

**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 TILLMAN INFRASTRUCTURE LLC, A DELAWARE | )                      |
| LIMITED LIABILITY COMPANY                  | )                      |
| FOR ISSUANCE OF A CERTIFICATE OF PUBLIC    | ) CASE NO.: 2021-00398 |
| CONVENIENCE AND NECESSITY TO CONSTRUCT     | )                      |
| A WIRELESS COMMUNICATIONS FACILITY         | )                      |
| IN THE COMMONWEALTH OF KENTUCKY            | )                      |
| IN THE COUNTY OF GRAYSON                   | )                      |

SITE NAME: FALLING BRANCH

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**APPLICANTS’ REBUTTAL TESTIMONY IN RESPONSE TO INTERVENOR  
TESTIMONY**

New Cingular Wireless PCS LLC d/b/a AT&T Mobility (“AT&T”) and Tillman Infrastructure LLC, a Delaware limited liability company (“Tillman”) (collectively, “Applicants”), by counsel, hereby file this response to intervenor testimony.

Applicants OBJECT to the Intervenor Testimony on RELEVANCY, DUE PROCESS, ARBITRARINESS, and JURISDICTION. The CPCN Application is reviewed on facts in the record at time of filing under applicable law. The PSC does not have jurisdiction to impose an expanding review process in which Applicants have an obligation to change the location of their proposed tower. No statute or regulation requires moving of a site after an Application is filed. Further, any required consideration of moving a proposed tower site is prejudicial and damaging to

Applicants in imposing substantial costs of new due diligence on Applicants. Inquiry on moving the proposed site serves no lawful purpose considering all of these factors.

Without waiving the aforesaid objection, the Applicants hereby state that all issues discussed in the Intervenor Testimony submitted on October 13, 2022 have been repeatedly addressed by the Applicants and reviewed by the PSC.

Specifically, the Intervenor's assertions related to property value were addressed on November 30, 2021 via a filed Real Estate Value Impact Study prepared by Glen D. Katz. Mr. Katz submitted supplemental information in verified form at the intervenor's request as part of the Applicants' Responses to Initial Requests for Information. The information submitted in the Intervenor's Testimony has not introduced any new issues.

Further, the Intervenor Testimony also reiterates the Intervenor's wish for the Applicants to co-locate the proposed antennas outside of the search area. Beginning at paragraph 26 of the initial application filing, filed over one year ago, the Applicants have repeatedly explained that the proposed tower must be placed within the search area submitted as Exhibit N of the filed application. This point has been further discussed in no less than three filings, including in the affidavits of Annie Zocco, which were filed as part of the Applicants' Responses to Initial Requests for Information on September 13, 2022; the Applicant's Responses to Supplemental Requests for Information filed on October 4, 2022; and in the Radio Frequency Engineering Statement filed on October 4, 2022.

The Intervenor's Final Testimony raises no issues that have not been addressed repeatedly by the Applicants over the course of these lengthy proceedings. Accordingly, no further rebuttal testimony is necessary.

WHEREFORE, the Applicants, by counsel, request the PSC to accept this Response for filing and grant Applicants any other relief to which they are entitled.

Respectfully submitted,

*David A. Pike*

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David A. Pike  
and

*F. Keith Brown*

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 28<sup>th</sup> day of November, 2022, a true and accurate copy of the foregoing was electronically filed with the PSC and sent by U.S. Postal Service first class mail, postage prepaid, to the Intervening Party at the following address:

Roger and Janelle Nicolai  
2663 Blue Bird Road  
Falls of Rough, KY 40119

Respectfully submitted,

*David A. Pike*

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and

*F. Keith Brown*

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