

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 TO)	2025-00028
CONSTRUCT A WIRELESS COMMUNICATIONS)	
FACILITY IN THE COMMONWEALTH OF)	
KENTUCKY IN THE COUNTY OF MARSHALL)	

ORDER

On July 17, 2025, TowerCo 2013 LLC, T-Mobile Central, LLC, and Cellco Partnership d/b/a Verizon Wireless (collectively, the Joint Applicants) filed a motion for rehearing¹ of the Commission’s July 9, 2025 final order² granting a Certificate of Public Convenience and Necessity (CPCN) to the Joint Applicants to construct a wireless communications facility.

LEGAL STANDARD

KRS 278.400 establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence

¹ TowerCo Motion (filed July 17, 2025).

² Order (Ky. PSC July 9, 2025).

presented leaves no room for difference of opinion among reasonable minds.”³ An order can only be unlawful if it violates a state or federal statute or constitutional provision.⁴

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

MOTION

The Joint Applicants’ motion requesting rehearing was filed on July 17, 2025. The Joint Applicants stated that there was an error in the application that provided the height of the tower at 260 feet with a 5-foot lightning arrestor for a total height of 265 feet instead of 270 feet with a 10-foot arrestor for a total height of 280 feet.⁵ The Joint Applicants stated it also discovered that the notice to property owners, notice to the Judge Executive and the Newspaper notice contained the same error.⁶ The Site Development Plans, FAA Application and the Determination of No Hazard, Tower and Foundation Design, and the Kentucky Airport Zoning Commission (KAZC) application include the correct height of 280 feet.⁷

³ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

⁴ *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

⁵ Motion for Rehearing (filed on July 17, 2025) at 1.

⁶ Motion for Rehearing (filed on July 17, 2025) at 1.

⁷ Motion for Rehearing (filed on July 17, 2025) at 1.

Joint Applicants stated that certified corrected notices have been sent to every person who, according to the records of the County Property Valuation Administrator, who owns property which is within 500 feet of the proposed tower or contiguous to the site property.⁸ The Joint Applicants have also notified the county judge/executive with the corrected notice via certified mail.⁹ Joint Applicants filed a corrected legal notice advertisement in a newspaper of general circulation in the county in which the wireless communication facility is located.¹⁰

DISCUSSION AND FINDINGS

Having considered the Joint Applicants' motion, the Commission finds that the Joint Applicants' motion requesting rehearing should be granted. Motions for rehearing or reconsideration may be granted to correct any material errors or omissions. In this case, the Joint Applicants discovered that the application erroneously contained the error of a total height of 265 feet instead of 280 feet. The Site Development Plans, the FAA Application and Determination of No Hazard, Tower and Foundation Design and KAZC application indicate the correct height of 280 feet supporting a conclusion that the application before the PSC contained a material error. Following discovery of the error, the Joint Applicants have actively taken steps to correct the error. The Joint Applicants have sent certified corrected notices to every person who, according to the records of the county property valuation administrator, owns property within 500 feet of the proposed

⁸ Motion for Rehearing (filed on July 17, 2025) at 2.

⁹ Motion for Rehearing (filed on July 17, 2025) at 2.

¹⁰ Motion for Rehearing (filed on July 17, 2025) at 2.

tower or contiguous to the site property, by certified mail, return receipt requested, of the proposed construction. The Joint Applicants also sent a certified corrected written notice to the County Judge Executive and the newspaper of general circulation in the area.

IT IS THEREFORE ORDERED that:

1. Joint Applicants' motion for rehearing is granted.
2. Joint Applicants must provide a copy of all signed United States Postal Service Form 3811, otherwise known as "signed green cards," or a copy of the notice that certified mail was returned to the Joint Applicants as undelivered by the United States Postal Service within 20 days of service of this Order.
3. Joint Applicants must provide copy of the USPS Form 3811 "green card" for the county judge/executive within 20 days of service of this Order.
4. Joint Applicants must submit a tear sheet from the newspaper that includes the notice advertisement and an affidavit from the publisher certifying that the notice advertisement was published within 20 days of service of this Order.
5. The remainder of the July 9, 2025 Order not in conflict with this Order remains in effect.
6. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

ATTEST:

Executive Director



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