

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF CELLCO	)	
PARTNERSHIP D/B/A VERIZON WIRELESS FOR	)	
ISSUANCE OF A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO	)	2022-00332
CONSTRUCT A WIRELESS COMMUNICATIONS	)	
FACILITY IN THE COMMONWEALTH OF	)	
KENTUCKY IN THE COUNTY OF EDMONSON	)	

ORDER

This matter arises upon the proof of notice to property owners provided by Cellco Partnership d/b/a Verizon Wireless (Verizon Wireless) to the Commission on April 27, 2023. Verizon Wireless was ordered to transmit new letters to all property owners who did not previously sign the return receipt or who Verizon Wireless did not receive verification from the United States Postal Service (USPS) tracking that the mail was successfully delivered and was ordered to update as to the delivery status of each new mailing within 30 days.

BACKGROUND

On October 6, 2022, Verizon Wireless filed an application seeking a Certificate of Public Convenience and Necessity (CPCN) to construct a wireless communication facility in Edmonson County, Kentucky. There were no public comments or requests for intervention, and on November 11, 2022, the Commission granted a Verizon Wireless a CPCN to construct a wireless telecommunications facility.<sup>1</sup>

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<sup>1</sup> Order (Ky. PSC Nov. 11, 2022).

On February 1, 2023, the Commission received a public comment alleging that Verizon Wireless had failed to provide property owners of notice of Verizon Wireless's application. Verizon Wireless filed a supplement to its application on February 3, 2023, which included copies of the certified mail envelopes to each property owner within 500 feet of the proposed facility site, copies of any signed return receipts received, copies of any mailings returned to Verizon Wireless's counsel, and printouts of the tracking information available through the USPS website.<sup>2</sup>

The Commission re-opened this case on February 16, 2023, to investigate whether all property owners within 500 feet of Verizon Wireless's proposed facility site had received sufficient notice of Verizon Wireless's application.

On March 30, 2023, the Commission issued an Order requiring Verizon Wireless to transmit new letters by certified mail, return receipt requested, to all property owners who did not previously sign the return receipt, or who Verizon Wireless did not receive verification from USPS tracking that the mail was successfully delivered. Verizon Wireless was ordered to update as to the delivery status of each new mailing within 30 days.<sup>3</sup> Verizon Wireless filed a response on April 27, 2023, stating that it transmitted new letters on March 30, 2023, by certified mail, return receipt requested and provided the delivery status of each new mailing as of April 26, 2023.<sup>4</sup> The response additionally stated that after the CPCN application was submitted to the Commission, Verizon Wireless was informed that Edmonson County has a Planning Commission with regulations for siting

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<sup>2</sup> Supplement to Original Filing, Exhibit S, Post Case Filings (filed Feb. 3, 2023).

<sup>3</sup> Order (Ky. PSC Mar. 30, 2023).

<sup>4</sup> Response to March 30, 2023 Order (filed April 27, 2023).

wireless communication facilities, that it had filed an application the Edmonson County Planning Commission, and received approval on March 14, 2023.<sup>5</sup>

In response to a request for information from Commission Staff, on May 17, 2023, Verizon Wireless provided both the application and a copy of the Edmonson County Planning Commission's Meeting Minutes approving the application.

#### LEGAL STANDARD

KRS 278.665 states, "The commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the minimum content of an application for a certificate of public convenience and necessity to construct cellular antenna towers for areas outside the jurisdiction of a planning commission."

#### DISCUSSION

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that it lacks jurisdiction over Verizon Wireless' application for a CPCN to build a wireless communication facility in Edmonson County, Kentucky because the location of the proposed facility is within the jurisdiction of a planning commission. The Commission also finds that the Order entered on November 30, 2022, granting a CPCN for a wireless telecommunications facility, should be vacated due to the Commission's lack of jurisdiction.

IT IS THEREFORE ORDERED that:

1. The Commission does not have jurisdiction over Verizon Wireless' application for a CPCN for a wireless communication facility in Edmonson County, Kentucky.

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<sup>5</sup> Response to March 30, 2023 Order at 4.

2. The November 30, 2022 Order issued by the Commission in this case is vacated.
3. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
JUN 13 2023  
rcs  
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SERVICE COMMISSION

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