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March 13, 2001

Mr. Mark Rickards  
LCC International, Inc.  
767 South State Road 7, Suite 17  
Margate FL 33068

RE: PSC Jurisdiction/ Towers for Provision of XM Radio Service

Dear Mr. Rickards:

This is in response to your request for a Commission Staff opinion in regard to the jurisdiction of the Kentucky Public Service Commission in regard to towers constructed for the purpose of providing XM Radio, "a new technology for broadcast radio" that utilizes satellite technology and repeater antennae to create a nationwide satellite radio network. You also mention that you seek information regarding collocation on existing towers for the purpose of providing XM Radio service.

Please be advised that this Commission does not regulate broadcast radio services. Accordingly, pursuant to KRS 278.020, no certificate of public convenience and necessity is required for construction. Moreover, KRS 278.650 provides for Commission jurisdiction over construction of towers "for cellular telecommunications services or personal communications services." See also KRS 100.987(2)(prescribing application requirements for companies "engaged in the business of providing ...infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services"). Thus, even if you wished to construct a tower to provide XM Radio service, no certificate from the PSC would be necessary. It necessarily follows that the PSC does not regulate your placement of XM Radio antennae on existing structures. Persons collocating antennae on existing structures to provide cellular or personal communications services are not required to seek a certificate prior to such placement. 807 KAR 5:063.



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The foregoing is a Staff opinion applying the law to the facts stated in your letter. It is not binding on the Commission should the matter be formally submitted for Commission decision. If you have further questions regarding this matter, please contact Deborah T. Eversole or Kyle Willard of my Staff at (502) 564-3940.

Sincerely,



Thomas M. Dorman  
Executive Director

/DTE/rst  
cc: File



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