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 ORDER

Cellco Partnership d/b/a Verizon Wireless (Applicant) response to PUBLIC SERVICE COMMISSION (PSC) as to re-issuance of notice to certain property owners within the vicinity of the proposed site of the wireless communications facility at issue in this case. Though not by way of formal motion, the Commission indicated this request will be treated as a motion.

BACKGROUND

- Applicant submitted an application requesting issuance of a Certificate of Public Convenience and Necessity to construct a wireless communication facility in the Commonwealth of Kentucky in the County of Edmonson on October 4, 2022.
- 2. The Public Service Commission (PSC) granted a Certificate of Convenience for this site on November 30, 2022.
- An assertion questioning proper notice was submitted to Case File 2022-00332 on February 1,
 2023 by Kathy Sasse.
- 4. In response, Applicant submitted a Supplement as Exhibit S to Original Filing detailing and including copies of the mailed envelopes, copies of returned envelopes, copies of returned green cards and tracking information from the United States Postal System.

- 5. The PSC reopened Case File 2022-00332 to investigate if notice was proper according to KRS 278.665(2) and 807 KAR 5:063, Section 1(1)(I) on February 16, 2023.
- 6. Applicant responded to said order on February 22, 2023 including:
 - a. Information from the Edmonson County Property Evaluation Administrator's records that Ms. Sasse was not shown as an owner of property entitled to notice;
 - b. Verification that one property did change ownership;
 - c. Detailed mailing information including pictures of posted notices and proof of newspaper notification in the *Bowling Green Daily News* in the form of the tearsheet and Affidavit of Publication..
 - d. Applicant also asked the PSC for directions for the "unclaimed and returned notices".
- 7. The PSC issued a 2nd request for information on February 24, 2023.
- 8. Applicant responded to the PSC's 2nd Request for information on March 7, 2023 including:
 - a. 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 belief formed after a reasonable inquiry for each response to Items 1-3 and 6-7.
 - b. Amendment of PSC's original numbering recognizing the automatic word processing allocation skipping numbers 4 & 5.
 - c. The ownership of parcel 043-00-00-040.01 changed from Sean M and Fallon AWilloughby to Julie Skaggs Reep on March 4, 2022.
 - d. New notice via certified mail, return receipt requested was mailed to Julie Skaggs Reep on March 7, 2023.
 - e. All other property owners were verified with the PVA records as of March 3, 2023 and were consistent with original mailing.

- Verizon received notification from PSC on March 30, 2023 that new notice was required for Julie Skaggs Reed to the tax mailing address on record with the Edmonson County property valuation administrator.
- 10. Additionally, Verizon received notification from PSC on March 30, 2023 that new notice was required for the following:
 - Larry Joe Watt
 - Davis Keith
 - John W. and Lori Ann Meredith
 - Todd K. and Lisa Michelle Webb
 - Steven and Kimberly Bowles
 - Tara L. Murphy
 - T J and Alex Massey

<u>RESPONSE</u>

- 1. Verizon Wireless transmitted new letters on March 30, 2023, the same day the Order was received, by certified mail, return receipt requested, to Larry Joe Watt, Davis Keith, John W. and Lori Ann Meredith, Todd K. and Lisa Michelle Webb, Steven and Kimberly Bowles, Tara L. Murphy, T J and Alex Massey, and J Julie Skaggs Reed, providing notice of this proceeding in accordance with 807 KAR 5:063, Section 1(1)(I). See **Exhibit 1** copies notice, location map, mailed envelopes, and certified mail receipts with tracking data.
- 2. As of April 26, 2023 the delivery status of each new mailing is as follows:
 - a. Notice to Julie Skaggs Reed was delivered April 3, 2023 and green card returned. See
 Exhibit 2.
 - b. Notice to T J and Alex Massey was returned as undeliverable. See **Exhibit 2**.
 - c. Notices to Larry Joe Watt, Davis Keith, John W. and Lori Ann Meredith, Todd K. and

Lisa Michelle Webb, Steven and Kimberly Bowles, Tara L. Murphy have not been returned and tracking through USPS as of April 26, 2023 indicates "moving through the system". See **Exhibit 3**. attached.

- 3. Please note the notice requirements for an application for a CPCN to build a wireless communications facility are set forth in 807 KAR 5:063, Section 1(1)(I) –(q). A utility must provide with its application:
 - (I) 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;
 - This was completed.
 - Please note the regulation states "return receipt requested" not "return receipt required".
 - 2. Given the commission docket number under which the application will be processed; and
 - This was completed.
 - 3. Informed of his right to request intervention;
 - This was completed.

It should be noted that after submission to PSC, Applicant was informed that Edmonson County does have a Planning Commission with regulations for siting of Wireless Communication Facilities. Subsequently, Applicant filed with the County and received approval on March 14, 2023.

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.

For each of those reasons, Applicant respectfully requests that the PSC determine that proper notice was provided, in accordance with both 807 KAR 5:063, Section 1(1)(I)–(q) and KRS 267.665, close consideration of the request and reinstate the PSC's previous approval of the Applicant's requests.

Attached as **Exhibit 4** is a signed Certification of the attorney supervising the preparation of this Response on behalf of the person that prepared the response that it is true and accurate to the best

of that person's knowledge, information, and belief formed after a reasonable inquiry for each response within this submission.

Applicant respectfully request that the PSC accept the foregoing response to Order issued March 30, 2023 by 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

Email: rbrown@clarkquinnlaw.com Attorney for Cellco Partnership d/b/a Verizon Wireless



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 30, 2023

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 Cap 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







7020 1810 0002 1853 2255



WATT LARRY JOE 4229 OTTER GAP RD BOWLING GREEN KY 42101

Clark Quinn ark, Quinn, Moses, Scott & Grahn, LLP

CERTIFIED MAIL



7020 1810 0002 1853 2262

FIRST-CLASS

DAVIS KEITH 1145 SHADY LAND CHURCH RD BOWLING GREEN KY 42101

Clark Quinn

lark Quinn, Moses, Scott & Grahn, IIP

CERTIFIED MAIL



7020 1810 0002 1853 2279





MEREDITH JOHN W & LORI ANN 3975 OTTER GAP RD BOWLING GREEN KY 42101





7020 1810 0002 1853 2286





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

Clark Quinn lark, Quinn, Moses, Scott & Grahn, LLP CERTIFIED MAIL



7020 1810 0002 1853 2293

FIRST-CLASS



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

Clark Quinn
ark, Quinn, Moses, Scott & Grahn, LLP

CERTIFIED MAIL



7020 1810 0002 1853 2385

FIRST-CLASS



REED JULIE SKAGGS 403 N MAIN ST BROWNVILLE KY 42210





7020 1810 0002 1853 2309



MURPHY TARA L 15 HUCKLEBERRY LN BOWLING GREEN KY 42101

Clark Quinn lark, Quinn, Moses, Scott & Grahn, LLP

CERTIFIED MAIL

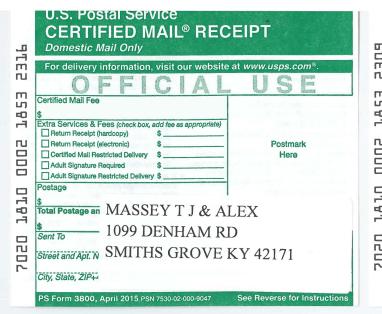


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FIRST-CLASS

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





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Postage \$ Total Postage MURPHY TARA L \$ Sent To 15 HUCKLEBERRY Street and Apt. BOWLING GREEN I City, State, ZIP.	



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

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Sincerely,

Russell L. Brown

Attorney for Applicant

RLB/jdj enclosure

Location Map







7020 1810 0002 1853 2255



WATT LARRY JOE 4229 OTTER GAP RD BOWLING GREEN KY 42101

Clark Quinn ark, Quinn, Moses, Scott & Grahn, LLP

CERTIFIED MAIL



7020 1810 0002 1853 2262

FIRST-CLASS

DAVIS KEITH 1145 SHADY LAND CHURCH RD BOWLING GREEN KY 42101

Clark Quinn

lark Quinn, Moses, Scott & Grahn, IIP

CERTIFIED MAIL



7020 1810 0002 1853 2279





MEREDITH JOHN W & LORI ANN 3975 OTTER GAP RD BOWLING GREEN KY 42101





7020 1810 0002 1853 2286





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

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REED JULIE SKAGGS 403 N MAIN ST BROWNVILLE KY 42210





7020 1810 0002 1853 2309



MURPHY TARA L 15 HUCKLEBERRY LN BOWLING GREEN KY 42101

Clark Quinn lark, Quinn, Moses, Scott & Grahn, LLP

CERTIFIED MAIL

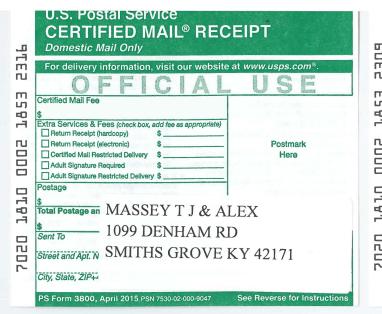


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-	SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
	 Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. Article Addressed to: REED JULIE SKAGGS 403 N MAIN ST BROWNVILLE KY 42210 	A. Signature Agent Addresse
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Clark Quinn, Moses, Scott & Grahn, LLP

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April 6, 2023

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April 6, 2023

Departed USPS Regional Facility

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In Transit to Next Facility

April 6, 2023

Departed USPS Regional Facility

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Latest Update

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Delivered

Delivered, Front Desk/Reception/Mail Room

INDIANAPOLIS, IN 46204 April 10, 2023, 12:59 pm

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Feedback

Delivered

Delivered, Left with Individual

BROWNSVILLE, KY 42210 April 3, 2023, 1:50 pm

See All Tracking History

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Track Another Package

Enter tracking or barcode numbers

Contact USPS Tracking support for further assistance.

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 as the person supervising the preparation of the response brief, on behalf of the person preparing that response, it is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry for each response within this submission.

Russell L. Brown

Attorney, for Cellco Partnership, d/b/a Verizon Wireless

STATE OF INDIANA, COUNTY OF MARION, SS:

Subscribed and sworn to before me this 28th day of April, 2023

Notary Public

Printed Name of Notary: Elizabeth Bentz Williams

My commission expires: November 18, 2028

My County of Residence: Marion

Commission #: 0639620