEO: I'm not aware.

13 MR. WARNER: Is it First Energy? AT&T?
14 Verizon? A combination of the three?

15 MR. QUINN: I can ask.

16 MR. WARNER: There's a reason I ask but
17 I'll save it.

18 CHAIRMAN COOPER: It's a secret.

19 MR. CASTANHEIRA: Whoever is collecting
20 the rent.

21 CHAIRMAN COOPER: Exactly.

22 Do you have more for this witness?

23 MR. QUINN: I have no other questions
24 unless the Board professionals have anything.

25 MR. CHADWICK: You said that you had no

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1 knowledge of complaints of service from this area.
 2 This is an assignment to you.
 3 MR. PENESEO: That is correct, yes. We
 4 have actual data that shows that the area is
 5 deficient. We know that the area is deficient. Based
 6 on -- I'm illustrating it with the exhibits.
 7 MR. CHADWICK: I'm trying to get the
 8 genesis of this thing. Nobody went out and spent all
 9 kinds of money on this unless they had a reason to.
 10 The reason, I would think, would be customer
 11 complaints somewhat.
 12 MR. PENESEO: You can't just go by -- I
 13 have been through this for so many years now. We do
 14 not always get customer complaints for an area of
 15 deficiency because people do not call. They know
 16 there is no coverage. They won't make the effort to
 17 put in a complaint. We know the area is deficient and
 18 we need to provide a certain level of coverage in the
 19 area so that it's reliable and hands off between the
 20 neighboring cells. We need to provide the minimum, as
 21 I stated, reliable in-vehicle coverage. Because we
 22 don't have that in the area, that's why we need this
 23 site and that is why, even getting into how many
 24 people live here, we need to provide the level of
 25 coverage based on if there was one person living here.

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1 It doesn't matter if it's 1 or 100 because we need to
 2 provide that level of coverage based on our license,
 3 FCC licenses, that we are awarded by the FCC. There's
 4 no -- so saying -- you know, having customer
 5 complaints or those things, that doesn't dictate
 6 having a cell site built. We know that we need the
 7 level of coverage to provide the reliable in-vehicle
 8 and that's why we are here before the Board, for that
 9 reason.
 10 MR. HUBER: I think that's an interesting
 11 point that Mr. Chadwick brought up. I was thinking
 12 the same thing. Regardless where this goes and who is
 13 paying for it and who is going to profit by it, it
 14 seems counterintuitive to me that they would go
 15 through this whole mechanism of taking a tower down
 16 and putting one up unless they had the data that
 17 convinced them they needed it there. Why would they
 18 want to do that if it wasn't beneficial for their
 19 operation, which, at some point, services the people
 20 that are their customers? I put that out there. That
 21 just seems like common sense. Where we go from there
 22 is where we go. I certainly see that, based on your
 23 data and your research, you determined this is an area
 24 that needs service. I don't have any reason to doubt
 25 that.

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1 MR. PENESEO: Right. That is correct.
 2 That is why I brought these exhibits to illustrate
 3 that and that they are tuned with actual drive test
 4 data and the sites that are currently in AT&T's
 5 network and all the testimony that I provided the
 6 Board. That is the reason why we are here tonight.
 7 CHAIRMAN COOPER: Any other questions?
 8 MR. CHADWICK: Everybody understands,
 9 that white area, you have Watchung High School, you
 10 have the middle school, you got Woodland School, you
 11 got Woodland Acres and all the residential development
 12 right below 78.
 13 MR. CASTANHEIRA: Yet, no complaints.
 14 MR. CHADWICK: That's why I asked the
 15 question.
 16 CHAIRMAN COOPER: I think you have some
 17 homework to do on, you know, other than your gap
 18 there.
 19 MR. QUINN: Sure, sure. Again, as was
 20 testified to, was that the data is what shows the
 21 need, not necessarily having -- one person might make
 22 500 complaints as opposed to another person --
 23 MR. CHADWICK: I understand the system.
 24 Run it through the machine and it comes out with this
 25 map and go, "Wow, a big hole in our system."

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1 MR. QUINN: As Mr. Chadwick mentioned,
 2 having cell service in schools is critical. Whereas,
 3 years ago, people would say "I would rather my kids
 4 not be able to text in school," now, heaven forbid, if
 5 there was an emergency, everybody wants to be able to
 6 reach their child and it's critical now that we serve
 7 schools.
 8 If there's no other questions, I can --
 9 CHAIRMAN COOPER: No, you can't. We are
 10 going to stop here because you got a hard stop at
 11 9:00.
 12 MR. QUINN: Sure.
 13 CHAIRMAN COOPER: We are not going to get
 14 through this case this evening. I think it makes
 15 sense, a good cut point for us to go and move on to
 16 our next case, the folks that have been waiting, and
 17 then, you need to come back.
 18 For now, any member of the public have
 19 questions of this witness based upon the testimony
 20 that was just given?
 21 (No response)
 22 CHAIRMAN COOPER: Seeing none, we will
 23 close that portion of the meeting.
 24 Mr. Quinn, I think we need an extension.
 25 MR. WARNER: I don't know -- you will

1 give us an extension of time to act through the end of
 2 next every month if you need it and you will put it in
 3 writing if we need it?

4 MR. QUINN: If you request it, we will
 5 provide it.

6 MR. WARNER: We will be carrying to the
 7 next meeting, same time and place.

8 MR. QUINN: December 3rd is the next
 9 meeting?

10 MR. VILLANI: Mr. Quinn, since you are
 11 going to come back, maybe you can try to find out some
 12 information. Since there's so many schools in that
 13 area that you say have no coverage, maybe we can get a
 14 little information on the schools on whether or not
 15 they have a problem. I don't know if you can do that.
 16 I think it would be very helpful.

17 MR. QUINN: December 3rd is Hanukkah. I
 18 want to make sure that the Board will have a quorum
 19 that night?

20 CHAIRMAN COOPER: I believe so, if not...

21 MR. QUINN: We would be informed?

22 CHAIRMAN COOPER: Then, we should be good
 23 to go. Thank you. Sorry for the shutoff. It just
 24 seemed like a logical place to cut.

25 (The hearing concluded at 8:42 p.m.)

1 C E R T I F I C A T E

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administer oaths pursuant to R.S. 41:2-1, do hereby

9

state that the foregoing is a true and accurate

10

verbatim transcript of my stenographic notes of the

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within proceedings, to the best of my ability.

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