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May 12, 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:

In recognition of the fact that the Commission has not yet ruled on the pending motion to intervene of SBA VII, LLC (“SBA”), SBA files this interim public comment to respond to Applicant’s May 10, 2020 filing, which only serves to prove that SBA should be allowed to participate in this case as a party.

Specifically, Applicants have now disclosed that “Applicants have submitted an Affidavit with targeted discussion of AT&T Mobility’s experience with negotiations with SBA.” (emphasis added). Because Applicants have now conceded that negotiations with SBA are relevant evidence that should be considered by the Commission, SBA should be allowed to intervene, review the confidential filing, and ensure that the evidentiary record is developed with a full understanding of the negotiations between AT&T Mobility and SBA. SBA is the only party that can ensure the Commission receives all relevant evidence on this issue, which Applicants have now conceded must be considered in this proceeding.

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Moreover, not only has AT&T Mobility conceded this must be considered, Commission regulation requires that this evidence be considered.¹ Considering that Applicants have engaged in a pattern and practice of filing Applications that fail to provide the required “statement indicating that the utility attempted to co-locate on towers designed to host multiple wireless service providers’ facilities or existing structures,”² it is clear that SBA should be given an opportunity to provide and develop evidence regarding these negotiations (or lack thereof by AT&T Mobility).

Sincerely,

DINSMORE & SHOHL LLP

/s/ Edward T. Depp

Edward T. Depp

Certification

I hereby certify that the electronic version of this filing made with the Commission on May 12, 2021, is a true and accurate copy of the paper document that will be submitted to the Commission within 30 days of the Governor lifting the state of the emergency pursuant to the Commission’s Orders in Case No. 2020-00085, and the electronic version of the filing has been transmitted to the Commission. A copy of this filing has been served electronically on all parties of record for whom an e-mail address is given in the online Service List for this proceeding.

/s/ Edward T. Depp

Edward T. Depp

ETD

¹ 807 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, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the utility attempted to co-locate on towers designed to host multiple wireless serve providers’ facilities or existing structures, such as a telecommunications tower . . .” (emphasis added)).

² *Id.*