

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)	
OF PUBLIC CONVENIENCE AND NECESSITY)	CASE NO.
TO CONSTRUCT A WIRELESS)	2023-00116
COMMUNICATIONS FACILITY IN THE)	
COMMONWEALTH OF KENTUCKY IN THE)	
COUNTY OF MONTGOMERY)	

ORDER

On April 12, 2023, New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T Mobility) and VB 500 II, LLC (VB 500 II) filed an application for a Certificate of Public Convenience and Necessity (CPCN) to construct a wireless communications facility in Montgomery County, Kentucky.

KRS 278.665(2) requires that notice of the proposed construction of a wireless communications facility must be provided to and **received** by persons who own property that is contiguous to the property where the proposed facility will be located. KRS 278.665(2) further provides that said notice must be **received** by the property owners by certified mail, return receipt requested. Commission regulation 807 KAR 5:063, Section 1(1)(l) states that an application for a CPCN to construct a wireless communications facility must include a statement that persons who own property within 500 feet of the proposed facility were notified of the proposed construction by certified mail, return receipt requested. Commission regulation 807 KAR 5:063, Section 1(1)(m)

requires the applicant to provide a list of property owners who **received** the notice and copies of the certified letters sent to the listed property owners.

In the application, AT&T Mobility and VB 500 II stated, “[a]pplicants have **notified** every person” who owns property within 500 feet of or contiguous to the site of the proposed facility. AT&T Mobility and VB 500 II provided a list of the property owners to whom notice was provided and copies of the certified mail receipts with a date stamp that indicated that AT&T Mobility and VB 500 II mailed the required notice to property owners. However, AT&T Mobility and VB 500 II did not provide a copy of the signed return receipt cards that demonstrate that the property owners signed for and thus received notice of the construction of the proposed facility.

As the Commission noted in its February 16, 2023 Order in Case No. 2022-00332,¹ the Commission has the “responsibility of ensuring that the adjoining property owners received notice” in compliance with all statutory and regulatory guidelines.² Having reviewed AT&T Mobility and VB 500 II’s application, the Commission finds that an investigation is necessary to confirm that adjoining property owners did receive notice of the proposed facility. To obtain that evidence, AT&T Mobility and VB 500 II are directed to respond to the request for information attached as an Appendix to this Order by the date set forth on the request. Additionally, AT&T Mobility and VB 500 II shall respond to any future requests for information propounded by Commission Staff by the date set forth on any such requests.

¹ Case No. 2022-00332, *Electronic Application of Cellco Partnership D/B/A Verizon Wireless for Issuance of a Certificate of Public Convenience and Necessity to Construct a Wireless Communications facility in the Commonwealth of Kentucky in the County of Edmonson*, (Ky. PSC Feb. 16, 2023) Order.

² Case No. 2022-00332, Feb. 16, 2023 Order at 6.

Finally, any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001E, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to requests for information are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. AT&T Mobility and VB 500 II shall respond to Commission Staff's First Request for Information contained in the Appendix attached to this Order by the date set forth in Commission Staff's First Request for Information.
2. AT&T Mobility and VB 500 II shall respond to any additional requests for information propounded by Commission Staff, as provided in those requests.
3. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001E, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).


4. Nothing contained in this Order shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00116 DATED APR 28 2023

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION
TO NEW CINGULAR WIRELESS PCS, LLC, A DELAWARE LIMITED LIABILITY
COMPANY, D/B/A AT&T MOBILITY AND VB 500 II, LLC, A DELAWARE LIMITED
LIABILITY COMPANY

New Cingular Wireless PCS, LLC, a Delaware limited liability company, d/b/a AT&T Mobility (AT&T Mobility) and VB 500 II, LLC, (VB 500 II) a Delaware limited liability company, pursuant to 807 KAR 5:001E, shall file with the Commission an electronic version of the following information. The information requested is due on May 15, 2023. The Commission directs AT&T Mobility and VB 500 II to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the

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response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

AT&T Mobility and VB 500 II shall make timely amendment to any prior response if AT&T Mobility and VB 500 II obtain information that indicates the response was incorrect or incomplete when made or, though correct or complete when made, is now incorrect or incomplete in any material respect.

For any request to which AT&T Mobility and VB 500 II fail or refuse to furnish all or part of the requested information, AT&T Mobility and VB 500 II shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied and scanned material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, AT&T Mobility and VB 500 II shall, in accordance with 807 KAR 5:001E, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Provide all signed United States Postal Service Form 3811, otherwise known as "signed green cards," that correspond to the notice list in Exhibit J.

*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