



Office Of Health Care Access Certificate of Need Application

Final Decision

Applicant: Jefferson Radiology, P.C.

Docket Number: 05-30655-CON

Project Title: Acquisition and Operation of a PET/CT Scanner in Place of an Existing CT Scanner for the Applicant's Glastonbury Office

Statutory Reference: Section 19a-639 of the Connecticut General Statutes

Filing Date: June 23, 2006

Hearing Dates: August 10, 2006 and October 2, 2006

Intervenor: Hartford Hospital

Presiding Officer: Commissioner Cristine A. Vogel

Decision Date: October 5, 2006

Default Date: October 6, 2006

Staff Assigned: Jack A. Huber

Project Description: Jefferson Radiology, P.C. proposes to acquire and operate a 16-slice, positron emission tomography/computed tomography scanner for its Glastonbury office, at a total capital cost of \$2,902,060.

Nature of Proceedings: On June 23, 2006, the Office of Health Care Access ("OHCA") received the Certificate of Need ("CON") application from Jefferson Radiology, P.C., ("Applicant") seeking authorization to acquire and operate a 16-slice, positron emission tomography/computed tomography scanner for its Glastonbury office, at a total capital cost of \$2,902,060.

A notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent to file its CON application was published in the *Hartford Courant* on January 15, 2006, pursuant to Section 19a-639 of the Connecticut General Statutes ("C.G.S.").

A public hearing regarding the CON application was held on August 10, 2006, pursuant to Section 19a-639, C.G.S. On July 18, 2006, the Applicant was notified of the date, time and place of the hearing. A notice to the public was published in the *Hartford Courant* on July 22, 2006. Commissioner Cristine A. Vogel served as Presiding Officer for this case. The public hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Section 19a-639, C.G.S. The public hearing regarding the CON application was closed on August 10, 2006.

By petition dated August 4, 2006, Hartford Hospital requested Party status or Intervenor status regarding the CON application. The Presiding Officer denied the request of Hartford Hospital for Party status and designated Hartford Hospital as an Intervenor with full rights of participation.

By petition dated September 1, 2006, the Applicant requested that the public hearing be reopened for the purpose of admitting revised financial projections into the record of the proceeding. The Presiding Officer denied the request of the Applicant to reopen the public hearing, as the Applicant did not present any evidence in its petition that materially affected the issues in this contested case that would otherwise not be available to OHCA.

By petition dated October 2, 2006, the Applicant requested that the public hearing be reopened for the purpose of admitting additional information into the record of the proceeding. The Presiding Officer approved the request of the Applicant to reopen the public hearing. The public hearing was reopened on October 2, 2006, for the express purpose of allowing additional information from the Applicant to be entered into the record. The public hearing regarding the CON application was closed on October 5, 2006.

The Presiding Officer heard testimony from witnesses representing the Applicant and Intervenor. In rendering this decision, the Presiding Officer considered the entire record of the proceeding. OHCA's authority to review and approve, modify or deny the CON application is established by Section 19a-639, C.G.S. The provisions of this section, as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were fully considered by OHCA in its review.

Findings of Fact

Clear Public Need

Impact of the Proposal on the Applicant's Current Utilization Statistics Proposal's Contribution to the Quality of Health Care Delivery in the Region Proposal's Contribution to the Accessibility of Health Care Delivery in the Region

1. Jefferson Radiology, P.C. ("Applicant") is a private physician's group, offering sub-specialized diagnostic and interventional imaging services. (*May 12, 2006, Initial CON Submission, page 8*)
2. The Applicant offers professional services in six office locations, which are found in the following towns: Avon, Glastonbury, Hartford, West Hartford, Enfield, and Wethersfield. The Applicant also provides radiology services to four acute care hospitals identified as follows: Hartford Hospital, Johnson Memorial Hospital, Windham Community Hospital and Connecticut Children's Medical Center. (*May 12, 2006, Initial CON Submission, page 8*)
3. The imaging services provided by the Applicant include: general x-ray, ultrasound, mammography, nuclear medicine, computed tomography ("CT"), magnetic resonance imaging ("MRI"), bone densitometry and a full spectrum of vascular and interventional procedures. (*May 12, 2006, Initial CON Submission, page 8*)
4. The Applicant operates a single-slice CT scanner in its Glastonbury office that was purchased and installed in 2001. As the acquisition cost for this scanner was below the \$400,000 CON capital threshold for imaging equipment, Certificate of Need ("CON") authorization from the Office of Health Care Access ("OHCA") was not required for the Applicant to purchase and operate the scanner. (*May 12, 2006, Initial CON Submission, page 8*)
5. The Applicant proposes the following project at its Glastonbury office site: (*May 12, 2006, Initial CON Submission, pages 13 and 14*)
 - Replacement of a single-slice CT scanner, whose capital lease is due to expire in 2006;
 - Acquisition and operation a new 16-slice General Electric, Discovery positron emission tomography/computed tomography ("PET/CT") scanner; and
 - Renovation to existing office space to accommodate the proposed PET/CT scanner.
6. The proposal has the following objectives: (*August 3, 2006, Applicant Prefile Testimony, page 5*)
 - Replacing the current CT scanner, which is fully depreciated and is at the end of its useful life; and
 - Increasing access to PET/CT services for patients in the proposed service area.

7. The Applicant indicates the proposed PET/CT scanner will provide the following benefits: *(May 12, 2006, Initial CON Submission, pages 10 & 11 and August 3, 2006, Applicant Prefile Testimony, page 5)*
 - Imaging technology that allows the clinician to capture anatomic as well as a functional images;
 - Improved image resolution and faster throughput;
 - Faster scan times minimizes patient movement and associated artifact, which reduces the frequency of repeat exams; and
 - Enhanced patient safety and comfort, especially with very ill patients.
8. The Applicant's Glastonbury office, located at 704 Hebron Avenue, offers the following imaging services: general radiology, CT, MRI, nuclear medicine, general ultrasound, mammography, fluoroscopy, bone densitometry and vascular ultrasound. *(June 23, 2006, Applicant's Completeness Responses, page 2)*
9. The Applicant's decision to place the proposed PET/CT scanner in its Glastonbury office is based on the following factors: *(May 12, 2006, Initial CON Submission, pages 14 and 15 and June 23, 2006, Applicant's Completeness Responses, page 2)*
 - The current CT scanner located in this office is scheduled for replacement;
 - The office, one of the practice's largest, is easily accessible via Route 2;
 - The office currently offers other nuclear medicine studies; and
 - Given the geographic distribution of the current PET/CT scanners within the proposed service area.
10. The Applicant states that the primary service area towns for the existing CT service and proposed PET/CT service are Colchester, East Hartford, Glastonbury, Hebron, Manchester, South Windsor and Wethersfield. The secondary service area for the existing and proposed imaging service encompasses the towns of Andover, Bolton, Columbia, Coventry, East Hampton, Hartford, Marlborough, Newington, Portland, Rocky Hill, Vernon and Windsor. *(May 12, 2006, Initial CON Submission, pages 18 and 19)*
11. The Applicant's actual CT scan volume for the Glastonbury office and its associated annual percentage increase for fiscal years ("FYs") 2003 through 2005 and for year-to-date ("YTD") 2006 is as follows: *(May 12, 2006, Initial CON Submission, page 19 and Applicant Testimony, August 10, 2006, public hearing)*

Table 1: Actual CT Volume for FYs 2003 through 2005 and YTD 2006**

Description	FY 2003	FY 2004	FY 2005	YTD 2006**
Actual # CT Scans*	4,398	4,768	5,292	2,613
Incremental Volume Change Between FYs		370	524	
% Volume Increase Between FYs		8.4%	11.0%	

Note: *The data presented by the Applicant could not be verified by OHCA.

**YTD volume data represents 6 months of actual operating results. Annualized estimate results in 5,226 scans for FY 2006.

12. The Applicant projected PET/CT scan volumes for FYs 2007 through 2009 as follows: (May 12, 2006, Initial CON Submission, pages 19 through 27)

Table 2: Projected PET/CT Volume for FYs 2007 through 2009

Description	FY 2007	FY 2008	FY 2009
PET/CT Oncology	664	830	996
PET/CT Cardiac	75	113	150
PET/CT Solitary Pulmonary Nodules	175	260	346
PET/CT Neurology	30	45	60
Subtotal PET/CT	944	1,248	1,552
Diagnostic CT	4,750	4,750	4,750
PROJECTED TOTAL PET/CT VOLUME	5,694	5,998	6,302
Incremental Volume Change Between FYs	--	304	304
% Volume Increase Between FYs		5.3%	5.1%

Note: The data presented by the Applicant could not be verified by OHCA.

13. The Applicant indicates that it will still have a need to perform diagnostic CT scans on many patients who will require PET/CT scans as well as patients who do not require PET/CT. The proposed scanner will be able to accommodate both patient populations. The multi-slice configuration will offer current technology for CT scanning. (May 12, 2006, Initial CON Submission, page 18)
14. The Applicant based its PET/CT volume projections on the following factors: (May 12, 2006, Initial CON Submission, pages 22 through 27 and August 3, 2006, Applicant Prefile Testimony, pages 1 through 3)
- Specific tumor registry cases by stage;
 - PET/CT frequency by cancer type based on the medical literature's best practices;
 - Interest for the PET/CT services from referring physicians; and
 - Current reimbursement policies and guidelines.
15. The Applicant is requesting the acquisition of the proposed PET/CT scanner based on the following factors: (May 12, 2006, Initial CON Submission, pages 15 and 16)
- PET/CT volume has experienced steady growth over the past few years and is expected to continue;
 - The service area will require an additional PET/CT scanner to meet the population's needs;
 - Hartford Hospital's PET/CT scanner is approaching service capacity;
 - The proposed PET/CT scanner provides updated CT technology as well as PET/CT technology in a single piece of equipment; and
 - Referring physicians are requesting PET/CT technology from Jefferson Radiology.
16. The Applicant presented the following list of other PET/CT providers that are located in the Applicant's proposed service area: (May 12, 2006, Initial CON Submission, pages 22 and 23; August 10, 2006, Intervenor Testimony at the Public Hearing; and OHCA FY 2005 12 Month Actual Filing, Supplemental Schedule 500 for Manchester Memorial Hospital and Saint Francis Hospital and Medical Center)

Table 3: Current Service Area PET/CT Providers

PET/CT Unit Description	Provider	Operating Schedule*	Current Utilization
Primary Service Area			
Mobile Scanner	Manchester Memorial Hospital, Manchester	1 Day/Week	462
Secondary Service Area			
Fixed Scanner	Hartford Hospital, Hartford	5 Days/Week, 10 Hrs./Day	1,983
Mobile Scanner	St. Francis Hospital & Medical Center, Hartford	3 Days/Week	1,136

Note: * Number of days per week and hours per day the PET/CT service is operational.

17. Hartford Hospital testified that it had performed the following number of PET/CT scans for FYs 2003 through 2005: (*August 10, 2006, Intervenor Testimony at the Public Hearing*)

- FY 2003 – 763 scans;
- FY 2004 – 1,396 scans; and
- FY 2005 – 1,895 scans.

18. Hartford Hospital testified to the following regarding its PET/CT service: (*August 10, 2006, Intervenor Testimony at the Public Hearing and August 8, 2006, Intervenor Prefile Testimony, pages 14 and 15*)

- The Hospital is currently able to accommodate all requests for PET/CT scans within 3 to 5 days of the request and sooner for more emergent studies;
- The Hospital has always considered expanding its weekday hours of operation of 7:00 am to 5:00 pm. by adding weeknight hours and Saturday hours of service when service demands necessitated expanding the hours of operation;
- If the Hospital increased the service’s operating hours as planned, this action would result in at least a 40% to 60% increase in the operating capacity for its PET/CT service and consequently the Applicant’s incremental PET/CT volume of 1184 patients could be absorbed by the Hospital; and
- Operating at maximum capacity the Hospital’s PET/CT service could accommodate 3,570 patients annually.

**Financial Feasibility and Cost Effectiveness of the Proposal and its Impact on the Applicant’s Rates and Financial Condition
 Impact of the Proposal on the Interests of Consumers of Health Care Services and the Payers for Such Services
 Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines**

19. The estimated total capital cost of the project is \$2,902,060. The capital costs are itemized as follows: (*May 12, 2006, Initial CON Submission, page 33*)

- \$2,392,388 for the lease of the PET/CT scanner;
- \$338,145 for building work to accommodate the new unit;
- \$145,127 for sales tax associated with the scanner’s acquisition; and
- \$26,400 for purchased medical equipment.

20. The project will be financed through an equity contribution of \$509,672 and lease financing of \$2,392,388. *(May 12, 2006, Initial CON Submission, pages 35 and 36)*
21. The PET/CT scanner is scheduled to commence operation in January 2007. *(May 12, 2006, Initial CON Submission, pages 34 and 35)*
22. The Applicant projects incremental revenue from operations, total operating expense and losses/gains from operations associated with the CON proposal for FY 2007 through FY 2009 as follows: *(June 23, 2006, Applicant Completeness Responses, Attachment IV, page 47)*

Table 4: Incremental Financial Projections for FYs 2007 - 2009

Description	FY 2007	FY 2008	FY 2009
Incremental Revenue from Operations	\$1,985,984	\$2,591,435	\$3,154,685
Incremental Total Operating Expense	\$1,262,481	\$1,532,900	\$1,616,151
Incremental (Loss)/Gain from Operations	\$723,503	\$1,058,535	\$1,538,534

23. There is no State Health Plan in existence at this time. *(May 12, 2006, Initial CON Submission, page 15)*
24. The Applicant has adduced evidence that the proposal is consistent with its long-range plan. *(May 12, 2006, Initial CON Submission, page 15)*
25. The Applicant has improved productivity and contained costs by undertaking energy conservation measures regarding its facilities, employing group purchasing practices in its procurement of supplies and equipment and by participating in activities involving the application of new technologies. *(May 12, 2006, Initial CON Submission, page 31)*
26. The proposal will not result in any change to the Applicant's teaching and research responsibilities. *(May 12, 2006, Initial CON Submission, page 31)*
27. The Applicant's projected payer mix during the first three years of operating the proposed PET/CT scanner is as follows: *(May 12, 2006, Initial CON Submission, page 37)*

Table 5: Three-Year Projected Payer Mix with the CON Proposal

Payer Mix	Year 1	Year 2	Year 3
Medicare	27.4%	27.4%	27.4%
Medicaid	2.1%	2.1%	2.1%
Total Government	29.5%	29.5%	29.5%
Commercial Insurers	70.5%	70.5%	70.5%
Workers Compensation	0.0%	0.0%	0.0%
Total Non-Government	70.5%	70.5%	70.5%
Total Payer Mix	100.00%	100.00%	100.00%

28. The Applicant indicates the proposal will not result in any change its patient/physician mix. *(May 12, 2006, Initial CON Submission, page 32)*
29. The Applicant possesses sufficient technical, financial and managerial competence and expertise to provide efficient and adequate service to the public. *(May 12, 2006, Initial CON Submission, pages 29 and 30)*

30. The Applicant's rates are sufficient to cover the proposed capital and operating costs associated with the proposal. (May 12, 2006, Initial CON Submission, page 38 and June 23, 2006, Applicant Completeness Responses, Attachment IV, page 4)
31. The Applicant subsequently modified its CON proposal seeking authorization to undertake a project that accomplishes the following: (*October 2, 2006, Additional Evidence Supplied by the Applicant, pages 438 through 450*)
- Replacement of the existing single-slice CT scanner;
 - Acquisition and operation a new 64-slice General Electric, Lightspeed VCT CT scanner at a capital cost of \$1,427,075 (\$1,346,297 for equipment acquisition, plus \$80,778 in sales tax);
 - Renovation to existing office space to accommodate the proposed CT scanner at a capital expenditure of \$338,145; and
 - Financing the project through an equity contribution of \$418,923 and lease financing of \$1,346,297.
32. Based on the modified request the Applicant projects CT scan volumes for FYs 2007 through 2009 as follows: (*October 2, 2006, Additional Evidence Supplied by the Applicant, pages 438 through 450*)

Table 6: Projected CT Volume for FYs 2007 through 2009

Description	FY 2007	FY 2008	FY 2009
Projected # CT Scans*	5,750	6,250	6,750
Incremental Volume Change Between FYs**		500	500
% Volume Increase Between FYs		9%	8%

Note: *The data presented by the Applicant could not be verified by OHCA.

**The incremental volume change is attributable to the office's actual CT utilization, whereby 21 exams are currently performed daily and the expected daily volume is anticipated to increase by 2 scans per day per year for each of the first three years; to 23 scans per day in FY 2007, 25 scans per day in FY 2008 and 27 scans per day in FY 2009.

33. The Applicant projects incremental revenue from operations, total operating expense and (losses)/gains from operations associated with the modified CON proposal for FY 2007 through FY 2009 as follows: (*October 2, 2006, Additional Evidence Supplied by the Applicant, pages 438 through 450*)

Table 7: Incremental Financial Projections for FYs 2007 - 2009

Description	FY 2007	FY 2008	FY 2009
Incremental Revenue from Operations	\$193,771	\$383,743	\$573,715
Incremental Total Operating Expense	\$238,260	\$368,308	\$372,372
Incremental (Loss)/Gain from Operations	(\$44,489)	\$15,435	\$201,343

Rationale

The Office of Health Care Access (“OHCA”) approaches community and regional need for Certificate of Need (“CON”) proposals on a case by case basis. CON applications do not lend themselves to general applicability due to a variety of factors, which may affect any given proposal; e.g. the characteristics of the population to be served, the nature of the existing services, the specific types of services proposed to be offered, the current utilization of services and the financial feasibility of the proposal.

Jefferson Radiology, P.C., (“Applicant”) is a private physician group offering a full spectrum of imaging services including sub-specialized diagnostic and interventional imaging services. The Applicant currently provides computed tomography (“CT”) services among other imaging services at its Glastonbury office, located at 704 Hebron Avenue. The Applicant’s initial proposal consisted of the following objectives for the practice’s Glastonbury office: removal of an existing single-slice CT scanner, acquisition and operation of a positron emission tomography/computed tomography (“PET/CT”) scanner and renovations to existing office space to accommodate the new scanner.

The Applicant proposed to acquire and operate a PET/CT scanner in place of the current CT scanner. The Applicant requested the proposed scanner based on the following assertions: that there exists a need in the greater Hartford region for an additional PET/CT scanner as service area hospitals that currently provide PET/CT services are reaching service capacity; and that PET/CT volume will continue to grow as evidenced by the Applicant’s PET/CT service volume projections.

Under careful examination of the actual PET/CT service volumes attained by other service area providers, questions arose as to the need for an additional PET/CT scanner. The Applicant cited the following PET/CT service providers within the proposed service area: mobile-based scanners at Manchester Memorial Hospital in Manchester and Saint Francis Hospital and Medical Center in Hartford and a fixed-based scanner at Hartford Hospital in Hartford. For FY 2005 Manchester Memorial Hospital provided 462 PET/CT scans, operating one day per week; and Saint Francis Hospital and Medical Center provided 1,136 scans, operating three days per week. Hartford Hospital (“Hospital”) testified that it can accommodate all requests for PET/CT scans within 3 to 5 days of the request and sooner for more emergent studies. Hartford Hospital’s PET/CT service has demonstrated increasing annual service volumes of 763, 1,396 and 1,895 scans for FYs 2003 through 2005, respectively. The Hartford Hospital service is operating five days per week, ten hours per day.

OHCA finds that the assertion that Hartford Hospital’s (“Hospital’s”) PET/CT service is approaching service volume capacity lacks verifiable documentation. The Hospital testified that it has always considered extending its hours of PET/CT service operation and will do so when PET/CT service demands necessitated the expansion of service hours. By extending its operating hours to weekday evenings and Saturdays, the Hospital estimates that it can increase its operating capacity by 40 to 60 percent. At maximum capacity the Hospital estimates that it can accommodate 3,570 patients annually. Therefore, it appears that the service volumes projected by the Applicant can be absorbed by the Hospital. The

availability and capacity of other PET/CT service providers in the Applicant's service area leads OHCA to question the need for the proposed PET/CT scanner.

Furthermore, the Applicant based its annual PET/CT service volume projections on actual diagnostic CT scans performed and calculated PET/CT scans for specified health services, which includes oncology, cardiology, neurology and solitary pituitary nodule related cases. OHCA finds, however, that the Applicant's annual PET/CT service volumes are questionable as the Applicant has not produced verifiable evidence to establish that the projected annual PET/CT service volumes for the Glastonbury office are reasonable or achievable, or that the proposed change in service operation from CT scanning services to PET/CT scanning services is sustainable. Based on the foregoing, OHCA concludes that the Applicant has not substantiated the need for the proposed acquisition and operation of the PET/CT scanner.

The Applicant subsequently modified its CON proposal seeking authorization to undertake a CON proposal that accomplishes the following: replacement of the existing single-slice CT scanner; acquisition and operation a new 64-slice General Electric, Lightspeed VCT CT scanner; and renovation to existing office space to accommodate the proposed CT scanner. The Glastonbury office has been providing CT services with a unit purchased and installed in 2001. The Applicant has designated the existing CT scanner for replacement as the unit is now fully depreciated and is at the end of its useful life. The scanner has averaged approximately 5,000 CT scans per year for fiscal years ("FYs") 2004 and 2005. Based upon the age and the annual service volumes attained by the current scanner, OHCA finds that there is a clear public need for the replacement of the existing CT scanner and that the replacement will improve the quality of existing CT services in the greater Hartford region.

The total capital cost for the CON proposal is \$1,765,220. The project will be financed through an equity contribution of \$418,923 and lease financing of \$1,346,297. The Applicant projects an incremental loss from operations of (\$44,489) in FY 2007 and incremental gains from operations of \$15,435 and \$201,343 in FYs 2008 and 2009, respectively, from the project. The incremental loss in FY 2007 is primarily attributable to start-up expenses relating to the proposed CT scanner acquisition. The proposal will assist the Applicant in remaining productive and efficient overall. Although OHCA can not draw any conclusions, the Applicant's volume and financial projections upon which they are based appear to be reasonable. Therefore, OHCA finds that the CON proposal is both financially feasible and cost effective.

In summary, the Applicant will replace its single-slice CT scanner with a 64-slice CT scanner as the existing CT scanner is fully depreciated and has reached the end of its useful life. The need for the proposed PET/CT scanner has not been justified by the Applicant. OHCA concludes that there is sufficient PET/CT scanning capacity in the proposed service area with the existing hospital providers of PET/CT services.

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Jefferson Radiology, P.C. to acquire and operate a new 16-slice PET/CT scanner at a total capital cost of \$2,902,060, is hereby MODIFIED.

Order

The proposal of Jefferson Radiology, P.C. (“Applicant”) to acquire and operate a new 16-slice, positron emission tomography/computed tomography (“PET/CT”) scanner for its Glastonbury office, at a total capital cost of \$2,902,060, is hereby modified and is subject to the following conditions:

1. The Applicant’s request to acquire and operate a new 16-slice, PET/CT scanner, at a total capital cost of \$2,902,060 is **denied**.
2. The Applicant’s request to acquire and operate a new 64-slice, CT scanner, at a total capital cost of \$1,746,575 is **approved**.
3. This authorization shall expire on January 1, 2008. Should the approved CT scanning project not be completed by that date, the Applicant must seek further approval from OHCA to complete the project beyond that date.
4. This authorization requires the removal of the Applicant’s existing CT scanner located in Glastonbury for certain disposition, such as sale or salvage, outside of and unrelated to the Applicant’s service provider locations. Furthermore, the Applicant will provide evidence to OHCA of the final disposition of its existing CT scanner by no later than three months after the new CT scanner has become operational.
5. The Applicant shall notify OHCA in writing of the initial date of the operation of the new CT scanner by no later than one month after the new scanner becomes operational.
6. Should the Applicant propose any change in the CT imaging services located at its Glastonbury office, the Applicant shall file with OHCA a Certificate of Need, Determination Request or Letter of Intent regarding the proposed service change.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the
Office of Health Care Access

October 5, 2006

Signed by Cristine A. Vogel
Commissioner

CAV:jah