

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NEW CINGULAR WIRELESS)	
PCS, LLC , A DELAWARE LIMITED LIABILITY)	
COMPANY, D/B/A AT&T MOBILITY FOR ISSUANCE)	
OF A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY TO CONSTRUCT A WIRELESS)	CASE NO.
COMMUNICATIONS FACILITY IN THE)	2017-00385
COMMONWEALTH OF KENTUCKY IN THE)	
COUNTY OF BRECKINRIDGE)	

ORDER

On September 22, 2017, New Cingular Wireless PCS, LLC, a Delaware limited liability company d/b/a AT&T Mobility (“AT&T Mobility”) filed an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) to construct and operate a wireless telecommunications facility. The proposed facility consists of an antenna tower not to exceed 320 feet in height, with attached antennas, to be located at Butler Hobbs Road, Harned, Breckinridge County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 45’ 52.73” by West Longitude 86° 23’ 17.94”.

AT&T Mobility has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a licensed professional engineer has certified the plans.

Pursuant to 807 KAR 5:063, AT&T Mobility has filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807 KAR 5:063, AT&T Mobility has filed evidence that the county judge/executive and all property owners within 500 feet and contiguous to the cell site have been notified of the proposed construction. The notices solicited any comments and informed the recipients of their right to request intervention. On October 18, 2017, Stephen D. Thornhill, by counsel, filed a public comment alleging that the proposed facility would affect the value of Mr. Thornhill's property and result in adverse health effects. Mr. Thornhill requested that the proposed facility be constructed on a different location. On October 23, 2017, AT&T filed its reply, asserting that the Commission is prohibited by federal law from considering health effects of radio frequency emissions. AT&T further asserted that, because Breckinridge County has not adopted planning and zoning regulations regarding the placement and construction of wireless communications facilities, Breckinridge County residents, such as Mr. Thornhill, have no reasonable expectation regarding input into the land use of surrounding properties or the impact of proposed land use on their own property values. There were no other public comments filed in this case.

AT&T Mobility has filed an application with the Federal Aviation Administration ("FAA") seeking approval for the construction and operation of the proposed facility. That application is pending.

AT&T Mobility has filed an application with the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. KAZC filed a conditional approval of the proposed facility pending FAA approval.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that AT&T Mobility has demonstrated that a facility is necessary to provide adequate utility service and, therefore, a CPCN to construct the proposed facility should be granted.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, AT&T Mobility should notify the Commission if the antenna tower is not used to provide service in the manner set out in the application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by AT&T Mobility.

IT IS THEREFORE ORDERED that:

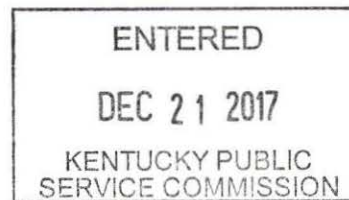
1. AT&T Mobility is granted a CPCN to construct a wireless telecommunications facility. The proposed facility consists of an antenna tower not to exceed 320 feet in height, with attached antennas, and to be located at Butler Hobbs Road, Harned, Breckinridge County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 45' 52.73" by West Longitude 86° 23' 17.94".

2. AT&T Mobility shall file a copy of the final decisions regarding the pending FAA application for the proposed construction within 10 days of receiving the decision.

3. AT&T Mobility shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of three months in the manner authorized by this Order.

4. Documents filed, if any, in the future pursuant to ordering paragraphs 2 and 3 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:


Executive Director

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