

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NEW CINGULAR)	
WIRELESS PCS, LLC D/B/A AT&T MOBILITY FOR)	
A CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT A WIRELESS)	2025-00278
COMMUNICATIONS FACILITY IN THE)	
COMMONWEALTH OF KENTUCKY IN THE)	
COUNTY OF WAYNE)	

ORDER

On September 12, 2025, New Cingular Wireless PCS, LLC (New Cingular Wireless) filed an application seeking a Certificate of Public Convenience and Necessity (CPCN) to construct and operate a wireless telecommunications facility¹ to be located at 150 Worsham Lane/Gale Avenue, Monticello, Kentucky, 42633.² New Cingular Wireless filed an amendment to its application on October 10, 2025, to reflect a reduction in tower height³ and stated that the proposed facility is a 151-foot tall tower with an approximately 5-foot tall lightning arrestor attached at the top, for a total height of 156-feet.⁴ The coordinates for the proposed facility are 36° 50' 14.970652" North latitude by 84° 51' 51.138611" West longitude.⁵

¹ Application (filed Sept. 12, 2025).

² Application at 3.

³ Amended Application (filed Oct. 10, 2025).

⁴ Amended Application at 2.

⁵ Application at 3.

Pursuant to 807 KAR 5:063, New Cingular Wireless filed statements and provided the required notifications regarding the proposed construction.⁶ Pursuant to 807 KAR 5:063, New Cingular Wireless filed evidence that the county judge/executive and all property owners within 500 feet and contiguous to the cell site have been notified of the proposed construction.⁷ The notices solicited any comments and informed the recipients of their right to request intervention.⁸ As of the date of this Order, no public comments or requests for intervention have been received.

New Cingular Wireless filed applications with the Federal Aviation Administration (FAA)⁹ and the Kentucky Airport Zoning Commission (KAZC)¹⁰ seeking approval for the construction and operation of the proposed facility.¹¹ New Cingular Wireless stated in its application filed on September 12, 2025, that the FAA's approval of the construction and operation of the proposed facility and a Determination of No Hazard to Air Navigation was pending.¹² On October 10, 2025, New Cingular Wireless filed an amendment to its application and included the results of the FAA study which required the tower height to be reduced by nine feet from the original application to grant the Determination of No Hazard to Air Navigation.¹³

⁶ Application, Exhibits J and L.

⁷ Application, Exhibits J, L and M.

⁸ Application, Exhibits J, L and M.

⁹ Application, Exhibit E; Amended Application, Exhibit E-1.

¹⁰ Application, Exhibit F; Amended Application, Exhibit F-1.

¹¹ Application at 4.

¹² Application, Exhibit E.

¹³ Amended Application at 1, Exhibit E-1.

New Cingular Wireless stated in its amended application that the change in height has been reflected across the submitted amended exhibits and is the only alteration to its original application as required by the FAA¹⁴ and the FAA's granted a Determination of No Hazard to Air Navigation.¹⁵

New Cingular Wireless provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility.¹⁶ Based upon the application, the design of the tower and its foundation conform to applicable nationally recognized building standards and a licensed professional engineer has certified the plans.¹⁷ Additionally, New Cingular Wireless provided information, including a radio frequency analysis, that the proposed facility is required to provide adequate service and improve its service coverage.¹⁸ New Cingular Wireless also provided information that there is no reasonable opportunity to co-locate its equipment on existing structures.¹⁹

Pursuant to KRS 278.020, to obtain a CPCN, New Cingular Wireless must demonstrate a need for such facilities and an absence of wasteful duplication.²⁰ "Need" requires "a showing of a substantial inadequacy of existing service, involving a consumer market sufficiently large to make it economically feasible for the new system or facility to

¹⁴ Amended Application at 2.

¹⁵ Amended Application, Exhibit E1.

¹⁶ Application, Exhibits B and C.

¹⁷ Application, Exhibit B.

¹⁸ Application, Exhibit N.

¹⁹ Application at 4.

²⁰ *Kentucky Utilities Co. v. Public Service Com'n*, 252 S.W.2d 885 (Ky. 1952).

be constructed or operated.”²¹ “Wasteful duplication” is defined as “an excess of capacity over need” and “an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties.”²² The wireless market is competitive and other than the placement of towers and interconnection with other telecommunications providers, the Commission has little jurisdiction over wireless providers, including no jurisdiction over the rates and earnings of a wireless provider.²³

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that New Cingular Wireless has demonstrated that there is a need for the proposed facility. The proposed facility will support the increasing demand for telecommunications services, assure adequate coverage in the area and improve service in Wayne County by providing interconnection between other sites operated by New Cingular Wireless thereby forming a more cohesive network.

The Commission also finds that the proposed facility will not result in wasteful duplication. Building a new tower to improve telecommunication services and assure adequate coverage, when there are no reasonable opportunities to co-locate the equipment required to do so, does not result in wasteful duplication. The Commission, therefore, finds that a CPCN to construct the proposed facility should be granted.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or

²¹ *Kentucky Utilities Co. v. Public Service Com’n*, 252 S.W.2d 885, 890 (Ky. 1952).

²² *Kentucky Utilities Co. v. Public Service Com’n*, 252 S.W.2d 885, 890 (Ky. 1952).

²³ See KRS 278.54611.

insufficient. To assist the Commission in its efforts to comply with this mandate, New Cingular Wireless shall immediately notify the Commission in writing if, after the antenna tower is built and utility service is commenced, the antenna tower is not used for three consecutive months in the matter authorized by this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which shall be observed by New Cingular Wireless or any successors and assigns.

IT IS THEREFORE ORDERED that:

1. New Cingular Wireless are granted a CPCN to construct a wireless telecommunications facility. The proposed facility consists of a tower not to exceed 156-feet with attached antennas, to be located at 150 Worsham Lane/Gale Avenue, Wayne County, Kentucky. The coordinates for the proposed facility are 36° 50' 14.970652" North latitude by 84° 51' 51.138611" West longitude.
2. New Cingular Wireless shall immediately notify the Commission in writing if, after the antenna tower is built and utility service is commenced, if the tower is not used for three consecutive months in the manner authorized by this Order.
3. Documents filed, if any, in the future pursuant to ordering paragraph two herein shall reference this case number and shall be retained in the post-case correspondence file.
4. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:


Executive Director



Case No. 2025-00278

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