

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	)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY TO	)	2019-00010
CONSTRUCT A WIRELESS	)	
COMMUNICATIONS FACILITY IN THE	)	
COMMONWEALTH OF KENTUCKY IN THE	)	
COUNTY OF OHIO	)	

ORDER

On January 9, 2019, New Cingular Wireless PCS, LLC, 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 a tower not to exceed 270 feet in height, with attached antennas, to be located at 6235 State Route 764, Whitesville, Ohio County, Kentucky 42378. The coordinates for the proposed facility are North Latitude 37°36'07.58" by West Longitude 86°55'14.02".

AT&T Mobility 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 filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807 KAR 5:063, AT&T Mobility 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. As of the date of this Order, one public comment and no requests for intervention have been received.

The Commission received a letter from Thomas C. and Mary Beth McQuary on January 28, 2019,<sup>1</sup> which was placed into the public record for this matter. In their letter to the Commission, Thomas C. and Mary Beth McQuary opposed the location of the Bell Run cell tower due to their concerns about the negative health effects and the potential decrease in property value, stating that their property lies within 600 feet of the proposed tower location. AT&T Mobility responded to the public comment on February 6, 2019.<sup>2</sup> Within its response, AT&T Mobility offered a report from a property valuation expert, which states that the proposed tower will not have an impact on surrounding property values.<sup>3</sup> The Commission reviewed and considered the comments of Thomas C. and Mary Beth McQuary in reaching its decision, along with the response by AT&T Mobility.

AT&T Mobility has filed applications with the Federal Aviation Administration (FAA) and the Kentucky Airport Zoning Commission (KAZC) seeking approval for the

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<sup>1</sup> Public Comment: Thomas C. and Mary Beth McQuary Letter, 1/28/2019.

<sup>2</sup> Response to Letter from Thomas C. McQuary and Mary Beth McQuary, Feb. 6, 2019.

<sup>3</sup> Response to Letter from Thomas C. McQuary and Mary Beth McQuary, Feb. 6, 2019 at 9-36.

construction and operation of the proposed facility. Both applications have been approved.

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 a tower not to exceed 270 feet in height, with attached antennas, to be located at 6235 State Route 764, Whitesville, Ohio County, Kentucky 42378. The coordinates for the proposed facility are North Latitude 37°36'07.58" by West Longitude 86°55'14.02".

2. 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.

3. Documents filed, if any, in the future pursuant to ordering paragraph 2 shall reference this case number and shall be retained in the post-case correspondence file.

4. This case is closed and removed from the Commission's docket.

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By the Commission

ENTERED  
APR 12 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2019-00010

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