Guide to Public Hearings for Antenna Attachments to Utility Poles

The Public Utilities Regulatory Authority
OVERVIEW
Background

Certain types of telecommunications companies, such as commercial mobile radio service (CMRS) providers, (described as “Company” in this guide) are installing small cell wireless facilities designed to increase their ability to handle cellular voice and data traffic in specified project areas. CMRS provider is a term described in 47 C.F.R. Part 20, et. seq.

In the case of a proposal to install an antenna on a utility pole in the public right-of-way, the Public Utilities Regulatory Authority (PURA or Authority) determines whether the installation is safe, and, if so, allows the installation.

A Company must apply to the PURA for approval of its construction plan to install a small cell wireless telecommunications facility on a utility pole within the public right-of-way.

You may have received written notification about a specific construction plan or have been made aware of a construction plan. This guide is being provided as an introduction to the PURA docket process.
How did this location get selected for an antenna?
What does the antenna look like? Is the antenna like a cell tower?

The Company conducts a survey of a geographic area for small cell installations when its capability to accommodate cellular service traffic is near or at capacity, the point at which it cannot provide reliable service.

The Company then looks for utility pole locations in this case, where it can install an antenna and its associated equipment.

There are pole owner restrictions regarding where an antenna may be located. In some locations, utility pole owners may deny requests for these attachments. For example, some utility poles may already be heavily encumbered by utility equipment and would not accommodate an antenna installation. Pole Owner: Entity having the right to grant licenses for Attachments to its utility poles in its operating territory (e.g., Eversource, Frontier and United Illuminating).

The size and visual impact of the antenna and its related equipment is roughly equivalent to equipment commonly mounted to poles throughout the State, such as electric transformers. The antenna is not a cell tower. The utility pole is the same as other poles commonly used throughout the state.

PURA has attached photos of typical antenna installations to aid you in understanding the size of the equipment involved. In some cases, the antenna is located on a side-mounted bracket on the pole when electric lines are at the top of the pole.
PURA Docket Process
The CMRS provider notifies the Adjoining Property Owner¹ (APO) and advises the affected municipality in writing via certified letter of the planned construction and given 30 days to respond with an objection. *There is no PURA docket at this stage.²*

• What types of issues qualify as grounds for an objection? The Authority considers issues related to safety in its consideration of antenna construction. It does not consider issues of Radio Frequency emissions (established by the Federal Communications Commission) or visual impact, aesthetics or property value impact, which are subjective.

APO Response to Company Notification

• APOs are allowed 30 days to respond to the Company or PURA to advise as to whether they are opposed or not. *There is no PURA docket at this stage.*

Company Application Filed with PURA

• A PURA docket is initiated at the time the Company files its Application to PURA.

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1. Who is considered an APO? Any owner of property actually physically contiguous to the affected section of the public right-of-way. People who do not own property actually physically contiguous to the affected section of the public right-of-way may still comment on the installation, but only owners of property actually physically contiguous to the affected section of the public right-of-way are given status by the Authority to object to construction. Tenants are not APO’s.

2. Anyone contacting PURA prior to a docketed proceeding being initiated will receive undocketed correspondence from PURA containing general information about the process and related statutory information.
### Step 4  
**PURA Acknowledgement Letter/Notice of Proceeding Issued**
- If there are no APOs opposed to the project, the PURA issues a Notice of Proceeding in the docket and will proceed with review and a decision.
- If there are APOs opposed to the project, PURA issues an Acknowledgement Letter via certified mail to the APOs opposed that are opposed to the construction as noted in the Company application.
- APOs that have not filed an opposition to the Company and Non APOs will not receive PURA communication.

### Step 5  
**Objecting APO Response to PURA**
- APOs that filed in opposition to the Company will receive an Acknowledgement Letter from the PURA and are allowed 30 days to respond to the PURA to advise as to whether they continue to oppose the attachment and whether they are requesting a formal hearing.
- Non APOs may file a public comment.

### Step 6  
**Adjoining Property Owner Requests Hearing**
- If the APO responds to the PURA within the 30-day time period stating that they continue to oppose the attachment and a detailed explanation for their objection and request for a hearing, PURA will schedule a hearing.
- If the APO does not respond to the PURA within the 30-day time period, the PURA will proceed with review and decision.
Step 7  Hearing Held, if scheduled

- A hearing will be scheduled based on PURA, Company, and Party availability.³

Step 8  Late Filed Exhibits

- If late filed exhibits (LFEs) are requested during the hearing, they must be filed with the PURA (typically within 10 days.) The LFE due date and time schedule will be discussed at the conclusion of the hearing.

Step 9  Late Filed Exhibits Hearing, if needed

- After all parties have reviewed the LFEs, it will be determined whether a late filed exhibit hearing is required. If it is required, a date will be determined based on PURA, Company, and Party availability.³

³ Hearings are held at PURA offices, Ten Franklin Square, New Britain, Connecticut.
• A briefing period may follow the hearing. Briefs are written arguments about issues the Commissioners must decide. They are usually written by attorneys for the Company, PURA, and others. Participating APOs may also file a brief.

• The PURA decides a case based on the information contained in the record made over the course of the proceeding. When the hearings are finished and the evidentiary record is closed, information cannot be added to the record unless the proceeding is formally reopened.

• The PURA can use only the proceeding record as the basis for its decision. The PURA Commissioners read the record and proceeding transcripts when formulating their decision.

• If a hearing was held, parties will have an opportunity to file written exceptions to the PURA Proposed Final Decision and also can request Oral Argument.

4 Transcripts can be purchased through the Court Reporting Agency. Transcripts are not available on the PURA website until after the Final Decision is issued and the appeal period has expired.
After the Commissioners reach a decision, an order is issued during a Regular or Special Meeting.

Copies of the decision are available on the PURA’s website in its Final Decision Database or can be obtained by calling the Consumer Affairs Unit at 1-800-382-4586.
FAQ/General Information
What is a public hearing all about?

A public hearing is one step in determining whether the Authority will allow construction of the antenna.

Unless otherwise noted in a Notice of Hearing, the Authority holds all hearings at its offices at 10 Franklin Square, New Britain.

The Authority has a long tradition of encouraging public participation in the regulation of the state’s utilities.

The PURA public hearing process offers the opportunity for consumers, local government officials, industry representatives, and others to bring their thoughts and concerns to the attention of the Authority’s Commissioners in a timely manner. Bringing these concerns and views to a public hearing is essential if the Commissioners are to reach the most fair and reasonable decision possible.

Any person or entity given status (refer to Footnote 1) during the proceeding may ask the Company questions regarding the proposed installation after the company has adopted its testimony and is ready for cross examination.

Please keep in mind that both the Company and the Objectors have the same due process rights to participate in the hearing process, as well as to receive a timely decision based on the relevant facts and applicable law.
I’ve never testified before The PURA. Is it difficult?

No, it is easy to testify. You do not need a lawyer.

At the beginning of the hearing, the Commissioner / Hearing Officer will ask if there are any members of the public who wish to speak for the record. At that time, simply stand up or raise your hand. You will be sworn in and invited to tell your story in your own words. You may also submit documents or photos relating to your testimony.

After you present your testimony the Authority staff and other parties may cross examine you (ask you questions).

Once that is completed, Commissioners, Hearing Officers and any of the parties to the case who may be in attendance cannot answer questions during this portion of the hearing process; this is their opportunity to hear your testimony.

How do I conduct cross examination of the witnesses?

Cross examination is asking questions of the sworn witnesses regarding the application, documents filed and any oral testimony given at the hearing. Keep in mind that the Commissioners, Hearing Officers, Company attorneys and Authority staff are not subject to cross examination.
What if I cannot attend the public hearing; if a hearing is scheduled?

If you are an adjoining property owner and are unable to attend a public hearing, if one is scheduled, but wish to make their position known to the Authority, you may mail your comments to:

Public Utilities Regulatory Authority Attn:
Executive Secretary
10 Franklin Square New Britain, CT 06051

Comment may also be provided via email addressed to: PURA.executivesecretary@ct.gov

*Non APOs may file a public comment.*

Please include the docket number of the proceeding in all correspondence to the PURA.

PURA does not accept comments about cases over the phone. Your comments must be in writing to be included as part of the record in the case. With a public hearing, the proceeding becomes a contested case. You may not have ex parte communications regarding facts or legal issues relevant to your case with the PURA Commissioners or staff outside of the hearings or noticed meetings. However, you may contact the case coordinator for assistance regarding how the process (dates and times of hearings, how to file etc.) works.
The Public Utilities Regulatory Authority (PURAn)

PURAn is statutorily charged with regulating the rates and services of Connecticut's investor owned electricity, natural gas, water and telecommunication companies and is the franchising authority for the state’s cable television companies.

PURAn employs a staff of subject matter experts in Accounting, Finance, Engineering, Law and Customer Service. On occasion, the Authority will hire experts if needed to supplement available staff in complex proceedings. All decisions issued by PURA have the force of Law.

http://www.ct.gov/pura/site/default.asp

The Office of Consumer Counsel (OCC)

The OCC is the designated and official advocate of the ratepayer.

For contested PURA proceedings, the OCC is an automatic Party/Participant and has the ability to appeal decisions to the Connecticut Superior Court.

http://www.ct.gov/occ/site/default.asp
Other useful information regarding the docket process:

Filings and Evidence

All filings of evidence, exhibits and testimony are Public Information, except for material submitted under a Protective Order. The Authority may subpoena witnesses and all testimony is provided under Oath and is transcribed into a Public Record.
Example of a Utility Pole Top-Mounted Antenna and Related Facilities
Note: The Antenna is located at the very top of the pole in this example. The wireless system connection for the antenna system is the lowest utility box attached to the pole in this example.
Example of a Utility Pole Side-Mounted Antenna and Related Facilities