

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NEW)	
CINGULAR WIRELESS PCS, LLC D/B/A AT&T)	
MOBILITY FOR ISSUANCE OF A CERTIFICATE)	CASE NO.
OF PUBLIC CONVENIENCE AND NECESSITY)	2022-00010
TO CONSTRUCT A WIRELESS)	
COMMUNICATIONS FACILITY IN THE)	
COMMONWEALTH OF KENTUCKY IN THE)	
COUNTY OF RUSSELL)	

ORDER

On February 7, 2022, Tina Allen filed a motion requesting to intervene in the application of New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility and Harmoni Towers LLC (collectively, Joint Applicants). As a basis for the motion, Ms. Allen stated that she does not want the tower built near her property and does not want to view the tower from her residence.

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.¹ The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC.”²

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Ms. Allen failed to demonstrate that she has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that she is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below.

The Commission “may take into account . . . the likely effect of the installation on nearby land uses”³ Ms. Allen does not own adjoining property to the proposed site.⁴ Rather, Ms. Allen’s property is located approximately 300 feet from the proposed site, and articulates no special interest other than that of a nearby but non-adjoining property

² *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

³ KRS 278.650.

⁴ Application at 52.

owner. Therefore, Ms. Allen has not met her burden to show that she has any special interest that is not adequately represented.

Ms. Allen did not add any other information that would provide a basis to find that she will be able to present issues or develop facts that would aid the Commission in reaching a decision in this case.

Ms. Allen will have an opportunity to participate in this proceeding even though she is not granted intervenor status. Ms. Allen can review all public documents filed in this case and monitor the proceedings via the Commission's website using the following link: [View Case Filings for: 2022-00010 \(ky.gov\)](#). In addition, Ms. Allen may file comments as frequently as she chooses, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that the motion to intervene filed by Tina Allen is denied.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner



ATTEST:


Executive Director

*Christopher Shouse
Attorney
Pike Legal Group PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, KENTUCKY 40165-0369

*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