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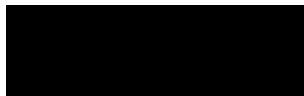
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PUBLIC SERVICE  
COMMISSION

## Roger & Janelle Nicolai

2663 Blue Bird Rd.

Falls of Rough, Kentucky 40119



December 25, 2024

Kentucky Public Service Commission

Executive Director

211 Sower Boulevard, P.O. Box 615

Frankfort, Kentucky 40602

Re: Docket #2024-00284

To Whom It May Concern,

This communication is a response to the Certificate of Public Convenience and Necessity submitted by the Applicants of case #2024-00284.

#2024-00284, while being technically new, is a continuation of the efforts of Docket #2021-00398. Because of the continuing nature of this case, I will be referencing evidence that was submitted to the PSC over the course of evaluating #2021-00398. This is in compliance with the PSC's communications dated April 12th, 2024.

- **Re: The CPCN**

The current CPCN, in like fashion to its predecessor, is built on the callous disregard of the negative economic consequences this cellular facility ensures.<sup>1 + 2</sup> This impact will exclusively be born by the Intervenors, i.e. the Nicolais. **Our property will suffer** negative economic impact if this facility is erected; **our use** of our property *will be* negatively affected.

The distance of the proposed site still falls within **1000'** of our house and offers **visibility** throughout our property<sup>3</sup>. This site does not increase the distance between our house and the compound to such a degree that our economic stressors are alleviated. This site does not limit the visibility of its contents in a manner that maximally alleviates negative economic effects.

Based on their continued pursuance of a cellular tower facility, and the particular site location choice, it appears that all previous communication with the Applicants was an exercise in futility. New Cingular et al. continue to use us as a “sacrificial lamb” in the pursuit of their fiduciary obligations. It is beyond comprehension that an out of state entity is attempting to knowingly and wantonly cause economic harm to a Kentucky family and their farm. No reason justifies the loss in property value they will induce.

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<sup>1</sup> Stephen L. Locke & Glenn C. Blomquist, 2016. "The Cost of Convenience: Estimating the Impact of Communication Antennas on Residential Property Values," *Land Economics*, University of Wisconsin Press, vol. 92(1), pages 131-147 .

Also located at: <https://gattonweb.uky.edu/Faculty/blomquist/LE%202016%20Locke%20Blomquist%20towers.pdf>

<sup>2</sup> Affuso, E., Reid Cummings, J. & Le, H. Wireless Towers and Home Values: An Alternative Valuation Approach Using a Spatial Econometric Analysis. *J Real Estate Finan Econ* 56, 653–676 (2018). <https://doi.org/10.1007/s11146-017-9600-9>

Also located at: <https://www.cga.ct.gov/2021/ETdata/Tmy/2021HB-06442-R000309-Lynch%20,%20Margaret--TMY.PDF>

<sup>3</sup> These criteria (1k' and visibility) are significant because they establish the greatest economic losses in the cited studies.

The Applicants argue for the tower and compound based on necessity, but that argument does not work. Necessity fails first in function due to the economic harm it causes my family. Necessity fails in form due to the multiple towers that have been erected since #2021-00398 was initiated.

Verizon and T-Mobile have both increased coverage in the Falls of Rough area over the past few years. They have accomplished this without impacting my land. Notably, Verizon has built two new towers post the July 27, 2023 PSC formal hearing.<sup>4+5</sup> The Applicants merely need to co-locate with one of these towers to increase their coverage footprint.

Given T-Mobile and Verizon's ability to act without harm to my land, surely market leader AT&T is capable of this as well. Either through co-location or a new independent tower location, it is unnecessary to harm my property. I will continue in my redundancy until this point is acknowledged by the Applicants; the intended actions of the current CPCN **will cause** my family and farm economic damages. Verizon and T-Mobile have proven that economic damages need not occur on my land to satisfy a coverage "necessity." While I recognize the Applicants financial incentives, there is no cellular "need"- particularly one that justifies harming a Kentucky citizen's property value- that demands the tower be placed at the proposed location.

We are not "against" AT&T operating in this area. We are opposed to AT&T causing us economic harm.

- **Re: The Newtons**

The only reason we would ever contemplate not resisting this cellular facility is out of consideration for our neighbors, the Newtons. But this lack of resistance can only occur if a solution is available that is maximally beneficial to both us and them. As has already been cited

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<sup>4</sup> Docket #2024-00059, Verizon Tower, Located at: 37° 36' 16.71" N, 86° 30' 43.37" W

<sup>5</sup> Docket #2023-00311, Verizon Tower Located at : 37° 37' 09.08" N, 86° 26' 17.30" W

and explained, the proposed site in #2024-00284 is not maximally beneficial to us; it is too close, and too visible.

It is worth noting that the currently proposed 10 story structure and its necessary infrastructure will sit within nearly 175' of our property. This portion of our property is our barn area and is used on a daily basis. We, and our animals, will always be subject to the visibility and noise of the proposed site. The audio disturbances will include construction, generator usage, 3rd party engagements, soil movement, general excavating, maintenance, et al. The noise of maintaining the facility underscores the sheer amount of bodies that will be present in the upkeep of this compound. There will be a retinue of routine "caretakers" for this facility. They and their vehicles will disturb the use of our property for the boarding, management, and care of our animals. This solution is untenable.

If any cellular communications site is to be located on the Newton's property, it must have the least negative impact on us. We continue to argue the viability of a particular portion of land on the Northern half of the Newtons property. This site of land offers the **greatest distance** from all portions of our property. It offers the least amount of disturbance to us and our animals. It has the **least amount of visibility throughout our property**. The **lack of visibility & greater distance from all points of our property** combine to offer us the least impactful site on the Newton's property. This site's limited visibility is due in part to tree lines the intervenors own. It is the best location based on all available criteria; it is **the only location** on the Newton's property that will not cause us to seek intervention from the KY PSC.



The only contrary argument the Newton’s have submitted in regard to this “alternative location” is based on generated income<sup>6</sup> from tillable soil. This issue is solved by the Newtons receiving an increased monthly lease amount from the Applicants. **The tower site we, the Intervenors, have located is the only viable solution for all parties involved.**

- **In Conclusion**

The Applicants continue to paint their proposed location as a “compromise” site. At **no point** have the Intervenors been amenable to this location<sup>7</sup>; the Intervenors have exclusively argued for

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<sup>6</sup> July, 27th, 2023 Hearing: Time-stamp, 50:33

<sup>7</sup> August 22, 2023: Roger and Janelle Nicolai Response to Motion for Informal Conference  
August 29, 2023: PSC Letter Filing IC Memo into the Record  
October 20, 2023: Roger and Janelle Nicolai Response to Applicants Update on Alternative Site

their proposed “alternative location.”<sup>8</sup> As noted, these arguments are documented throughout case #2021-00398. There is **no compromise** available outside of the Intervenors’ “alternative location.”

Based on the CPCN:

The Applicants’ proposed site will generate income for the Applicants.

The Applicants’ proposed site will generate income for the Newtons.

**The Nicolais will *literally* pay for the income generation of others.**

We ask the Kentucky Public Services Commission to consider all the aforementioned facts in this case and case #2021-00398. We ask that an out of state entity be prevented from harming Kentucky citizens. We ask that any tower site construction on the Newtons property be limited to the single location that is **most considerate** of our property and family; we ask that the CPCN be denied if the compound cannot be moved to this “alternative location.”

Thank you,

Roger & Janelle Nicolai

The Farm at Rough River, LLC

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<sup>8</sup> March 15, 2022: Roger and Janelle Nicolai Response to Public Hearing  
August 22, 2023: Roger and Janelle Nicolai Response to Motion for Informal Conference  
August 29, 2023: PSC Letter Filing IC Memo into the Record  
October 20, 2023: Roger and Janelle Nicolai Response to Applicants Update on Alternative Site