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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

JUL 02 2019

PUBLIC SERVICE
COMMISSION

In the Matter of:

THE APPLICATION OF)	
NEW CINGULAR WIRELESS PCS, LLC,)	
A DELAWARE LIMITED LIABILITY COMPANY,)	
D/B/A AT&T MOBILITY)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.: 2019-00176
CONVENIENCE AND NECESSITY TO CONSTRUCT)	
A WIRELESS COMMUNICATIONS FACILITY)	
IN THE COMMONWEALTH OF KENTUCKY)	
IN THE COUNTY OF CASEY)	

SITE NAME: DUNNVILLE RELO / PHIL

**APPLICANT'S RESPONSE TO
SBA COMMUNICATIONS CORPORATION MOTION TO INTERVENE**

New Cingular Wireless PCS, LLC, a Delaware limited liability company, d/b/a AT&T Mobility ("AT&T") ("Applicant"), by counsel, makes this Response to the Motion to Intervene filed by SBA Communications Corporation ("SBA").

Applicants respectfully state as follows:

1. Overview. SBA's Motion should be denied, as there is no good cause to permit SBA to intervene. SBA is merely trying to relitigate intervention claims on which it failed to prevail in PSC Case No. 2017-00435.¹ SBA is not seeking intervention as an

¹SBA's efforts to revisit the same legal issues on which it was denied intervention implicate issue preclusion, administrative res judicata, and collateral estoppel. As stated in *Godbey, et al v. University Hospital, et al*, 975 S.W.2d 104, 105 (Ky. App. 1998), "Kentucky has for many years followed the rule that the decisions of administrative agencies acting in a judicial capacity are entitled to the same res judicata effect as judgments of a court." SBA's Motion presents the specter of the PSC and AT&T having

AT&T customer for wireless services in the vicinity and is not interested in AT&T's rates and services, nor does SBA have any direct interest in Applicants' proposal to construct a tower. Instead, SBA has only an indirect interest, insofar as SBA seeks to protect its position as the exclusive tower owner in the area. That is an insufficient basis for intervention, and SBA's intervention would only unduly complicate and disrupt the proceeding.

2. SBA's interest in this proceeding is purely proprietary and has nothing to do with public convenience and necessity. SBA's Motion confirms its proprietary basis for intervention in stating: "SBA's present status, as the only tower in the area, was part of the return SBA rightfully counted on when it decided to invest in and build a tower in this rural area"² SBA's effort to intervene in this action is no different from its failed effort at intervention in PSC Case No. 2017-00435. The PSC's March 26, 2018 Order in that case explained: "The Commission is under no illusion that SBA's request to intervene in this case is anything other than an attempt to protect its monopoly as the owner of the only tower in the area."

3. SBA's motion wholly fails to recognize that competition is a desired outcome as to wireless facilities. The PSC's March 26, 2018 Order in Case No. 2017-00435 explains:

"The Request to Intervene does state that SBA does not believe that the proposed facility will improve wireless service in the area because AT&T is already providing service from SBA's tower and SBA's tower has room for more tenants. However, as the Applicants point out in the Applicants' Response to Public Comment filed by SBA Communications Corporation, the competition engendered in having more than one tower is likely to

to address the same rejected legal arguments over and over in future cases.

²SBA Motion to Intervene, page 3.

improve co-location opportunities for other telecommunications providers in the area. This is likely to lead to expanded availability of advanced wireless services. [footnote omitted].

... SBA is not a wireless customer in the area or a property owner. SBA is a competitor with an interest in keeping tower rents high by limiting the number of towers. This runs counter to one of the stated purposes of the Telecommunications Act of 1996, which is to promote competition. [footnote omitted].” *Id.* at p. 5.

SBA’s citation to ancient cases involving duplication of service issues³ ignores the current mission of the PSC in promoting competition in the wireless industry as reflected in the federal Telecommunications Act and Kentucky law.

4. Nothing in SBA’s Motion or attachments provides evidence or offers to provide evidence that wireless service from its tower would be superior to that from the proposed tower. SBA’s consultant, David C. Cotton, Jr., concludes only that “... the existing and proposed sites provide comparable coverage...” Moreover, his report does not evaluate whether the existing SBA tower is structurally sufficient for the installations described and/or depicted in the AT&T Application. Applicant does not deny that it is currently collocated on the SBA tower in the vicinity. Any effort by SBA to produce evidence as to how its tower might provide the needed wireless service from a technical perspective would only complicate and disrupt the proceedings.

5. “Reasonable Availability”. Where, as here, the proposed tower will meet the objectives for improved wireless service, the only issue is the relative reasonable availability of the alternative locations. As AT&T previously explained, SBA’s tower does not provide that “reasonably available opportunity to collocate,” within the meaning of 807

³ SBA Motion to Intervene, page 4.

K.A.R. 5:063-Section 1(s), because SBA does not make its tower available on reasonable terms considering the rent and other terms offered by Uniti Towers LLC. Significantly, SBA conspicuously fails to address the “reasonably available opportunity to collocate” issue in its Motion, particularly the import of market rent to the analysis.

6. AT&T is committed to providing state-of-the-art telecommunications services at competitive prices, consistent with both Kentucky and Communications Act policies. The General Assembly recognizes that consumers benefit from market-based competition, which offers consumers of telecommunications services the most innovative and economical services. See KRS 278.546. Similarly, the federal Communications Act of 1934, as amended by the Telecommunications Act of 1996 (“Communications Act”), establishes a national policy to “make available, so far as possible, to all people of the United States, without discrimination . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of national defense, [and] for the purpose of promoting safety of life and property through the use of wire and radio communications.” 47 U.S.C. § 151 (emphasis added).

7. Construction of the proposed tower is not only in the interest of AT&T, but in the public interest as well, as it will facilitate the development and deployment of advanced wireless and broadband connectivity. Competitive, market-based infrastructure is needed to provide innovative and economical telecommunications services, and investment in such telecommunications infrastructure is a necessary and critical component of AT&T’s mission to provide affordable, advanced communication services to Kentucky businesses and residents. By allowing competition to increase in the provision

of towers to wireless companies like AT&T, tower rents are likely to decrease and the options to enhance and expand the availability of advanced wireless services will improve. SBA is attempting to prevent that competition and preserve its power to charge high rates for leasing space on its tower, which can only have the effect of slowing deployment of new or expanded wireless services. While foreclosing competition may be in SBA's narrow commercial interest, it is not in the interests of the public.

8. SBA's Exploitation of its "Only Tower" in the Area Status. SBA represents it owns or controls a tower in the vicinity of the proposed tower on which AT&T is co-located. AT&T has equipment located on that SBA tower, but it has elected to remove its equipment from the SBA tower and proposes a new communications facility in the vicinity. SBA is attempting to exploit the fact that it has the only tower in the area by demanding unreasonable terms for the collocation of antennas on its tower. This impedes AT&T's ability to provide innovative and economical services to Kentucky citizens. AT&T should not be forced to pay excessive financial terms demanded by SBA for collocation on its tower when a competitor is willing and able to (i) build a tower that AT&T would find preferable and (ii) offer terms and conditions to AT&T that are substantially more attractive than those offered by SBA. Of course, SBA failed in its effort at intervention in PSC Case No. 2017-00435 in which AT&T proposed to co-locate on a new Tillman Infrastructure tower. On similar facts in the present case, AT&T's proposal to co-locate on a new Uniti Towers LLC facility should be treated the same as the prior Tillman Infrastructure tower consistent with the rights of AT&T and Uniti Towers LLC, including rights to due process and equal protection.

9. Excessive SBA Rent Diverts Funds from Utility Service. Unreasonable and

excessive fees charged by SBA divert resources that could otherwise be used to invest in expanding wireless networks and the availability of wireless services to all Kentuckians, frustrate upgrades, and make it more difficult to deploy new advanced technologies that require the installation of new equipment. In response to SBA's refusal to charge reasonable rates and facilitate AT&T's deployment of advanced technologies, AT&T has submitted an application to construct additional telecommunications infrastructure, at an address of 74 Antioch Road, Liberty, KY (37°13' 26.77" North latitude, 84° 57' 18.92" West longitude) so that it may continue to offer innovative and economical wireless services, consistent with the goals of both Congress and the General Assembly. See KRS 278.546.

10. SBA Motion Prevents Competition. While SBA states that it does not believe another facility is needed, the clear intent of SBA's Motion is to prevent competition and perpetuate its position as the sole provider of a tower in the subject geographic area. However, the General Assembly's mission for the PSC with respect to telecommunications is set forth in KRS 278.546, which provides among other things that "[s]tate-of-the-art telecommunications is an essential element to the Commonwealth's initiatives to improve the lives of Kentucky citizens, to create investment, jobs, economic growth, and to support the Kentucky Innovation Act of 2000," and "[c]onsumers benefit from market-based competition that offers consumers of telecommunications services the most innovative and economical services." (Emphasis added). SBA's attempt to protect its grip on having the sole tower in the area undermines both of these goals.

11. Encouraging Competition and the Public Convenience and Necessity are Consistent Goals. Contrary to the SBA Motion, the tower proposed by Applicants is necessary to increase competition between telecommunications infrastructure providers

so that AT&T can continue to furnish adequate, efficient and reasonable telecommunications services to residents and others using wireless services in Casey County. See *Bardstown v. Louisville Gas & Electric Co.*, 383 S.W.2d 918, 1964 KY. LEXIS 68 (Ky. 1964). Denial of the requested Certificate of Public Convenience and Necessity (“CPCN”) would immunize SBA from competition, which is contrary to the interests of Kentuckians. KRS 278.650 authorizes the PSC to approve construction of new cellular towers in the interest of the “public convenience and necessity.” This statutory standard is inconsistent with allowing an existing tower owner to hide behind general principals of collocation to demand unreasonable above-market compensation from wireless carrier utilities without regard to competing lower cost site alternatives in the vicinity.

12. Collocation by Additional Wireless Carriers is Encouraged by the Proposed Tower. In addition to promoting competition among telecommunications infrastructure providers, approval of the requested CPCN will improve collocation opportunities for other telecommunication providers in this area under business terms that are moderated by competition. The tower proposed by Applicants is designed to accommodate antennas for AT&T and three additional service providers which is a key to opening up competition. See Exhibit B to the Application.

13. Judicial Concerns as to Excessive Tower Rent. SBA’s tower, however, is not in the long term a viable and reasonable collocation alternative for AT&T or other providers within the meaning of case precedent and the PSC’s own regulations at 807 KAR 5:063. See *T-Mobile USA Inc. v. City of Anacortes*, 572 F.3d 987, 998 (9th Cir. 2009); 2009 U.S. App. LEXIS 15924 and *T-Mobile Cent. LLC v. Charter Twp. Of West Bloomfield*, 691 F. 3d 794, 2012 U.S. App. LEXIS 17534, 2012 FED App. 0275P (6th Cir.). Excessive

rental rates render the tower “not feasible or available” under the *Anacortes* standard and prevent it from being a “reasonably available opportunity to collocate” pursuant to 807 K.A.R. 5:063-Section 1(s).

14. Aesthetic Arguments Fail to Support Intervention. Further, to the extent SBA’s argument is intended to suggest that a tower (other than SBA’s, presumably) would be unaesthetic, such generalized concerns do not provide any basis for intervention or denial of the application. Similar arguments based upon unsupported lay opinions regarding the siting of cell towers were rejected by the PSC in Case No. 2017-00368 and in Case No. 2017-00435. The proposed facility has been designed, configured, and located in such a manner that it will prevent or limit potential adverse effects on surrounding properties.

15. Judicial Precedent Rejects Aesthetic Arguments. Indeed, the U.S. Court of Appeals for the Sixth Circuit has affirmed that lay opinion or generalized aesthetic concerns are not substantial evidence that would justify rejection of a new tower application. Under federal law, any decision rendered by state or local authorities regarding the placement of wireless facilities must be in writing and supported by substantial evidence in a written record. 47 U.S.C. § 332(c)(7)(B)(iii). Generalized aesthetic concerns based on lay opinion, such as what any resident in any area in which any tower is placed might make, do not constitute substantial evidence. *See Cellco Partnership v. Franklin Co.*, KY, 553 F. Supp. 2d 838, 845-846 (E.D. Ky. 2008); *T-Mobile Central, LLC v. Charter Township of West Bloomfield*, 691 F.3d 794, 804 (6th Cir. 2012). Of course, that kind of vague objection to “unchained proliferation” is all that SBA proffers here. Neither the PSC enabling statutes nor its implementing regulations establish any

specific objective standards for aesthetic considerations in rulings on a request for a CPCN for a new tower.

16. Claims of Tower Proliferation Fail to Support Intervention. The requested CPCN is for a proposed land use that is consistent with the existing tower owned by SBA. Since the proposed tower is a compatible land use given the existing tower in the area, and since the tower is designed to minimize visual impact, aesthetic objections cannot support a denial of the requested CPCN. SBA's fears of "... an unchained proliferation of duplicative utility facilities..."⁴ do not support its Motion. SBA has offered no evidence that tower proliferation is a threat to rural Casey County. Moreover, pleas of adverse impact of tower proliferation strain credulity considering the vicinity of the proposed tower is heavily wooded and sparsely populated as evidenced by Application exhibits.

17. Public Convenience Versus Pecuniary Interest of SBA. Ultimately, the Public Service Commission's decision in the proceeding must be based on the public convenience and necessity rather than the pecuniary interests of SBA. KRS 278.020 (1); 807 KAR 5:063. Allowing SBA to thwart the building of a new tower that will foster competition and the provision of new wireless installations necessary to provide wireless technology to retail and business customers and emergency service providers⁵ would not be consonant with any rational basis or statute, regulation, or written policy of the PSC. Wireless carriers should not be made subject to the whims of SBA in its attempts to extract the highest compensation from them. Applicants' proposal for a new tower is in

⁴ SBA Motion for Intervention, p. 4.

⁵ A Federal Communications Commission Consumer Guide (October 29, 2014) states: "It is estimated that about 70% of 911 calls are placed from wireless phones and that percentage is growing."

compliance with all requirements of relevant PSC regulations and other applicable law, and results from a "good faith effort" to evaluate alternatives. *T-Mobile Central LLC, supra* at 808.

18. The Proposed Uniti Towers LLC Rent Establishes a New Market Rent. The approximate rental cost to provide service from the SBA tower is substantially above the rent AT&T has been offered on the proposed tower, including both capital cost and ground rent. Without revealing confidential information, we can state that the SBA monthly rent is more than \$1,000.00 per month higher than the rent proposed by Uniti Towers LLC. Thus, the SBA rent is substantially above current market rent. SBA's intervention would not change these critical facts and would only complicate and disrupt the proceedings.

19. 807 K.A.R. 5:063 – Section 1(s) is Dispositive on SBA Motion. In consideration of all of the foregoing facts, law, and circumstances, SBA's tower does not provide a "reasonably available opportunity to collocate," within the meaning of 807 K.A.R. 5:063-Section 1(s), because SBA does not make its tower available on reasonable terms considering the new market rent established by the Uniti Towers LLC site. The PSC should not facilitate SBA's efforts to maintain market exclusivity for the sole purpose of extracting onerous financial terms when the proposed new tower on other property meets service needs and all applicable law.

20. PSC Staff Review More Effectively Meets Standards for Agency Review than Adversarial Intervention Proceedings by a Competitor. If any further inquiry as to cost differential between the SBA site and the proposed tower is necessary, inquiry by the PSC Staff, with appropriate confidentiality protections, will confirm the overwhelming cost advantage of the proposed tower and allow the PSC to timely move forward with its

decision on the requested CPCN. Such an approach is consistent with the federal Telecommunications Act's encouragement of the rapid deployment of wireless communications facilities,⁶ and would be far more likely to resolve this dispute over reasonable availability within the time frames of the FCC's Shot Clock Ruling⁷ and the PSC's normal time frame for processing cellular tower applications. This approach also would be consistent with the General Assembly's mission for the PSC for telecommunications as set forth in KRS 278.546, which provides among other things that "[s]tate-of-the-art telecommunications is an essential element to the Commonwealth's initiatives to improve the lives of Kentucky citizens, to create investment, jobs, economic growth, and to support the Kentucky Innovation Act of 2000," and "[c]onsumers benefit from market-based competition that offers consumers of telecommunications services the most innovative and economical services."

21. SBA Fails to Meet Standards for Intervention. KRS 278.650 requires an applicant seeking to construct a cellular tower in areas such as unincorporated Casey County to apply to the PSC for a CPCN pursuant to KRS 278.020(1). KRS 278.020(1) provides in pertinent part that:

"Upon the filing of an application for a certificate, and after any public hearing which the commission may in its discretion⁸ conduct for all interested parties, the

⁶See *Pi Telecom Infrastructure V, LLC v. Georgetown-Scott County Planning Comm'n*, 234 F. Supp. 3d 856 (E.D. Ky. 2017) ("Congress enacted the TCA to promote competition between service providers that would inspire the creation of higher quality telecommunications services and to encourage the rapid deployment of new telecommunications technologies.")

⁷See *In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review & to Preempt Under Section 253 State & Local Ordinances That Classify All Wireless Siting Proposals As Requiring A Variance*, 24 F.C.C. Rcd. 13994, 14013 (2009) (a/k/a "FCC Shot Clock Ruling").

⁸ The SBA Motion to Intervene repeatedly offers to present evidence if it is granted

commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part” (Emphases added.) *Id.* at KRS 278.020(1).

Kentucky Public Service Commission implementing regulations at 807 KAR 5:001 provide in pertinent part for a movant to (among other things) “state his or her interest in the case and how 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.” Further, in order to intervene, a would-be intervenor must have “a special interest in the case that is not otherwise adequately represented,” or “his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.” (Emphasis added). *Id.* at 807 KAR 5:001. SBA’s Motion to Intervene fails to satisfy these standards. The PSC and its Staff are well-qualified to examine the facts surrounding Applicants’ proposed tower in connection with their statutory and regulatory obligations. Direct participation in the case by SBA as an intervenor would not add to the PSC’s analysis and its ultimate decision on the request for a CPCN. The PSC recognized in its March 26, 2018 Order in PSC Case No. 2017-00435 denying intervention to SBA that “[i]t is likely that if the Commission permitted SBA to intervene, this intervention would unduly complicate this proceeding.” The PSC should reach the same conclusion in the present case.

Intervention. *Id.* at pages 2, 5, and 6. Whether any public hearing for the offering of evidence is held is within the discretion of the PSC per KRS 278.020(1). See also *Kentucky Public Service Commission Commonwealth ex rel. Conway*, 324 S.W.3d 373, 379 (Ky. 2010) explaining “Hearings are not necessarily required to resolve the complaint.” SBA’s desire to offer or take proof does not mandate its Motion be granted or that any hearing take place.

22. Courts have Upheld Denials of Intervention. Kentucky's appellate courts have upheld PSC denials of requests for intervention in CPCN cases. For example, in *EnviroPower, LLC v. PSC*, 2007 Ky. App. Unpub. LEXIS 121 (Ky. App. 2007), the Kentucky Court of Appeals upheld the PSC's denial of a motion to intervene in a CPCN proceeding which had been upheld by the Circuit Court. The Court of Appeals noted that a PSC decision to deny intervention is reviewed only for an abuse of discretion, and found that the PSC did not abuse that discretion in denying intervention to a person seeking intervention (*EnviroPower*) that did not "have an interest in the 'rates' or 'service' of a utility" seeking a CPCN, but that instead was merely a competitor. While *EnviroPower* held permits under which it had expected to construct the facility that the CPCN authorized the utility to self-construct instead, the Court agreed that this was insufficient to give *EnviroPower* a right to intervene, as it "had a mere expectancy and no fundamental property right." The PSC relied on *EnviroPower* in its denial of SBA's Motion to Intervene in PSC Case No. 2017-00435 at pages 3 and 5 and should likewise do so in this proceeding.

23. Parallels to *EnviroPower*. SBA claims no interest in AT&T's rates or services, but instead is merely a competitor that would prefer to prevent AT&T from using the proposed tower. SBA may have some expectancy that wireless carriers will use its tower, but that does not equate to any fundamental property right to compel wireless carriers to use SBA's tower or to prevent the construction of competing infrastructure. Just as in *EnviroPower*, SBA is attempting to advance its pecuniary interests rather than public issues regarding rates and service. Consistent with the PSC's decision as upheld by the Court of Appeals in *EnviroPower*, SBA's Motion to Intervene should be denied.

24. The PSC has Denied Intervention in Many Cases. Critical to the PSC's many denials of requested intervention have been factors such as the potential interveners being "unlikely to present issues or develop facts that will assist the Commission in considering the matter" or that the party requesting intervention is not a customer of the applicant, does not receive services from the applicant and/or does not pay any rates charged by the applicant. All of these same factors warrant denial of SBA's Motion. See *In the Matter of Application of 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 Communications Facility in the Commonwealth of Kentucky in the County of Graves* (Case No. 2017-00368), 2017 Ky. PUC LEXIS 1148 (November 30, 2017); *In the Matter of Application of 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 Communications Facility in the Commonwealth of Kentucky in the County of Butler* (Case No. 2017-00369), 2017 Ky. PUC LEXIS 1167 (December 30, 2017); *In the Matter of: Tariff Filing of East Kentucky Power Cooperative, Inc. and its Member Distribution Cooperatives for Approval of Proposed Changes to their Qualified Cogeneration and Small Power Production Facilities Tariffs and the Implementation of Separate Tariffs for Power Purchases from Solar Generation Qualifying Facilities* (Case No. 2017-00212), 2017 Ky. PUC LEXIS 967 (September 22, 2017); *In the Matter of: Electronic Application of Kentucky Power Company* (Case No. 2017-00179), 2017 Ky. PUC LEXIS 833 (August 16, 2017); *In the Matter of the Joint Application of PNG Companies LLC ... for Approval of an Acquisition of Ownership* (Case No. 2017-00125), 2017 Ky. PUC LEXIS 412 (April 20, 2017); *In the Matter of: Application of 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 Communications Facility ... (Case No. 2018-00031 – Order of June 1, 2018); In the Matter of Application of East Kentucky Network, LLC D/B/A Appalachian Wireless.... (Case No. 2018-00095 – Order of September 7, 2018).

25. Opportunity to File Comments in Absence of Intervention. In all of above-referenced denials of intervention, the PSC has pointed out that, even with denial of intervention, the requesting person or entity may still file comments in the record of the case and review the progress of the proceedings via the PSC’s online docket. Thus, intervention is not essential to allow any person or entity to be heard in a PSC proceeding.

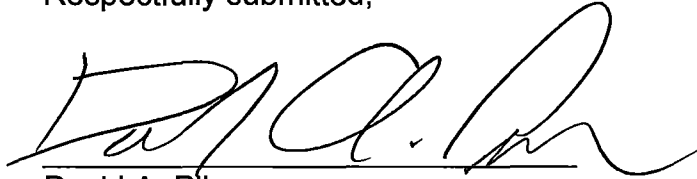
26. SBA has No Right to Intervene. SBA has only a right to *request* intervention in Commission proceedings pursuant to applicable regulations. 807 KAR 5:063 Section 1(1)(n)3; 807 KRS 5:120 Section 2(5)(c) (“interested persons have right to *request* to intervene”). See also *Bee’s Old Reliable Shows, Inc. v. Kentucky Power Co.*, 334 S.W.2d 765, 766 (Ky. 1960) (“limitation [on individual participation in Commission proceedings] was not in violation of the Constitution, and ... deprives no one of his rights”). Intervention is in the “sound discretion” of the PSC. *Inter-County Rural Elec. Co-Op. Corp. v. Public Service Commission*, 407 S.W.2d 127, 130 (Ky. 1966).

REQUEST FOR RELIEF

WHEREFORE, there being no ground for intervention by SBA, Applicant respectfully requests the Kentucky Public Service Commission:

- (a) Accept this Response for filing;
- (b) Deny the Motion to Intervene; and
- (c) Grant Applicant any other relief to which it is entitled.

Respectfully submitted,



David A. Pike
And



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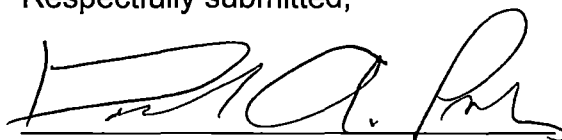
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 2nd day of July 2019, a true and accurate copy of the foregoing was sent by U.S. Postal Service first class mail, postage prepaid, to:

Christopher Clendenen,
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Casey C. Stansbury &
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "D.A. Pike", written over a horizontal line.

David A. Pike
And

A handwritten signature in black ink, appearing to read "F. Keith Brown", written over a horizontal line.

F. Keith Brown
Attorneys for Applicants