

**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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MOTION FOR ORDER FOR POST-HEARING BRIEFS

Comes New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility and Tillman Infrastructure LLC (“Applicants”), by counsel, and requests the Public Service Commission (“PSC”) and/or its Hearing Officer to enter an Order requiring the parties hereto to file Post-Hearing Briefs on or before a date certain after conclusion of the Hearing scheduled in this matter for July 27, 2023.

It is common practice for the PSC to require or provide opportunity for Post-Hearing Briefs¹ consistent with due process protections for all parties and to facilitate an informed decision by the PSC. However, no existing Order in this proceeding addresses this issue. Specifically, Applicants request an Order

¹ 807 K.A.R. 5:001, Section 10 contemplates Briefs in connection with a PSC hearing. Section 10 states in pertinent part: “Each brief shall be filed within the time fixed.”

require Post-Hearing Briefs which, at a minimum, include discussion of:

- (1) criteria for decision on the pending Application for Certificate of Public Convenience and Necessity pursuant to the Kentucky Revised Statutes and regulations adopted by the Public Service Commission and associated Kentucky appellate precedent;
- (2) any applicable law which relates to the authority or lack thereof of the Public Service Commission to order a proposed tower site to be moved to a location other than that proposed by applicant; and
- (3) the implications of the federal Telecommunications Act of 1996 and associated federal case precedent on the PSC's evaluation of evidence and the PSC's decision in this proceeding.

Filing of Post-Hearing Briefs would provide all parties the opportunity to apply evidence of record from the July 27 Hearing to cited applicable law in order to attempt to persuade the PSC to grant the relief they each request.

In summary, Applicants request the PSC require the filing of or, in the alternative, provide parties the opportunity to file Post-Hearing Briefs by a date certain and/or any other relief to which Applicants are entitled.

Respectfully submitted,

David A. Pike

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and

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of July, 2023, 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, Kentucky 40119

Respectfully submitted,

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and

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