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REPORT ON THE PROPOSED
COMPREHENSIVE PUBLIC SAFETY TOWER PLAN
FOR PINELANDS

April 27, 2012

Office of Information Technology, State of New Jersey
P.O. Box 212
Trenton, NJ 08625-0212

I. INTRODUCTION

a. Background

Since 1981, when the Pinelands Comprehensive Management Plan (CMP) went into effect, a 35-foot height limit has prevented the construction of tall structures throughout much of the Pinelands Area. The CMP's height restrictions are intended to prevent the proliferation of structures that significantly detract from the scenic qualities of the Pinelands Area, which federal and state legislation have directed the Pinelands Commission to protect. Of course, there have always been exceptions to the CMP's 35-foot height limit. Within Regional Growth Areas, Pinelands Towns, and portions of Military and Federal Installation Areas, there are no height restrictions at all; and, within the remainder of the Pinelands Area, certain structures are permitted to exceed 35 feet in height.

In 1995, the Pinelands Commission amended the CMP's height restrictions in recognition of what had, at that time, already become a legitimate need: the provision of wireless communications services throughout the United States and within the Pinelands Area. Accordingly, local communications facilities, which provide wireless communication services, were permitted to exceed the 35-foot height limit where a comprehensive plan for the installation of such facilities throughout the entire Pinelands Area has been approved by the Pinelands Commission. The CMP's amended restrictions recognize that well designed and integrated wireless communications networks can greatly reduce the unnecessary proliferation of wireless communications structures throughout the Pinelands Area, and, most importantly, in its most conservation-oriented areas.

www.nj.gov/pinelands

General Information: Info@njpines.state.nj.us

Application Specific Information: AppInfo@njpines.state.nj.us

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The Commission approved the Comprehensive Plan for Cellular Telephone Facilities (the Cell Plan) in September 1998. The first amendment to the Cell Plan, entitled the Comprehensive Plan for PCS Communications Facilities in the Pinelands (the PCS Plan), was approved by the Commission in January 2000. In December 2003, the second amendment to the Cell Plan, entitled the Amendment to the Comprehensive Plans for Cellular and Personal Communications Service to include AT&T Wireless PCS of Philadelphia, LLC and its affiliates for Wireless Communications Facilities in the Pinelands (the AT&T Plan), was approved by the Commission.

In 2006, the CMP's height restrictions were again amended, in part, to recognize that altering certain aspects of wireless communications structures themselves can reduce their visual impact upon the scenic resources of the Pinelands Area. The third amendment to the Cell Plan, entitled the Amendment to the Comprehensive Plan for PCS Communications Facilities in the Pinelands on Behalf of T-Mobile Northeast, LLC (Doing Business as T-Mobile) (the T-Mobile Plan), was approved by the Commission under these amended rules in November 2011. The proposed Comprehensive Public Safety Tower Plan for Pinelands submitted by the Office of Information Technology (OIT) is also subject to the Commission's review under the amended height restrictions.

b. Appendices to this Report

The following documents are attached hereto:

Appendix A – Comprehensive Public Safety Tower Plan for Pinelands

Appendix B – Map of Sites Proposed in the Comprehensive Public Safety Tower Plan for Pinelands

Appendix C – Statement from the Office of Information Technology, State of New Jersey Concerning N.J.A.C. 7:50-5.4(c)1

Appendix D – Statement from V-Comm, LLC's Concerning N.J.A.C. 7:50-5.4(c)1

Appendix E – Hierarchical policy for siting individual wireless communications facilities;

Appendix F – Written comments from Pinelands Preservation Alliance concerning the Comprehensive Public Safety Tower Plan for Pinelands (dated February 23, 2012)

Appendix G – Written comments from Forked River Mountain Coalition concerning the Comprehensive Public Safety Tower Plan for Pinelands (dated February 22, 2012)

Appendix H – Chart of Sites Proposed in the Comprehensive Public Safety Tower Plan for Pinelands

c. Submission of this Amendment

In October 2010, various public agencies, including representatives from several Pinelands counties, the Office of Homeland Security & Preparedness (NJOHSP), the New Jersey Department of Environmental Protection (DEP), and OIT, approached the Commission concerning a comprehensive plan for the provision of public safety communications towers in southern New Jersey. Over the course of the following year, these public agencies, especially OIT and NJOHSP, closely collaborated with the Commission to also include all seven Pinelands counties, New Jersey Transit (NJT), and the New Jersey State Police (NJSP) as participants in the process of developing a unified, Pinelands Area-wide comprehensive plan for public safety communications towers. This plan, entitled the Comprehensive Public Safety Tower Plan for Pinelands (the OIT Plan) was first submitted for the Commission's review on August 23, 2011. A slightly revised version of the OIT Plan was submitted on November 3, 2011. The OIT Plan constitutes the 4th amendment to the original Cell Plan¹. OIT's Plan is a cumulative plan that, in addition to incorporating each of the Commission's four prior approvals, proposes the installation or construction of 50 local communications facilities. OIT's Plan was deemed complete for purposes of Commission review on December 16, 2011².

A public hearing to receive testimony concerning the consistency of the OIT Plan with the standards and provisions of the CMP was duly advertised, noticed and held on February 21, 2012.

d. Summary of this Amendment's Facility Siting Proposal

OIT's Plan proposes a total of 49 local communications facilities within the Pinelands Area³. A local communications facility consists of an antenna or antennas and any support structure together with any accessory facilities. For example, a local communications facility could be an antenna installed on a lattice tower (its support structure) together with its ground station (typically, small shed-sized buildings or cabinets); an antenna installed on a monopole (its support structure) together with its ground station; or, an antenna installed on a water tower (its support structure) together with its ground station. Of the 50 facilities included within the OIT Plan, forty-one are to be located at sites previously approved by the Commission. The remaining nine facilities included within OIT's Plan will require the construction of new support structures (towers or otherwise). Two of these nine facilities are proposed in Regional Growth Areas where the CMP's height limits are inapplicable and one of these nine facilities is proposed within the Pinelands National Reserve but not within the Pinelands Area. The Commission lacks regulatory jurisdiction over this facility. The other six new facilities proposed in the OIT Plan are within the CMP's height-restricted management areas.

To demonstrate whether these six facilities can likely be sited consistent with the standards of N.J.A.C. 7:50-5.4(c), OIT and the Commission analyzed a one-mile-radius area surrounding the coordinates for each proposed facility. Based on this analysis, it is likely that all but one of the

¹ For the Commission's purposes, all seven counties, NJOHSP, OIT, NJT, NJSP, and DEP are considered participants in the OIT Plan.

² A completeness determination simply acknowledges that OIT has provided sufficient information upon which to begin the formal review process. It does not *per se* imply that OIT's Plan is consistent with the CMP.

³ Although the OIT Plan includes 50 facilities, one of these 50 is within the Pinelands National Reserve but outside of the Pinelands Area.

six proposed new facilities can, in fact, be sited consistent with the specific siting standards of N.J.A.C. 7:50-5.4(c)⁴. As a result, at the time an application for development is submitted for this facility (i.e., proposed facility 19), the facility will be subject to a heightened standard of review pursuant to N.J.A.C. 7:50-5.4(c)6, which provides for a more intense review for antenna support structures that cannot meet the CMP's specific siting standards⁵.

II. CONFORMANCE WITH THE COMPREHENSIVE MANAGEMENT PLAN

a. Introduction

N.J.A.C. 7:50-5.4 sets forth the standards by which the OIT Plan must be reviewed. If these standards are met, the Commission must approve OIT's proposed amendment. If the standards are not met, the Commission may conditionally approve or disapprove OIT's Plan, depending on the extent and severity of the amendment's deficiencies. The Commission has historically interpreted its regulations to require that, wherever technically feasible, the OIT Plan incorporate, amend, and expand upon the facility array and all other applicable provisions contained in the previously approved comprehensive local communications facility siting plan as well as the amendments thereto. OIT's Plan does just that by incorporating each of the Commission's four prior approvals in its proposal to install or construct its own 50 local communications facilities.

For purposes of this report, N.J.A.C. 7:50-5.4's standards have been separated into ten criteria. A discussion of each criterion and the amendment's conformance therewith follows. To aid in the review of this fourth amendment to the Cell Plan, V-Comm, LLC (V-Comm) was retained by OIT to evaluate whether there is a need, as that term used in N.J.A.C. 7:50-5.4(c)1, for each of the facilities proposed in the OIT Plan. V-Comm's conclusion regarding this matter is appended to this report as Appendix D and is reflected, as appropriate, in the findings which follow.

b. Standards

1. The amendment must be agreed to and submitted jointly by all providers of the same type of service, where feasible. N.J.A.C. 7:50-5.4(c)6.

This requirement is intended to ensure that the greatest possible degree of coordinated planning occurs so as to minimize the number of new structures within the Pinelands Area. While developing the OIT Plan, OIT and V-Comm contacted all major first responder agencies serving the Pinelands Area as well as NJT. Admirably, OIT was able to enlist all seven Pinelands counties; NJOHSP; NJSP; DEP; and, NJT as plan participants, thereby ensuring the highest possible level of coordinated planning. In addition, the February 21, 2012 public hearing to receive testimony concerning the consistency of the OIT Plan with the CMP was duly advertised

⁴ A second facility at a site previously approved by the Commission is proposed at a height which is not consistent with the standards of N.J.A.C 7:50-5.4(c)5. Prior to the construction of this facility, an applicant will have to obtain a Waiver of Strict Compliance on behalf of a plan participant or the Commission will have to enter into an appropriate Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2.

⁵ Proposed facility 19 will also likely need to obtain a release from applicable deed restrictions as well as a Green Acres diversion from DEP.

and noticed by the Commission. Thus, non-first responder providers of wireless communication services were given adequate notice of the OIT Plan. None of these other providers of wireless communications services expressed interest in becoming an OIT Plan participant, nor were any comments or objections received from providers of wireless communication services. To deny the proposed public safety amendment based on a lack of participation by private sector wireless communication providers would be inappropriate.

The Executive Director concludes that this standard has been met.

2. The amendment must review alternative technologies that may become available for use in the near future. N.J.A.C. 7:50-5.4(c)6.

The purpose of this standard is to identify other technologies that should, at the very least, be considered as the pending amendment is reviewed. The OIT Plan expressly addresses a technology known as Distributed Antenna Systems (DAS). DAS employs a series of low-mounted antennas, generally attached to telephone poles and connected by fiber-optic cable, in lieu of taller towers. The proposed amendment concludes that DAS is not a technically feasible alternative to the use of antennas mounted on tall structures. While it is not the Commission's intent to require the use of any specific alternative technology, the Commission notes that in order to meet the CMP's height requirements, visual impact requirements, or siting requirements, even participants in the OIT Plan may be required to use a technology other than the preferred or customary technologies.

Although the Commission recognizes that DAS is not, at this time, a feasible alternative for purposes of this proposed amendment, the Commission notes that certain siting and camouflaging techniques may be used to reduce the visual impacts of proposed antenna support structures. Where it does not seem likely that a proposed antenna support structure can be sited consistent with the CMP's siting and visual impact standards (e.g. proposed facility 19, which is proposed within an extensive area of publicly owned conserved lands⁶), it is within the Commission's regulatory authority to require participants in the OIT Plan to develop said structures using such techniques (as is required per the CMP).

The Executive Director concludes that this standard has been met.

3. The amendment must show the approximate location of all proposed facilities. N.J.A.C. 7:50-5.4(c)6.

In order to evaluate the consistency of the OIT Plan with various CMP standards, the proposed amendment must identify the approximate locations of all facilities identified therein, including those which will utilize existing structures and those which will require new ones. OIT's proposed amendment provides both a graphic depiction of each proposed facility's location as well as a narrative and detailed tables identifying the county in which each facility will be located; the municipality in which each facility will be located; as well as, the proposed height of each proposed facility. Appendix H to this report also notes the management area in which each proposed facility will be located; whether a proposed facility has been previously approved by

⁶ See footnote 5.

the Commission; and, where applicable, whether the facility can likely be sited consistent with the CMP's siting and visual impact standards. In addition, OIT has agreed to locate each of the facilities in its proposed amendment within a one-mile-radius area surrounding these coordinates.

The Executive Director concludes that this standard has been met.

4. The amendment must include five- and ten-year horizons. N.J.A.C. 7:50-5.4(c)6.

OIT's Plan separates its proposed facilities into three phases. Seventeen facilities are included in Phase 1. These seventeen facilities will likely become operational within the next five years. Phase 2 includes six facilities, which will likely become operational within the next five to ten years. Twenty-seven facilities are included within Phase 3. Phase 3 consists of facilities, which will be needed to accommodate the next generation of on-street and in-building broadband communications (4G-LTE (Long Term Evolution)). For a number of reasons beyond OIT's control, predicting when the 4G-LTE facilities will likely become operational is not possible at this time.

The Executive Director concludes that this standard has been met.

5. The amendment must demonstrate that it is likely that every facility proposed in the Pinelands Area is necessary to provide adequate service within the Pinelands Area and that it is likely that all such facilities must be located within the Pinelands Area in order to provide adequate service. N.J.A.C. 7:50-5.4(c)1.

OIT, in its technical capacity, found that there is a "critical" public safety need for each of the facilities proposed in its plan. OIT notes that, wherever possible, sites outside of the Pinelands Area were selected to fulfill this critical public safety need. To demonstrate the necessity for every local communications facility proposed in the OIT Plan, V-Comm analyzed data provided to it by the various participating public agencies. V-Comm then produced signal propagation maps depicting both the existing coverage within the area of each proposed facility as well as the expected level of coverage post-installation. V-Comm confirms that these signal propagation maps demonstrated that there is a need for each of the proposed facilities to serve the communications needs of the plan participants. V-Comm further confirms that "the only way to provide adequate service" to the plan participants is "to locate the [proposed] facilities within the Pinelands Area."

OIT has demonstrated that all of the facilities proposed within the OIT Plan are needed to provide adequate service within the Pinelands Area. **Accordingly, the Executive Director concludes that this standard has been met.**

6. The amendment must demonstrate that the facilities to be located in the Preservation Area District, the Forest Area, the Special Agricultural Production Area and 17 specific Pinelands Villages are the least number necessary to provide adequate service, taking into consideration the location of facilities outside the Pinelands. N.J.A.C. 7:50-5.4(c)6.

The purpose of this standard is to provide a heightened level of scrutiny for new facilities proposed in conservation-oriented management areas. As was the case with the Commission's four previous approvals, OIT's system of local communications facilities represents a network of facilities, each of which may affect the locations of other facilities in the system. Thus, the location of facilities outside conservation-oriented management areas may be relevant when evaluating the need for new facilities within conservation-oriented management areas. In order to demonstrate consistency with this standard, the OIT Plan relies upon its signal propagation maps. V-Comm confirms that the signal propagation maps demonstrate that, taking into account the location of facilities outside the Pinelands Area, the new facilities proposed in conservation-oriented management areas are the least number necessary to provide adequate service.

The Executive Director concludes that this standard has been met.

7. The amendment must demonstrate that it is likely that, to the extent practicable, existing communications or other structures have been used. N.J.A.C. 7:50-5.4(c)3.

The purpose of this standard is to ensure that the fewest possible number of new towers are constructed throughout the Pinelands Area. The OIT Plan includes 50 proposed facilities. However, 41 of these proposed facilities are at sites previously approved by the Commission under one of the four previous plans. Of the nine facilities not included in a previous plan, two are Regional Growth Area facilities and one facility is located in the Pinelands National Reserve. OIT acknowledges that if there are existing structures available proximate to one of the remaining six new facilities, it must evaluate whether such existing structures are suitable prior to constructing a new structure of its own⁷. Moreover, all proposed facilities included in the OIT Plan will be subject to the Commission's hierarchical policy for siting individual wireless communications facilities (attached hereto as Appendix E).

The Executive Director concludes that this standard, insofar as it applies to this amendment, has been met.

8. The amendment must demonstrate, or note the need to demonstrate when the actual siting of facilities is proposed, that, if a new support structure is to be constructed, it can likely be sited consistent with the six criteria in N.J.A.C. 7:50-5.4(c)4. These criteria deal with satisfying technical operating requirements; minimizing visual impacts from public areas, wild and scenic rivers and special scenic corridors, the Pine Plains, the Forked River Mountains and residential areas; and, if proposed in the Preservation Area District, Forest Area, Special Agricultural Area, or Rural Development Area, locating the facility in nonresidential zones, unpreserved public lands, mines, first aid or fire stations, and landfills.

Staff's analysis of the one-mile-radius area surrounding each of OIT's proposed facilities has identified only one site that cannot likely be sited consistent with the CMP's specific height,

⁷For example, prior to the construction of proposed facility 41, OIT will have to establish that the existing tower nearby is not suitable for its use. If, OIT can establish that that is, in fact, the case, when OIT constructs proposed facility 41, the existing tower will have to be demolished and all current users of that tower will have to be given the opportunity to collocate on the new tower at their current heights on that tower.

siting, and visual standards (proposed facility 19). This proposed facility is proposed within the Preservation Area District in Burlington County's Washington Township. Facility 19 is proposed on conserved, publicly owned land and is, therefore, not consistent with the CMP's siting standards. Since there is no land within a one-mile radius of the proposed facility that is not on conserved, publicly owned land, the proposed facility cannot likely be sited consistent with the CMP's siting standards. As a result, OIT will likely need to obtain a release of applicable deed restrictions from DEP. OIT will also likely need to obtain a diversion from the Green Acres program. It is important to note that the Commission lacks jurisdiction over both of these issues and the Commission's approval of the OIT Plan should not be construed as the Commission's endorsement of either the release or the diversion, if such are required. A second facility (proposed facility 21) is proposed at a site the Commission approved under a previous plan; however, the facility is proposed at a height (250 feet), which is inconsistent with the CMP's height standards at N.J.A.C. 7:50-5.4(c)5. Prior to the construction of this facility, an applicant will have to apply for, and obtain approval of, a Waiver of Strict Compliance on behalf of a plan participant or a Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2 will have to be executed based upon the applicant having established that appropriate grounds exist therefor.

Although proposed facility 19 cannot likely be sited consistent with the CMP's height, siting, and visual criteria, the CMP does not require that the proposed amendment be denied as a result. Nor, does the CMP even require that this proposed facility be removed from the proposed amendment. Rather, the CMP requires that, at the time an application for development is submitted for proposed facility 19, the facility will be subject to a heightened standard of review pursuant to N.J.A.C. 7:50-5.4(c)6. To wit, OIT will be required to specify how the use of alternatives could reduce the anticipated visual impact of this facility⁸. Proposed facility 21 is proposed at a height 50 feet taller than is maximally permitted by the CMP. As noted above, at the currently proposed height, a Waiver of Strict Compliance or a Memorandum of Agreement will be required prior to construction of this proposed facility.

Each of the facilities proposed in the OIT Plan, including proposed facilities 19 and 21, are critical for the provision of adequate public safety communications within the Pinelands Area and, where appropriate, will also accommodate non-plan participants' wireless communications needs. **Therefore, the Executive Director concludes that this standard has been met, provided that (1) prior to construction of proposed facility 19, OIT obtains a release of deed restrictions and a diversion from the Green Acres program, if applicable; and, (2) prior to the construction of proposed facility 21, either the height of the proposed facility be reduced to not more than 200 feet, the Commission grants a Waiver of Strict Compliance to permit the height, or a Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2 is executed based upon the applicant having established that appropriate grounds exist therefor.**

9. The amendment must demonstrate, or note the need to demonstrate when the actual siting of facilities is proposed, that support structures are designed to accommodate the needs of any other local communications provider which has identified a need to locate a facility within an overlapping service area. N.J.A.C. 7:50-5.4(c)2. A closely related CMP standard also requires that the plan must demonstrate, or note the need to demonstrate

⁸ See footnote 5.

when the actual siting of facilities is proposed, that the support structure, if initially constructed at a height less than 200 feet, can be increased to 200 feet to accommodate other local communications facilities in the future. N.J.A.C. 7:50-5.4(c)5. Another closely related standard in N.J.A.C. 7:50-5.4(c)6 requires that the plan must provide for joint construction and use of the support structures.

Each of these three standards is intended to facilitate, to the greatest extent practicable, collocation amongst wireless communications providers. OIT's proposed amendment expressly agrees to design and construct the support structure of its proposed facilities such that, if initially constructed at a height less than 200 feet, they can be increased to 200 feet to accommodate other public safety agencies' communications needs in the future. OIT has also acknowledged that, with respect to non-plan participants, all sites within the OIT Plan are subject to the same collocation and design policies as are incorporated into the four prior private sector plans.

Therefore, the Executive Director concludes that these standards have been met.

10. If it reduces the number of facilities to be developed, shared service shall be part of the plan unless precluded by federal law. N.J.A.C. 7:50-5.4(c)6.

The purpose of this standard is to encourage wireless communications providers to consider the possibility of single server coverage. While OIT has not agreed, and, in fact, with respect to non-plan participants, cannot agree to "shared services" as originally contemplated by the Commission, like all of the four previous plan participants, OIT has agreed to a common collocation policy.

Accordingly, the Executive Director concludes that this standard has been met.

III. PUBLIC HEARING AND REVIEW PROCESS

A public hearing to receive testimony on the T-Mobile Plan was duly advertised, noticed and held on February 21, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Mr. Tyshchenko conducted the hearing at which the following testimony was received:

Joseph C. Saiia of OIT's Office of Emergency Telecommunications Service noted that the proposed OIT Plan was the culmination of many years of work to address the need for a comprehensive public safety communications plan in the Pinelands Area - a need that has existed for as many as 15 years. Mr. Saiia stated that the proposed plan struck an appropriate balance between important public safety agencies' needs and the needs of DEP and the Commission.

There being no further testimony, the hearing was concluded at 9:51 a.m.

Written comments on the OIT Plan were accepted through February 24, 2012 and were received from the following parties:

Theresa Lettman, Director for Monitoring Programs, Pinelands Preservation Alliance
(see Appendix F)

Kerry Jennings, Forked River Mountain Coalition (see Appendix G)

On behalf of the Pinelands Preservation Alliance, Ms. Lettman provides comments on five of OIT's proposed facilities. She opines that proposed facilities 19, 27, 28, and 38 cannot be sited consistent with the CMP's specific siting criteria and, therefore, they should be removed from OIT's proposed amendment. She also notes that proposed facility 41 is within one mile of an existing tower and the proposed facility should be required to collocate on the existing tower. She further notes that a tower anywhere within a one-mile-radius of the coordinates provided for proposed facility 41 would have a significant visual impact on the view from the Forked River Mountains.

On behalf of the Forked River Mountain Coalition (JB MDL), Mr. Jennings objects to proposed facility 41. He correctly notes that the proposed facility is within a five-mile-radius of the Forked River Mountains. He further notes that while the OIT Plan states proposed facility 41 is intended to service the area around Old Road and Stone Hill Road, these roads are merely sand trails. Mr. Jennings concludes that, therefore, there really is "nothing to service." Mr. Jennings also observes that proposed facility 41 is within one mile of an existing tower and, therefore, the proposed facility should be required to collocate on the existing tower. Mr. Jennings requests that the Commission require proposed facility 41 to be removed from the OIT Plan.

EXECUTIVE DIRECTOR'S RESPONSE

Ms. Lettman argues that proposed facilities 19, 27, 28, and 38 should be removed from the proposed amendment because they are inconsistent with CMP's siting standards. She and Mr. Jennings also argue that proposed facility 41 should be required to be collocated at an existing tower nearby. Facilities 27, 28, 38, and 41 of the OIT Plan are proposed to be constructed at sites previously approved by the Commission under one of the four predecessor plans. As such, these sites are not subject to review again. The Commission has already determined that sites exist in the vicinity of these proposed facilities that are consistent with the CMP's standards. However, even if the Commission had not already determined this, removal is not the appropriate remedy under the CMP for a facility for which it has been demonstrated there is a need but which cannot likely be sited consistent with the CMP's visual or siting requirements. Rather, the correct remedy would be to subject such facilities to a heightened level of scrutiny by requiring an alternatives analysis, which would demonstrate how OIT might reduce the potential visual impact of the proposed facilities. Although proposed facilities 27, 28, 38, and 41 will not be subjected to this heightened level of scrutiny because they have already been approved by the Commission⁹, proposed facility 19 will be subject to it since it cannot likely be sited consistent with the CMP's siting and visual standards and it has not already been approved by the Commission.

Ms. Lettman's and Mr. Jennings' comments both note that proposed facility 41 should be required to be collocated at an existing tower nearby. The Commission agrees. If, at the time an

⁹ Unless these proposed facilities are sited at locations other than where the existing towers are sited.

application for development is submitted for proposed facility 41 or, indeed, for any of the other proposed facilities in the OIT Plan, an antenna support structure already exists that can be used, the Commission will require, in accordance with its hierarchical policy for siting individual wireless communications facilities (attached hereto as Appendix E), that said structure be used. However, if, and only if, the existing structure nearby cannot be used, the Commission will authorize OIT to construct a new antenna support structure in accordance with its hierarchical policy for siting individual wireless communications facilities (attached hereto as Appendix E). The new antenna support structure would have to accommodate the needs of both OIT and the then-current users of the existing tower and the existing tower would have to be demolished¹⁰. If, on the other hand, a new antenna support structure is needed in addition to the existing tower, the new tower would need to meet all of the standards of a new facility.

With respect to Mr. Jennings' comments that Old Road and Stone Hill Road are just sand trails and, therefore, proposed facility 41 has "nothing to service," Mr. Jennings is simply mistaken. The material of which a road is constructed is wholly irrelevant to whether a gap in service coverage exists in the area of said road. Through the use of signal propagation maps, OIT has objectively demonstrated, and V-Comm has confirmed, that a coverage gap exists in the area of proposed facility 41. Moreover, it is worthwhile pointing out that, unlike for-profit wireless communications providers, the facilities proposed in the OIT Plan are not designed to service densely populated areas only. In fact, one of the primary goals of the OIT Plan is to provide emergency communications services for remote areas. For, although many emergencies may not occur in these remote areas, when they do occur, reliable coverage is just as important as it is anywhere else. While proposed facility 41 could conceivably one day provide service for someone to phone in a take-out order, it was not included in OIT's proposed amendment for this purpose. Rather, it is in OIT's plan so that a first-responder can communicate effectively with other first-responders or nearby hospitals in the event of an emergency. As such, Mr. Jennings' observations concerning a lack of anything to service in the vicinity of Old Road and Stone Hill Road miss the mark.

IV. CONCLUSION

The OIT Plan proposes a total of 49 facilities within the Pinelands Area and anticipates the construction of 9 new towers not previously approved by the Commission (two of which will be in Regional Growth Areas and one of which will be in the Pinelands National Reserve but not within the Pinelands Area). Proposed facility 19 cannot likely be sited in accordance with the CMP's specific siting and visual standards. As such, it will be subject to a heightened standard of review pursuant to N.J.A.C. 7:50-5.4(c)6. To wit, OIT will be required to specify how the use of alternatives could reduce the anticipated visual impact of this facility at the time an application for development is submitted for this facility. Proposed facility 21 is proposed at a height 50 feet taller than is maximally permitted by the CMP. As such, a Waiver of Strict Compliance or a Memorandum of Agreement would be required prior to construction of this proposed facility, unless its height is reduced prior to construction. Although proposed facilities 19 and 21 cannot, in the absence of the detailed review that will occur upon application for these facilities, likely be sited consistent with all of the CMP's height, siting, and visual standards, the proposed amendment, as a whole, is consistent with the goals and standards of the CMP.

¹⁰ See footnote 7.

Though consistent, the OIT Plan is not without potential issues. Several new facilities are proposed within the most sensitive portions of the Pinelands Area. Thus, sensitive Pinelands viewsheds may be negatively impacted. Nevertheless, OIT's amendment establishes a framework, which will allow it to provide critical public safety communications service within the Pinelands Area and will result in less visual pollution than is likely in other parts of the State and the nation and than would occur otherwise. Furthermore, even with approval of this amendment, individual facilities will have to be approved by the Commission in accordance with the provisions of N.J.A.C. 7:50-5.4 (including visual assessment) and other applicable CMP standards. In the review of such applications, the Commission will be guided by the hierarchical policy for siting individual wireless communications facilities, which is appended to this report as Appendix D.

OIT has demonstrated that there is a need for each of the 49 facilities proposed within the Pinelands Area. The Executive Director has concluded that the "Comprehensive Public Safety Tower Plan for Pinelands" is consistent with the goals and standards of the Comprehensive Management Plan, provided that (1) prior to construction of proposed facility 19, OIT obtains a release of deed restrictions and a diversion from the Green Acres program, if applicable; and, (2) prior to the construction of proposed facility 21, either the height of the proposed facility is reduced to not more than 200 feet, the Commission grants a Waiver of Strict Compliance to permit the height, or a Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2 is executed based upon OIT having established that appropriate grounds exist therefor. Accordingly, the Executive Director recommends that the Pinelands Commission approve the "Comprehensive Public Safety Tower Plan for Pinelands." The Executive Director further recommends that the Pinelands Commission expressly affirm that the review of any application for development for any facility included within the OIT Plan shall be done in accordance with this report, including its appendices.

Attachments