

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF TILLMAN INFRASTRUCTURE)	
LLC AND NEW CINGULAR WIRELESS PCS, LLC)	
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)	2017-00435
COMMONWEALTH OF KENTUCKY IN THE)	
COUNTY OF MARSHALL)	

ORDER

On July 9, 2018, Tillman Infrastructure LLC (Tillman) and New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T Mobility) filed a joint request for an extension of time to file their response to Commission Staff's First Request for Information (Staff's First Request) and, pre-emptively, for confidential treatment of the information that Tillman and AT&T Mobility intend to file, but have not yet filed. Staff's First Request was issued on July 2, 2018, with responses due within ten days of the date of the request.

Tillman and AT&T Mobility request an extension of time until August 1, 2018, to file their responses. As a basis for their request, Tillman and AT&T Mobility assert that the initial ten-day period to file a response included a national holiday and that employees whose input was needed to prepare the responses were on vacation, and thus unavailable. Tillman and AT&T Mobility further assert that the quantity of information requested and the unavailability of key personnel support granting them additional time to prepare and file their responses to Staff's First Request.

As a basis for their request for confidential treatment for the yet-to-be-filed response, Tillman and AT&T Mobility state that the information sought regarding co-location lease amounts are proprietary and confidential, and that public disclosure would disadvantage Tillman and AT&T Mobility in future co-location rental agreements. Tillman and AT&T Mobility noted that 807 KAR 5:001 “facially contemplates” that a request for confidential information is tendered concurrently with the material for which confidential treatment is requested. Tillman and AT&T Mobility argue that it is efficient and consistent with due process for the Commission to rule on the motion for confidential treatment prior to the actual submission of the designated material.

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that Tillman and AT&T Mobility have established good cause and, therefore, the motion for an extension of time to file responses to Staff’s First Request should be granted.

The Commission further finds that the motion for confidential treatment should be denied. 807 KAR 5:001, Section 13(2)(a) requires that a movant file the designated material for the Commission to review in rendering its decision whether to grant confidential treatment. The motion for confidential treatment fails to request a deviation from the regulation, much less establish good cause to deviate. Absent a review of the designated material, the Commission is unable to evaluate the claims regarding the information. The burden of proof is on Tillman and AT&T Mobility to establish that the designated material falls within exemptions from public disclosure set forth in KRS 61.878. 807 KAR 5:001, Section 13(2)(c). Mere statements, without providing copies of the designated materials, fail to satisfy Tillman’s and AT&T Mobility’s burden of proof.

IT IS THEREFORE ORDERED that:

1. Tillman's and AT&T Mobility's joint motion for an extension of time to file their responses to Staff's First Request is granted.
2. Tillman and AT&T Mobility shall file their responses to Staff's First Request no later than August 1, 2018.
3. Tillman's and AT&T Mobility's joint motion for confidential treatment for their unfiled responses to Staff's First Request is denied.

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By the Commission

ENTERED
JUL 17 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2017-00435

*Honorable David A Pike
Attorney at Law
Pike Legal Group PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, KENTUCKY 40165-0369

*New Cingular Wireless PCS, LLC dba AT&T
1010 N St Mary's Street, 9th Floor
San Antonio, TX 78215