

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

THE APPLICATION OF)
SKYWAY TOWERS LLC AND)
CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC) CASE NO.: 2023-00074
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY)
IN THE COMMONWEALTH OF KENTUCKY)
IN THE COUNTY OF CARROLL)

SITE NAME: LOCUST

APPLICANTS' RESPONSE TO DATA REQUEST

Skyway Towers, LLC, a Delaware limited liability company, and Cellco Partnership, a Delaware General Partnership d/b/a Verizon Wireless (“Applicants”), by counsel, make this Response to the Kentucky Public Service Commission Staff’s (“Commission Staff”) First Request for Information to Verizon Wireless Partnership d/b/a Verizon Wireless dated March 30, 2023 (“Data Request”). Applicants respectfully state, as follows:

1. Commission Staff’s Data Request requires Applicants to “[p]rovide all signed United States Postal Service Form 3811, otherwise known as ‘signed green cards,’ that correspond to the notice list in Exhibit J.” Applicants are unclear of the basis for this request. Nothing in the applicable statutes require submission of signed green cards as part of a Certificate of Public Convenience and Necessity (“CPCN”) Application for a Wireless Communications Facility. Furthermore, as a practical matter, it can take months before all signed green cards are returned. Therefore, requiring this documentation as

part of the CPCN Application review is impractical and will result in unnecessary delay. Accordingly, Applicants object to this additional requirement being imposed. As an accommodation, not as required by law, and under protest, the Applicants have provided copies of the available signed green cards received to date as part of **Exhibit J-1**.¹ It should be noted that hundreds of CPCNs have been issued for similar proposals filed by the undersigned without requiring submission of this documentation, and similar requests in connection with future sites will delay the deployment of infrastructure that is critical to daily life and development in Kentucky's communities. There has been no change in the applicable regulations that would support the Commission's disparate treatment of Applicants here. Applicants strongly caution the Commission against similar requests in connection with future sites as it will delay the deployment of infrastructure that is critical to daily life and development in Kentucky's communities.

2. The U.S. Congress in adopting the Telecommunications Act of 1996 in the Act's preamble recognized the importance of the "rapid deployment of new telecommunications technologies."² (Emphasis added). Moreover, it is agency regulations, not ad hoc requirements, which establish substantial evidence in support of a wireless permitting decision. *Cellco Partnership v. Franklin County, et al*, 553 F. Supp. 2d 838, 845-846 (E.D. Ky. 2008). Establishing filing and/or review criteria beyond adopted regulations which serve to delay filing and processing of wireless facility applications is inconsistent with the longstanding practice of the PSC and federal telecommunications law, precedent, and policy.

¹ Applicants have not yet received the returned green card for one of the landowners who received notice of the within proposal. Applicants agree to supplement this response once that green card is returned.

² See 1996 federal Telecommunications Act preamble, 110 Stat. 56.

3. An Affidavit of Certification signed by the attorney supervising the preparation of the response on behalf of Applicants' certifying that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry is included as **Exhibit 1**.

WHEREFORE, there being no ground for denial of the subject application and substantial evidence in support of the requested CPCN, Applicants respectfully request the Kentucky Public Service Commission:

- (a) Accept this Response for filing;
- (b) Issue a Certificate of Public Convenience and Necessity to construct and operate the WCF at the location set forth herein without further delay; and
- (c) Grant Applicants any other relief to which they are entitled.

Respectfully submitted,



David A. Pike
and

F. Keith Brown

F. Keith Brown
Pike Legal Group, PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, KY 40165-0369
Telephone: (502) 955-4400
Telefax: (502) 543-4410
Email: dpike@pikelegal.com
Attorneys for Applicants

LIST OF EXHIBITS

- 1 - Affidavit of Certification
- J-1 - Signed Green Cards

EXHIBIT 1
AFFIDAVIT OF CERTIFICATION

**AFFIDAVIT OF CERTIFICATION
COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION**

I, F. Keith Brown, attorney for Skyway Towers, LLC, a Delaware limited liability company, and Cellco Partnership, a Delaware General Partnership d/b/a Verizon Wireless (“Applicants”), do hereby certify that I am the person supervising the preparation of the Response to Commission Staff’s Data Request on behalf of Applicants and that this response is true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

Further the affiant sayeth naught.

Affiant:

Mr. Keith Brown Date: 4/13/2023

State of Kentucky)

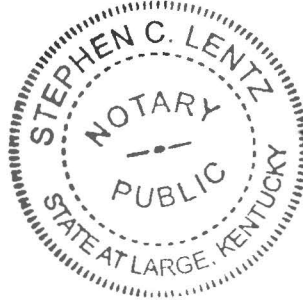
County of Bolivar)

AFFIANT ACKNOWLEDGEMENT

On this, the 13 day of April 2023 before me, the subscriber, a Notary Public in and for the above state, personally appeared to me F. Keith Brown and in due form of law, acknowledged, subscribed, and swore that he executed this instrument as his voluntary act and deed.

In testimony whereof, I have hereunto set my hand and affixed my seal in said County and State on the day and year last above written.

My commission expires on: December 4, 2024



Stephen C. Lentz KYNP 19462
Notary Public, State at Large

EXHIBIT J-1
SIGNED GREEN CARDS

SENDER: COMPLETE THIS SECTION

- 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:

DERMON TIMOTHY W
7735 WINDCHASE DR
BEAUMONT, TX 777138826



9590 9402 7926 2305 8788 61

Article Number (Transfer from service label)

7022 3330 0000 4290 3079

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
[Signature]

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery
 - Priority Mail Express®
 - Sure Mail
 - Sure Mail Restricted Delivery (over \$500)

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

BAYLES WILLIAM
532 W PRONG LOCUST RD
MILTON, KY 40045



9590 9402 7926 2305 8788 54

2. Article Number (Transfer from service label)

7022 3330 0000 4290 3086

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
[Signature]

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery
 - Priority Mail Express®
 - Sure Mail
 - Sure Mail Restricted Delivery (over \$500)

SENDER: COMPLETE THIS SECTION

- 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:

RWF LEGACY RANCH INC
242 SW 5TH STREET
POMPANO BEACH, FL 33060



9590 9402 7926 2305 8787 93

Article Number (Transfer from service label)

7022 3330 0000 4290 3147

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
[Signature]

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery
 - Priority Mail Express®
 - Sure Mail
 - Sure Mail Restricted Delivery (over \$500)

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

DAVID WILHOITE
COUNTY JUDGE EXECUTIVE
440 MAIN STREET
CARROLLTON KY 41008



9590 9402 7926 2305 8788 09

2. Article Number (Transfer from service label)

7022 3330 0000 4290 3130

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
[Signature]

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery
 - Priority Mail Express®
 - Sure Mail
 - Sure Mail Restricted Delivery (over \$500)

ENDER: COMPLETE THIS SECTION

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:

WENTWORTH MARY
828 W PRONG LOCUST
MILTON, KY 40045

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Mary Wentworth Agent Addressee
B. Received by (Printed Name) *MARY WENTWORTH* C. Date of Delivery *3/16/23*
D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Signature Confirmation™
 Collect on Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery Restricted Delivery Insured Mail Restricted Delivery (over \$500)


9590 9402 7926 2305 8788 47
Article Number (Transfer from service label)
7022 3330 0000 4290 3093

SENDER: COMPLETE THIS SECTION

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.

1. Article Addressed to:

JOHNSON ALEXANDER S &
GRIMES RACHEL
1312 W PRONG LOCUST
MILTON, KY 40045

2. Article Number (Transfer from service label)
7022 3330 0000 4290 2928

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Alexander S. Johnson Agent Addressee
B. Received by (Printed Name) *Alexander S. Johnson* C. Date of Delivery *3/14/2023*
D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Signature Confirmation™
 Collect on Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery Restricted Delivery Insured Mail Restricted Delivery (over \$500)

ENDER: COMPLETE THIS SECTION

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:

SNELL MARK KEVIN & TINA M
1148 FAIRVIEW RIDGE
MILTON, KY 40045

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Tina Snell Agent Addressee
B. Received by (Printed Name) *Tina Snell* C. Date of Delivery *3/14/23*
D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Signature Confirmation™
 Collect on Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery Restricted Delivery Insured Mail Restricted Delivery (over \$500)


9590 9402 7926 2305 8788 16
Article Number (Transfer from service label)
7022 3330 0000 4290 3123

SENDER: COMPLETE THIS SECTION

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.

1. Article Addressed to:

MCDOLE GEORGE WILLIAM LEE
1344 FAIRVIEW RIDGE
MILTON, KY 40045

2. Article Number (Transfer from service label)
7022 3330 0000 4290 3109

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 George McDole Agent Addressee
B. Received by (Printed Name) *George McDole* C. Date of Delivery
D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Signature Confirmation™
 Collect on Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery Restricted Delivery Insured Mail Restricted Delivery (over \$500)