



Legal Counsel.

DINSMORE & SHOHL LLP
101 S. Fifth St., Suite 2500
Louisville, KY 40202
www.dinsmore.com

R. Brooks Herrick
(502) 540-2376 (direct) · (502) 585-2207 (fax)
brooks.herrick@dinsmore.com

September 17, 2021

Filed Electronically

Linda C. Bridwell
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40601

Re: 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 Convenience and Necessity to Construct a Wireless Communications Facility in the Commonwealth of Kentucky in the County of Montgomery, Case No. 2021-00145

Dear Executive Director Bridwell:

SBA files this public comment¹ to provide the Commission with additional facts directly bearing on the Commission’s decision in this matter. *See* 807 KAR 5:063 Section 1(1)(s) (“A statement . . . that there is no reasonably available opportunity to co-locate, including documentation of attempts to co-locate . . .” (emphasis added)).

SBA hereby notifies the Commission that it has offered to modify the monthly rent currently charged to AT&T Mobility (“AT&T”) to continue to co-locate on the SBA Tower described in SBA’s Motion to Intervene to match the monthly rent to be charged by Uniti Towers LLC (“Uniti”), less \$10.00. The offer was communicated by SBA to AT&T through its representative, Ronnie T. Cheek, AT&T Area Manager Site Acquisition for NC/TN/KY, 4100 Southstream Blvd, Charlotte, NC. Accordingly, SBA’s offer to AT&T is an additional fact that this Commission should consider in rendering its decision (and a fact that might have been presented earlier had AT&T

¹ SBA files this public comment in recognition of the Commission’s September 10, 2021 Order denying its Motion for Intervention and without waiver and subject to its rights to seek relief, through appeal or otherwise, from the Commission’s Order denying its request for intervention.

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sought to renegotiate its tower rent for this particular tower, as the Commission regulations appear to require).

Thus, in accordance with 807 KAR 5:063 Section 1(1)(s) and the Commission's Order of January 21, 2021 in KY PSC Case No. 2019-176, SBA's tower, a multi-tenant structure designed to provide a single coverage solution, remains reasonably available for continued co-location by AT&T. In addition, as AT&T has previously indicated in similar proceedings that rent is the dispositive issue, it is now clear that AT&T and Uniti's Application for a Certificate of Public Convenience and Necessity to build a new tower should be denied. AT&T can continue to co-locate on the reasonably available SBA tower and provide the appropriate wireless service to the area. This result is consistent with the goal of 807 KAR 5:063, to encourage co-location and avoid the unnecessary proliferation of towers, and is best for the community.

SBA is committed to engaging with AT&T concerning any SBA tower located in the Commonwealth of Kentucky, which may avoid the need for further filings before the Commission. Furthermore, SBA is happy to meet with the Commission as well to discuss this matter.

Sincerely,

DINSMORE & SHOHL LLP

/s/ R. Brooks Herrick

Edward T. Depp
R. Brooks Herrick

Certification

I hereby certify that a copy of this Public Comment has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

/s/ R. Brooks Herrick
R. Brooks Herrick

RBH