

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

In the matter of:

ELECTRONIC APPLICATION OF EAST KENTUCKY )  
NETWORK, LLC D/B/A APPALACHIAN WIRELESS FOR )  
THE ISSUANCE OF A CERTIFICATE OF PUBLIC ) CASE NO. 2024-00174  
CONVENIENCE AND NECESSITY TO CONSTRUCT A )  
REPLACEMENT TOWER IN MORGAN COUNTY, )  
KENTUCKY )

**RESPONSE OF EAST KENTUCKY NETWORK, LLC D/B/A APPALACHIAN WIRELESS  
TO COMMISSION STAFF’S SECOND REQUEST FOR INFORMATION**

East Kentucky Network, LLC d/b/a Appalachian Wireless (“Applicant”), by and through counsel, hereby files this Response to Commission Staff’s Second Request for Information filed in the above-styled case.

- 1. Request 1:** *Refer to KRS 278.665(2) and 807 KAR 5:063, Section 1(1)(l)(1). Also refer to the Application, Exhibit 2, pdf page 14 of 89 and Appalachian Wireless’s response to Commission Staff’s First Request for Information, Item 2. Explain why the letter of notice to Isaac and Kristin Allen (collectively, the Allens), the Certified Mail Receipt, and the USPS Tracking all have different zip code numbers for the Allens. For the Allens, provide a copy of the signed United States Postal Service Forms 3811, otherwise known as “signed green cards,” or a copy of the notice that was returned to Appalachian Wireless as undelivered. This is a continuing request and should be updated in a supplemental filing until all signed green cards and undelivered notices are returned to Appalachian Wireless.*

**Response:** Raina L. Helton, Regulatory Compliance Director, offers the following response on behalf of Applicant. Applicant initially sent the required notification letter to the Allens at 1076 Gevedon Branch, West Liberty, KY 41472 on June 11, 2024, along with all the other notification letters. The letter was returned to Applicant by the USPS

with “NSS” written on the unopened envelope. It is Applicant’s understanding that “NSS” means “no such street.” A review of the PVA records showed that the city and zip code were incorrect. A copy of the original letter was re-sent to the Allens with the correct address, 1076 Gevedon Branch, Grassy Creek, KY 41352, as evidenced by the Certified Mail Receipt previously provided. The “signed green card” was never returned and, given the amount of time passed, will never be returned. Unfortunately, in Applicant’s experience, this is a common occurrence. Applicant shall amend this Response if and when the remaining “signed green card” is returned to Applicant.

As to the different zip code on the USPS tracking, Applicant can only speculate that it shows Hazel Green, KY 41332 because Grassy Creek, KY does not have a post office and the post office in Hazel Green is the closest despite being in another county. Any additional questions regarding USPS practices should be directed to the USPS.

**2. Request 2:** *Refer to 807 KAR 5:063, Section 1(1)(f). Also refer to the Application Exhibits 8 and 9. The proposed cell tower appears to be partially located on the property belonging to the Allens.*

a. *Confirm whether the project – including the proposed cell tower, its appurtenances, any temporary structures, construction activity, equipment or storage – will use or take place upon any real property owned or controlled by the Allens.*

b. *If confirmed, identify and provide the lease or other legal documents establishing Appalachian Wireless’s rights to enter upon and use the property.*

**Response:** Raina L. Helton, Regulatory Compliance Director, offers the following response on behalf of Applicant.

- a. Yes, the project will take place upon the real property owned or controlled by the Allens, said real property being that certain tract recognized by the PVA as map and parcel number 092-00-00-002.00.
  - b. Applicant entered into that certain Lease Agreement with Archie Smallwood and Nancy Smallwood (“Smallwoods”) on September 13, 2001, which was recorded on September 14, 2001, in Lease Book 89, Page 219, and on January 30, 2004 in Lease Book 90, Page 181, all in the Morgan County Clerk’s Office. Please refer to Exhibit 8 to the Application for a copy of the Lease Agreement. Subsequently, the Smallwoods conveyed the same property to Issac Allen and Kristin Allen by Survivorship Deed dated July 22, 2005, of record in Deed Book 202, Page 419 in the Morgan County Clerk’s Office. A copy of the Survivorship Deed is attached hereto as **Exhibit 1**.
- 3. Exhibit 2**, attached hereto, is a signed certification of the person supervising the preparation of this Response.

**WHEREFORE**, Applicant, having met the requirements of KRS 278.020(1), 278.650, 278.665, and all applicable rules and regulations of the PSC, respectfully requests that the PSC accept the foregoing Application for filing and grant a Certificate of Public Convenience and Necessity to construct and operate the proposed tower.

The foregoing document was prepared by Krystal Branham, Regulatory Compliance Attorney for East Kentucky Network, LLC d/b/a Appalachian Wireless. All related questions or correspondence concerning this filing should be mailed to East Kentucky Network, LLC d/b/a Appalachian Wireless, 101 Technology Trail, Ivel, KY 41642.

Dated this 4th day of November, 2024.

Respectfully submitted,



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Krystal Branham, Regulatory Compliance Attorney  
East Kentucky Network, LLC  
d/b/a Appalachian Wireless  
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Facsimile: (606) 339-1363  
[kbranham@ekn.com](mailto:kbranham@ekn.com)

# **Exhibit 1**

JUL 23 2005

TIME: 9:50 am  
RANDY WILLIAMS, CLERK

**SURVIVORSHIP DEED**

*Shelby*  
**THIS DEED OF CONVEYANCE** made and entered into this 22 day of July, 2005, by and between **ARCHIE SMALLWOOD and NANCY SMALLWOOD**, husband and wife, of 448 Buskirk Road, Grassy Creek, Kentucky 41352, as **GRANTORS** and parties of the first part, and **ISSAC ALLEN and KRISTIN ALLEN**, husband and wife, of 1076 Gevedon Branch, Grassy Creek, Kentucky 41352, as **GRANTEES** and parties of the second part.

**WITNESSETH:** That the parties of the first part, for and in consideration of the sum of **THIRTY-FIVE-THOUSAND DOLLARS (\$35,000.00)**, cash in hand paid to the Grantors by the Grantees, the receipt of which is hereby acknowledged, the Grantors hereby bargain, sell, and convey unto the Grantees for and during the said Grantees' joint lives and upon the death of either of said Grantees, then the remainder to the survivor of said Grantees in fee simple, the following described tract or parcel of land in the Commonwealth of Kentucky, County of Morgan, and on the waters of the Gevedon Fork of Grassy Creek, and being more particularly bounded and described as follows, to wit:

**BEGINNING** at the Delbert Gevedon (formerly Jim Prater) line on top of the ridge; thence with his line to the line of Colonel B. Gevedon; thence with his line of Joseph Stacy; thence with his line to the line of John Frank and Minnie Havens; thence with their line to Willis Haney's line; thence with his line to the Willie Haney farm; thence with that line to the line of Willie Williams; thence with his line to the Lee Roy Haney line; thence with his line to the line of B.F. Steele; thence with his line to the point of beginning, containing 100 acres, more or less, but this land is sold by the boundary and not by acres.

Being the same property conveyed to Archie Smallwood and Nancy Smallwood, husband and wife, by Deed of Conveyance from C.B. Gevedon and Ruby Gevedon, husband and wife, dated 19 January, 1959, and recorded in Deed Book 94, at page 596, of the records of the Morgan County Court Clerk's Office.

**THE PARTIES AGREE THAT THE REAL PROPERTY TAXES FOR 2005 WILL BE PRORATED BETWEEN THE PARTIES WHEN DUE AND PAYABLE.**

**PROVIDED, HOWEVER,** this conveyance is made subject to all existing restrictions, stipulations, and easements of record, including the subsurface oil, gas, and mineral rights, leased, reserved or outstanding in third parties, if any.







# **Exhibit 2**

**AFFIDAVIT OF CERTIFICATION**

I, Raina L. Helton, Regulatory Compliance Director for East Kentucky Network, LLC d/b/a Appalachian Wireless, do hereby certify, under penalty of perjury, that as the person responsible for supervising the preparation of this response all statements and information contained herein are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

*Raina L. Helton*

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Raina L. Helton, Regulatory Compliance Director  
East Kentucky Network, LLC  
d/b/a Appalachian Wireless

COMMONWEALTH OF KENTUCKY  
COUNTY OF FLOYD

The foregoing instrument was acknowledged before me on this 4<sup>TH</sup> day of NOVEMBER, 2024, by Raina L. Helton, Regulatory Compliance Director of East Kentucky Network, LLC d/b/a Appalachian Wireless.

**CARL ALAN ALKIRE**  
NOTARY PUBLIC  
STATE AT LARGE  
KENTUCKY  
COMMISSION # KYNP88714  
MY COMMISSION EXPIRES MAY 22, 2028

*Carl Alan Alkire*

\_\_\_\_\_  
Notary Public  
Commission No.: KYNP 88714

My Commission Expires 5/22/2028.