COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF CELLCO) PARTNERSHIP D/B/A VERIZON WIRELESS 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 EDMONSON

CASE NO. 2022-00332

RESPONSE TO SECOND REQUEST FOR INFORMATION

Cellco Partnership d/b/a Verizon Wireless (Applicant) response to PUBLIC SERVICE COMMISSION (PSC) as to whether Applicant provided sufficient notice to adjoining landowners as required by KRS 278.665(2) and 807 KAR 5:063, Section 1(1)(I).

APPENDIX C RESPONSE, please note changes in "blue" :

Please see Exhibit 6; Certification of attorney supervising the preparation of the response on behalf of the person that the response is true and accurate to the best of that person's knowledge, information , and behalf formed after a reasonable inquiry for each response to Items 1-3 and 6-7.

1. Exhibits K-L in original filing:

In Order dated February 16, 2023, Page 2, paragraph 4, PSC states:

"On February 1, 2023, the Commission received a public comment filed by Kathy Sasse. Ms. Sasse alleged that she is the owner of land adjoining the site of Verizon Wireless's proposed wireless communications facility. Ms. Sasse argued that she did not receive notice of Verizon Wireless's application because the notice was sent to her stepfather. Further, Ms. Sasse argued that other property owners in the vicinity of the proposed location of the wireless communications facility did not receive notice of Verizon Wireless's application."

Applicant's February 22, 2023 Response with additional response to PSC Request for

additional information in "blue": Applicant researched the Edmonson County Property Evaluation Administrator's (PVA) records on February 17, 2023 finding that Ms. Kathy Sasse does not appear in searches to own any property in Edmonson County. The property adjacent to the east of the subject property shows ownership as Yvonne Watt Basham Estate with the address of PO Box 192, Brownsville, KY 42210; the green card was signed by Darrell Basham and returned. According to Ms. Sasse's email, Darrell Basham is her stepfather; Mr. Basham received and signed for the notice as mailed on behalf of the Yvonne Watt Basham Estate.

It was further found that one of the properties has experienced an ownership change. Parcel 043-00-00-040.01 was previously owned by Sean M. and Fallon A. Willoughby; it is currently owned by Julie Skaggs Reep. All other ownerships and addresses were verified to be correct as of February 17, 2023. Parcel 043-00-00-040.01 was transferred to Julie Skaggs Reep on March 4, 2022.

Applicant's February 22, 2023. Response amended with PSC's original numbering recognizing the automatic word processing application skipping items numbered 4 & 5, please note changes in "blue":

2. Documentation of mailing addresses:

In Order dated February 16, 2023, Page 3, paragraph1, PSC states:

"In response to Ms. Sasse's comment, Verizon Wireless filed a supplement to its application on February 3, 2023. Verizon Wireless included in its February 3, 2023 filing, copies of the envelopes containing the letter to each of the 14 neighboring property owners. The envelopes included the certified mail tracking information. Verizon Wireless provided a copy of the letter sent to the neighboring property owners dated October 4, 2022. Verizon Wireless also included copies of the return receipts returned to its counsel and the tracking information for one of the mailings. Four of the return receipts sent certified mail to the adjoining property owners were returned signed to Verizon Wireless's counsel. Verizon Wireless provided copies of eight envelopes that were

returned to Verizon Wireless's counsel unclaimed or unable to forward. By using the tracking information provided, the Commission was able to ascertain that the certified mail was successfully delivered to one additional landowner, while the tracking information for another mailing indicated no activity after October 12, 2022, when the mail was scheduled to arrive at its next destination from the regional distribution center."

Applicant's February 22, 2023 Response with additional response to PSC Request for

additional informaiton in "blue": Only seven envelopes were returned. Of those seven, six were marked "unclaimed" and one was marked "No such Street". See <u>Exhibit 1</u> hereto with picture from the PVA mapping site indicating both the existing street and the mailing address for David Keith, 1145 Shady Land Church Road, Bowling Green, KY 42101, matching the Notice List under Exhibit K of Applicant's original application.

Two of the mailings were not returned to date. Applicant has conducted research using the tracking information from the original mailing. USPS Tracking shows successful delivery to Lisa K Lindsey and Randy Wilson, 101 Walnut Ridge Way, Bowling Green, KY 42104. Please see <u>Exhibit 2</u> attached hereto. USPS Tracking indicates the notice mailed to William B, and Dora A. Cowles, 383 Tuckertown Road, Oakland, KY 42159 is still in transit. This Tracking Report is also included in <u>Exhibit 2</u>.

The original property owner research was certified by Mark E. Patterson, Licensed Professional Engineer, License #3136 in the Commonwealth of Kentucky on March 2, 2022, that ownership was verified using the Edmonson County Kentucky Property Valuation Administration Office (PVA) on February 21, 2022 on sheet B-2 and B-2.1 of <u>Exhibit C</u> in the original filing. Attached

hereto as <u>Exhibit 3</u>.

- A statement that every person who, according to the records of the property valuation administrator, owns property within 500 feet of the proposed tower has been:
 - 1. Notified by certified mail, return receipt requested, of the proposed construction;
 - 2. Given the commission docket number under which the application will be processed; and

3. Informed of his right to request intervention;

Notice was provided utilizing the PVA records including the PCS docket number, right to intervene and copy of the aerial indicating the site was included in the original filing as <u>Exhibit L</u>.

The PVA records indicate that the ownership records as of October 4, 2022 had changed for one property, parcel 043-00-00-040.01 from Sean M and Fallon A Willoughby to Julie Skaggs Reep.

Verizon Wireless has sent certified mail notice to Julie Skaggs Reep on March 7, 2023 including the PCS docket number, the right to intervene and copy of the aerial indicating the site, please see <u>Exhibit 7.</u>

- (m) A list of the property owners who received the notice, together with copies of the certified letters sent to listed property owners; The List of Property Owners to receive notice was included in the original filing as <u>Exhibit K</u>. The updated list of property owners as of October 4, 2022 is attached as <u>Exhibit 8</u>.
- (n) A statement that the county judge executive has been:
 - 1. Notified by certified mail, return receipt requested, of the proposed construction;
 - 2. Given the commission docket number under which the application will be processed; and
 - 3. Informed of his right to request intervention;

Notice provided to the Judge Executive including the PCS docket number, right to intervene and copy of the aerial indicating the site was included in the original filing as <u>Exhibit M</u>.

(0) A copy of the notice sent to the county judge executive;

A copy of the notice to the Judge Executive was included in the original filing as <u>Exhibit M</u>.

- 3. Posted Notices
 - (p) A statement that:
 - 1. Two (2) written notices meeting the requirements of subsection (2) of this section have been posted, one
 - (1) in a visible location on the proposed site and one
 - (1) on the nearest public road; and
 - 2. The notices shall remain posted for at least two (2) weeks after the application has been filed;

Applicant's Response: a. The signs were posted on October 3, 2022.

b. Said statement was filed with the original file as <u>Exhibit N</u>. Attached as <u>Exhibit 4</u> hereto are the photographs of the two signs; two by four feet in size with text printed in black letters at least one (1) inch in height against a white background, except for the word "tower," which is at least four (4) inches in height.

The two signs posted on October 3, 2022, remained posted for at least two weeks after Verizon Wireless's application was filed on October 6, 2022.

- **4**. **6**. Newspaper Notice
 - (q) A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed.
 <u>Applicant's Response</u>: Statement regarding the published notice in the Bowling Green Daily News was included as <u>Exhibit O</u> in the original filing. The legal ad was published October 6, 2023. Attached as <u>Exhibit 5</u> hereto is the tearsheet and the Affidavit of Publication

5. 7. Exhibit S: Follow up Applicant's Response:

The original property owner research was certified by Mark E. Patterson, Licensed Professional Engineer, License #3136 in the Commonwealth of Kentucky on March 2, 2022, that ownership was verified using the Edmonson County Kentucky Property Valuation Administration Office (PVA) on February 21, 2022 on sheet B-2 and B-2.1 of Exhibit C in the original filing. Attached hereto as Exhibit 3.

Verizon Wireless researched the Edmonson County Property Evaluation Administrator's (PVA) records on February 17, 2023 finding that Ms. Kathy Sasse does not appear in searches to own any property in Edmonson County. The property adjacent to the east of the subject property shows ownership as Yvonne Watt Basham Estate with the address of PO Box 192, Brownsville, KY 42210; the green card was signed by Darrell Basham and returned. According to Ms. Sasse's email, Darrell Basham, her stepfather received the notice as mailed and signed on behalf of the Estate. No notice was mailed to Darrell Basham.

The USPS verified that USPS Tracking shows successful delivery to Lisa K Lindsey and Randy Wilson, 101 Walnut Ridge Way, Bowling Green, KY 42104. See <u>Exhibit 2</u> attached hereto. USPS Tracking indicates the notice mailed to William B, and Dora A. Cowles, 383 Tuckertown Road, Oakland, KY 42159 is still in transit.

To date Applicant's counsel has evidence six notices have been delivered and accepted. Six notices were returned "unclaimed", of which one notice has updated ownership information. One notice was returned labeled "no such street" which Applicant verified is correct. Finally, one notice is still somewhere in transit or lost.

Applicant respectfully requests directions from PSC. If the PSC requests, Applicant can re-issue notice for the seven notices that were not accepted or delivered.

Based on the updated research of landowners from the PVA as of October 4, 2022, we have sent notice to Julie Skaggs Reep on March 7, 2023, see Exhibit 7 attached. With that additional notice we would submit that the applicant has met the requirements in terms of mailing, posting and publication asspecified in KRS278.665(2) and KAR 5:063, Section 1(1)(1). These rules require that notices are sent to persons within 500' of the tower based on the public records by certified return mail receipt. Regulations do not require that all notice verifications are <u>returned prior</u> to filing. If the standard is being modified, theoretically an adjoining property owner could refuse service and stop the consideration and approval of said application. Applicant does not have the power to mandate receipt of service which is presumed to be why additional forms of notice are required, including newspaper publication and on site posting of signs 2 feet by 4 feet in size. Applicant would reiterate that the complaint comes from a resident that, according to the Edmonson County PVA does not currently own the adjoining property or any other property in the property record system.

WHEREFORE, Applicant respectfully request that the PSC accept the foregoing response to PUBLIC SERVICE COMMISSION (PSC) as to whether Applicant provided sufficient notice to adjoining landowners as required by KRS 278.665(2) and 807 KAR 5:063, Section 1(1)(I).

Respectfully submitted, /s/ Russell L. Brown Clark, Quinn, Moses, Scott & Grahn, LLP 320 North Meridian Street, Suite 1100 Indianapolis, IN 46204 Phone: (317) 637-1321 / FAX: (317) 687-2344 EdEmail: rbrown@clarkquinnlaw.com Attorney for Cellco Partnership d/b/a Verizon Wireless

Exhibit 1



Copy from PVA Records showing street name, Property Owner Name and address.

USPS Tracking[®]

FAQs >

Remove X

Feedback

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70201810000218531340

Copy Add to Informed Delivery (https://informeddelivery.usps.com/)

Latest Update

Tracking Number:

Your item was delivered to an individual at the address at 5:10 pm on October 8, 2022 in BOWLING GREEN, KY 42104.

Get More Out of USPS Tracking:

USPS Tracking Plus[®]

Delivered Delivered, Left with Individual BOWLING GREEN, KY 42104

October 8, 2022, 5:10 pm

See All Tracking History

Text & Email Updates

USPS Tracking Plus®

Product Information

See Less 🔨

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

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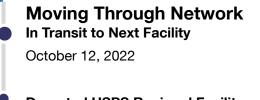


Tracking Number:

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

Get More Out of USPS Tracking:

USPS Tracking Plus[®]



Departed USPS Regional Facility NASHVILLE TN DISTRIBUTION CENTER October 8, 2022, 12:13 am

See All Tracking History

Text & Email Updates

USPS Tracking Plus®

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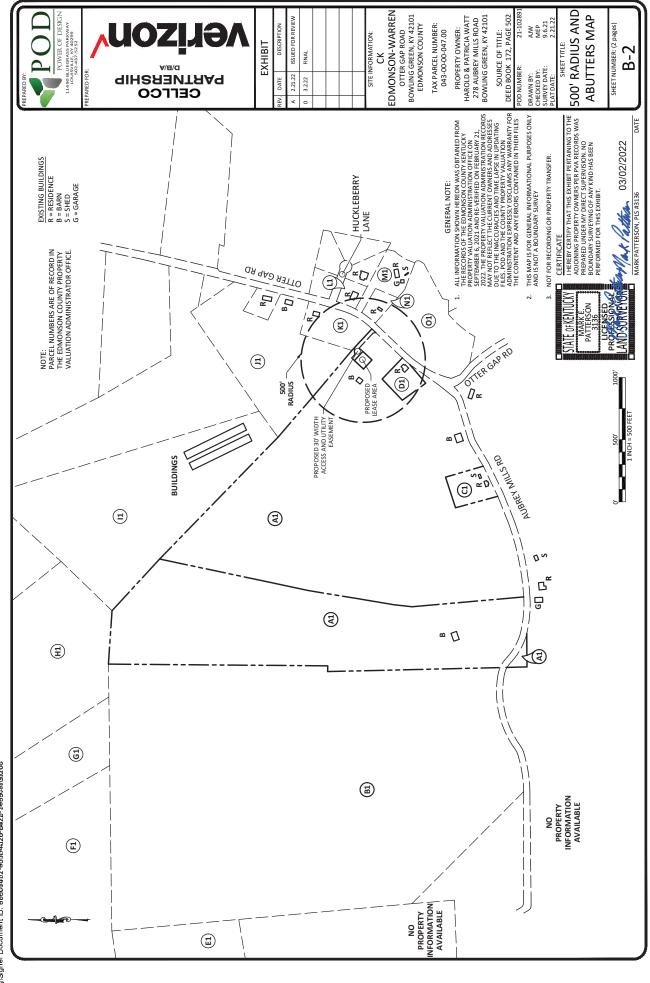
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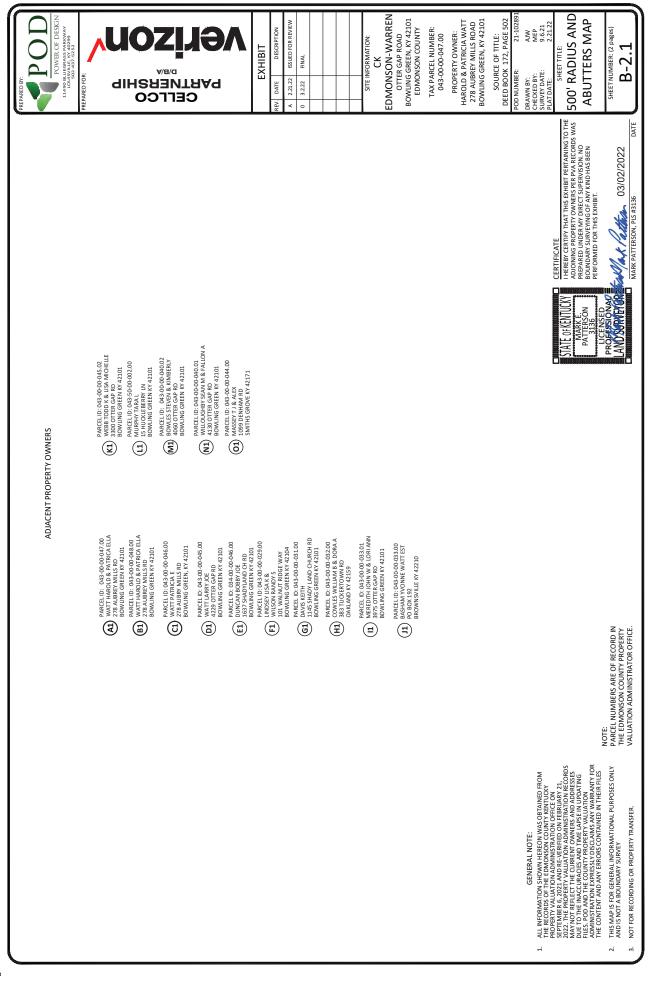
Need More Help?

Contact USPS Tracking support for further assistance.





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Exhibit 4 Photos of Posted Notices



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AFFIDAVIT OF PUBLICATION

Clark, Quinn, Moses, Scott & Grahn, LLC 320 N Meridian Street Suite 1100 Indianapolis, IN 46204

To Whom It May Concern:

This is to certify that on **Thursday, October 6, 2022, a PUBLIC NOTICE ad** ran in the classified of the Daily News, a publication in and for the county of Warren, city of Bowling Green, State of Kentucky.

I further certify that all of the foregoing facts are true on such date aforesaid.

Dated this 6th day of October, 2022.

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Subscribed and sworn to before me this 6th day of October, 2022.

My Commission Expires: July 20, 2024.

to sant

Notary Public KY State-At-Large Notary ID: KYNP9784

STATE OF INDIANA)) SS: COUNTY OF MARION)

AFFIDAVIT OF CERTIFICATION COMMONWEALTH OF KENTUCKY PUBLIC SERVICE COMMISSION

I Russell L. Brown, attorney for Cellco Partnership, d/b/a Verizon Wireless do hereby certify that person supervising the preparation of the response on behalf of the person that I am the person supervising the preparation of the response and that the response is true and accurate to the best of our knowledge, information, and belief formed after a reasonable inquiry for each response to Verizon Wireless's response to Staff's First Request, 1–3 and 2–7

Russell L. Brown Attorney, for Cellco Partnership, d/b/a Verizon Wireless

STATE OF INDIANA, COUNTY OF MARION, SS: Subseribed and sworn to before me this 3rd day of March, 2023.

land Notary Public

Printed Name of Notary: Elizabeth Bentz Williams My commission expires: November 18, 2028 My County of Residence: <u>Marion</u> Commission #: <u>0639620</u>





Russell L. Brown Attorney at Law rbrown@clarkquinnlaw.com 320 N. Meridian St., Ste. 1100 Indianapolis, IN 46204 (317) 637-1321 main (317) 687-2344 fax

March 7, 2023

VIA CERTIFIED MAIL 7022 0410 0002 1799 1171

JULIE SKAGGS REEP 4130 OTTER GAP RD BOWLING GREEN KY 42101

Notice of Proposed Construction of Wireless Communications Facility Site Name: Edmonson/Warren

Cellco Partnership, d/b/a Verizon Wireless has filed an application with the Kentucky Public Service Commission ("PSC") to construct a new wireless communications facility on a site located to the east of 4229 Otter Gap Road, Bowling Green, KY 42101(North Latitude: (37° 05' 02.74", West Longitude 86° 16' 10.91"). The proposed facility will include a 195-foot tall antenna tower, plus a 4-foot lightning arrestor, for a total height of 199 feet with related ground facilities. This facility is needed to provide improved coverage for wireless communications in the area.

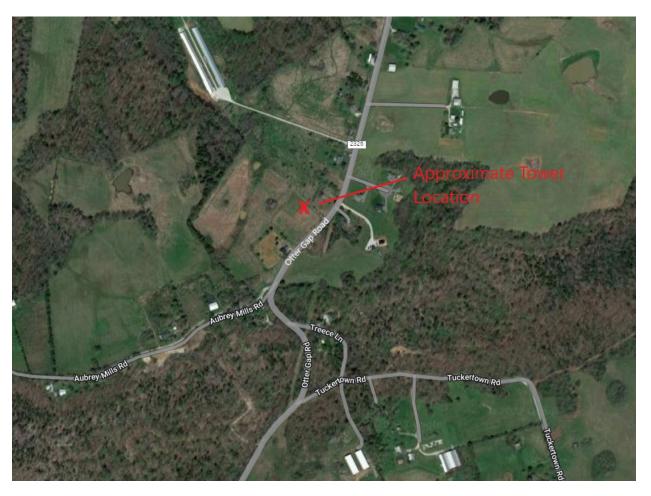
This notice is being sent to you because the County Property Valuation Administrator's records indicate that you may own property that is within a 500' radius of the proposed tower site or contiguous to the property on which the tower is to be constructed. You have a right to submit testimony to the Kentucky Public Service Commission ("PSC"), either in writing or to request intervention in the PSC's proceedings on the application. You may contact the PSC for additional information concerning this matter at: Kentucky Public Service Commission, Executive Director, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602. Please refer to docket number 2022-00332 in any correspondence sent in connection with this matter.

We have attached a map showing the site location for the proposed tower. Applicant's radio frequency engineers assisted in selecting the proposed site for the facility, and they have determined it is the proper location and elevation needed to provide quality service to wireless customers in the area. Please feel free to contact us at 317-637-1321 if you have any comments or questions about this proposal.

Sincerely, Russell L. Brown

Attorney for Applicant RLB/jdj enclosure

Location Map



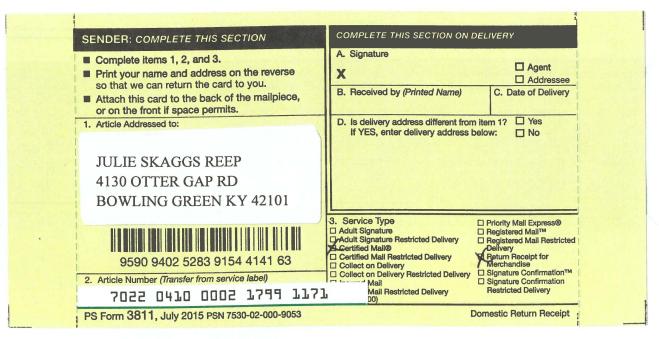
ClarkQuinn, Moses, Scott & Grahn, LLP





JULIE SKAGGS REEP 4130 OTTER GAP RD BOWLING GREEN KY 42101

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Notice List of property owners from PVA as of October 4, 2022

WATT HAROLD & PATRICA ELLA 278 AUBREY MILLS RD BOWLING GREEN KY 42101

WATT HAROLD & PATRICA ELLA 278 AUBREY MILLS RD BOWLING GREEN KY 42101

WATT PATRICIA E 278 AUBRY MILLS RD BOWLING GREEN, KY 42101

WATT LARRY JOE 4229 OTTER GAP RD BOWLING GREEN KY 42101

DUNCAN BOBBY JOE 1637 SHADYLAND CH RD BOWLING GREEN KY 42101

LINDSEY LISA K & WILSON RANDY S 101 WALNUT RIDGE WAY BOWLING GREEN KY 42104

DAVIS KEITH 1145 SHADY LAND CHURCH RD BOWLING GREEN KY 42101

COWLES WILLIAM B & DORA A 383 TUCKERTOWN RD OAKLAND KY 42159

MEREDITH JOHN W & LORI ANN 3975 OTTER GAP RD BOWLING GREEN KY 42101 BASHAM YVONNE WATT EST PO BOX 192 BROWNSVILLE KY 42210

WEBB TODD K & LISA MICHELLE 3300 OTTER GAP RD BOWLING GREEN KY 42101

BOWLES STEVEN & KIMBERLY 4060 OTTER GAP RD BOWLING GREEN KY 42101

WILLOUGHBY SEAN M & FALLON A 4130 OTTER GAP RD BOWLING GREEN KY 42101

JULIE SKAGGS REEP 4130 OTTER GAP RD BOWLING GREEN KY 42101

MURPHY TARA L 15 HUCKLEBERRY LN BOWLING GREEN KY 42101

MASSEY T J & ALEX 1099 DENHAM RD SMITHS GROVE KY 42171