

**COMMONWEALTH OF KENTUCKY  
BEFORE THE 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 )  
AND UNITI TOWERS LLC, A DELAWARE )  
LIMITED LIABILITY COMPANY )  
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC ) CASE NO.: 2020-00351  
CONVENIENCE AND NECESSITY TO CONSTRUCT )  
A WIRELESS COMMUNICATIONS FACILITY )  
IN THE COMMONWEALTH OF KENTUCKY )  
IN THE COUNTY OF PULASKI )

SITE NAME: ELIHU RELO – ROSE HILL ROAD

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**APPLICANTS’ MOTION TO STRIKE SBA’S FILING  
FROM THE ADMINISTRATIVE RECORD**

New Cingular Wireless PCS, LLC, a Delaware limited liability company, d/b/a AT&T Mobility (“AT&T”) and Uniti Tower LLC, a Delaware limited liability company (“Applicants”), by counsel, make this Motion to Strike from the Administrative Record SBA Properties, LLC’s (“SBA”) Motion For Confidential Treatment and related information identified as “Confidential Information” filed on April 27, 2021 on the grounds that SBA is not a party to these proceedings as defined by 5:001 Section 1 (10), and therefore, has no standing to make the motion.

SBA has not been granted intervention in this proceeding and the PSC has determined that SBA’s ownership of a tower in the area of a proposed tower is not a proper special interest under 807 KAR 5:001 Section 4(11). SBA’s characterization of the Motion For Confidential Treatment as an attempt to protect Applicants is disingenuous at best in

that the PSC has recognized in prior Orders that SBA is motivated as a competitor with an interest in keeping tower rents high by limiting the number of towers (see PSC Case Nos. 2017-00435 and 2019-00176). This runs counter to one of the purposes of the Telecommunications Act of 1996, which is to promote competition.

Even though SBA is not a party to these proceedings, it is attempting to file in the public record information about the Applicants that SBA has characterized as “Confidential Information.” This and numerous other filings by SBA in the administrative record serve to prolong these proceedings and protect what the PSC has characterized as SBA’s monopoly as the owner of the only tower in the area. SBA’s attempts to delay the proceedings run counter to the requirements contained in Section 332(c)(7)(B)(ii) of the Communications Act requiring action on requests for a new tower within a reasonable period of time.

**WHEREFORE**, Applicants respectfully request the PSC strike from the administrative record SBA’s Motion For Confidential Treatment and related information identified as “Confidential Information” on the grounds that SBA is not a party to these proceedings, and therefore, has no standing to make the motion. In the alternative, Applicants request any other relief to which they are entitled as a result of SBA not being a party in this proceeding.

Respectfully submitted,

*David A. Pike*

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David A. Pike  
And

*F. Keith Brown*

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F. Keith Brown

Pike Legal Group, PLLC  
1578 Highway 44 East, Suite 6  
P. O. Box 369  
Shepherdsville, KY 40165-0369  
Telephone: (502) 955-4400  
Telefax: (502) 543-4410  
Email: dpike@pikelegal.com  
Attorneys for Applicants

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 4th day of May 2021, the foregoing was filed electronically with the Kentucky Public Service Commission. No natural person or entity has been granted intervention in this proceeding. A courtesy copy of the foregoing was sent by U.S. Postal Service first class mail, postage prepaid, to the following:

Edward T. Depp  
R. Brooks Herrick  
DINSMORE & SHOHL LLP  
101 S. Fifth St., Suite 2500  
Louisville, KY 40202

Respectfully submitted,

*David A. Pike*

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David A. Pike and

*F. Keith Brown*

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F. Keith Brown  
Pike Legal Group, PLLC  
1578 Highway 44 East, Suite 6  
P. O. Box 369  
Shepherdsville, KY 40165-0369  
Telephone: (502) 955-4400  
Telefax: (502) 543-4410

Email: [dpik@pikelegal.com](mailto:dpik@pikelegal.com)  
Attorneys for Applicants