

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF TOWERCO	)	
2013, LLC, T-MOBILE CENTRAL, LLC AND	)	
CELLCO PARTNERSHIP D/B/A VERIZON	)	
WIRELESS FOR ISSUANCE OF A CERTIFICATE	)	CASE NO.
OF PUBLIC CONVENIENCE AND NECESSITY	)	2025-00028
TO CONSTRUCT A WIRELESS	)	
COMMUNICATIONS FACILITY IN THE	)	
COMMONWEALTH OF KENTUCKY IN THE	)	
COUNTY OF MARSHALL	)	

ORDER

This matter arises upon a public comment that was received from Jennifer Stambaugh, filed April 14, 2025. In the comment, Ms. Stambaugh requested intervention in the application of TowerCo 2013 LLC, T-Mobile Central, LLC, and Cellco Partnership d/b/a Verizon Wireless (collectively, the Joint Applicants) to construct a wireless tower in Marshall County, Kentucky. As a basis for intervention, Mrs. Stambaugh stated that 20 years ago she and her husband purchased 53 acres of land in Western Kentucky and re-located from Ohio.<sup>1</sup> Mrs. Stambaugh stated that, even with a limited income she and her husband, “have invested our time, energy and artistic knowledge into our forever home.”<sup>2</sup> Mrs. Stambaugh stated that she was “upset, mad, and anxious” when she received the “devastating news that a cell tower could be built in our country

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<sup>1</sup> Jennifer Stambaugh’s Public Comment (Stambaugh’s Public Comment) (filed Apr. 15, 2025) at 1.

<sup>2</sup> Stambaugh’s Public Comment at 3.

neighborhood.”<sup>3</sup> Mrs. Stambaugh is also concerned about the potential health risk of from the exposure of radiation, about the additional cost that she will incur if the cell tower is erected and also that the proposed tower will negatively affect the value of their property.

To date, only one other public comment has been received in this matter from Mr. Gary Oakley requesting public dialogue.<sup>4</sup>

### LEGAL STANDARD

The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), has the statutory right to intervene in Commission cases pursuant to KRS 367.150(8)(b). With limited exception, intervention by all others is permissive and within the sole discretion of the Commission.<sup>5</sup>

The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”<sup>6</sup>

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

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<sup>3</sup> Stambaugh’s Public Comment at 3.

<sup>4</sup> Gary Oakley’s Public Comment (filed on Feb. 12, 2025).

<sup>5</sup> KRS 164.2807.

<sup>6</sup> *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

## DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that the Mrs. Stambaugh failed to demonstrate that she has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented for that the Petitioner is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below. For the reasons discussed below, the Commission finds that the request to intervene is denied.

The request did not identify any special interest in the proceeding, but rather general objections: to the location of the proposed facilities; that residential property values will decrease; and concerns regarding health risk due to the proximity of the cell tower. The request stated that the proposed project will have a negative impact on residential home values in the area but provided no evidence, nor did they indicate a willingness or ability to generate evidence to support this allegation. More specifically, the request did not provide any documentation of specific potential negative impacts on the proposed locations of the facilities or of the surrounding area. Additionally, Mrs. Stambaugh residence is not within a 500 feet radius of the proposed tower or contiguous to the property on which the tower is to be constructed.

As noted above, Mrs. Stambaugh has not provided sufficient evidence to carry the burden that she satisfies either prong of the standard set out in 807 KAR 5:001 Section 4(11). Mrs. Stambaugh does not specifically address the intervention standard. Mrs. Stambaugh does appear to live in the area and presents several arguments against the construction of a wireless communication facility. However, Mrs. Stambaugh did not

provide any further information to support her assertions related to property value or health concerns. In addition, health concerns may not be a consideration in denying the application for construction of a wireless communications facility.<sup>7</sup> The federal government requires substantial evidence to deny a wireless communications facility.<sup>8</sup> Moreover, Mrs. Stambaugh did not assert that she could provide additional information to assist in rendering a decision on this application without unduly complicating the proceedings. Finally, pursuant to the maps with the application in this matter, and it does not appear Mrs. Stambaugh lives within the distance for which mandatory notification is required pursuant to statute or regulation.<sup>9</sup>

Denying this motion to intervene does not prevent the resident from participating in the case. The resident can review all public documents filed in the case and monitor the proceedings via the Commission website. In addition, the resident may file substantive public comments as frequently as they choose to the extent the resident disagrees with statements or information provided by the applicants, and those comments will be entered into the record of this case. The opportunity for public comment includes the ability for commentators to voice their comments at the opening of any hearing held in the matter or provide written comments. Moreover, a local public hearing can be held if the Commission receives a request from three or more residents that reside in the county.

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<sup>7</sup> [N]o state or local government or instrumentality thereof may regulate the construction of personal wireless facilities on the basis of the environmental effects of RF emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." *T-Mobile Central, LLC vs. Chapter TP West Bloomfield*, 691 F. 3d. 794 (Fed. App. 2021) *citing* 47 U.S.C. § 332(c)(7)(B)(iv); *Telespectrum vs. Kentucky Public Service Commission*, 227 F.3d 414, 424 (Fed. App. 2000).

<sup>8</sup> 47 U.S.C. 332(c)(7)(B)(iii).

<sup>9</sup> 807 KAR 5:063 Section 1(1)(l).

Thus allowing, the resident to intervene would not likely result in the presentation of additional issues and facts.

For the reason discussed above, the Commission finds that the resident has failed to establish that they either have a special interest in the proceeding or that their intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating the proceeding.

The Commission, based on the foregoing finds that the resident has not demonstrated a basis for intervention under 807 KAR 5:001, Section 4(11).

IT IS THEREFORE ORDERED that the request to intervene is denied.

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PUBLIC SERVICE COMMISSION

Chairman

Vice-Chairman

Commissioner

*Mary Pat Regan*

ATTEST:

*Linda Bridwell RP*  
Executive Director



\*Elizabeth Bentz Williams  
Clark, Quinn, Moses, Scott, and Grahn, LLP  
320 North Meridian Street  
Suite 1100  
Indianapolis, IN 46204-172

\*Russell L. Brown  
Clark, Quinn, Moses, Scott, and Grahn, LLP  
320 North Meridian Street  
Suite 1100  
Indianapolis, IN 46204-172

\*Cellco Partnership dba Verizon Wireless  
One Verizon Way, Mailcode VC53S309D  
Basking Ridge, NJ 07920