



Ernie Fletcher
Governor

Teresa J. Hill, Secretary
Environmental and Public
Protection Cabinet

Christopher L. Lilly
Commissioner
Department of Public Protection

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Mark David Goss
Chairman

John W. Clay
Commissioner

October 17, 2006

PARTIES OF RECORD:

Re: Case No. 2005-00445

Enclosed please find a memorandum that has been filed in the record of the above-referenced case. Any comments regarding this memorandum's contents should be submitted to the Commission within ten days of receipt of this letter. Questions regarding this memorandum should be directed to Dale Wright at 502/564-3940, Extension 235.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Beth O'Donnell".

Beth O'Donnell
Executive Director

vh/

Enclosure

Steven, Will, Sheri a Allen
Route 1, Box 394
Monticello, KY 42633

Elizabeth S. Caylor
Route 1, Box 398
Monticello, KY 42633

Sherman Coffey
Route 1, Box 395
Monticello, KY 42633

Clayton, Allison and Cooper
Route 1, Box 285
Monticello, KY 42633

John and Geneva Cooper
Route 1, Box 291
Monticello, KY 42633

Ronnie W. Cowan
Route 1, Box 283
Monticello, KY 42633

David and Georgia Dick
Route 1, Box 284
Monticello, KY 42633

Sandra C. Duncan
5502 Camp Fire Trail
Austin, TX 78749

Jack M. Eller
Route 1, Box 290T
Monticello, KY 42633

Misha Williams Grover
Route 1, Box 436
Monticello, KY 42633

James Hicks
RR#416WB
Monticello, KY 42633

Jamie Hicks
Route 1, Box 395
Monticello, KY 42633

Stanley Hutchinson
Route 1, Box 400C
Monticello, KY 42633

David and Carol McCutchen
Route 1, Box 400D
Monticello, KY 42633

Mark McCutcheon
Route 1, Box 293
Monticello, KY 42633

Dudley Meadows
Route 1, Box 290Q
Monticello, KY 42633

Stephanie Miller
P. O. Box 892
Monticello, KY 42633

Gary Muse
Route 1, Box 281
Monticello, KY 42633

Ronnie Muse
Route 1, Box 280H
Monticello, KY 42633

Rocky and Judy Perkins
Route 1, Box 403
Monticello, KY 42633

Ashley Phillips
Route 1, Box 291
Monticello, KY 42633

Robert and Ladonna Reed
Route 1, Box 397G
Monticello, KY 42633

Honorable John E. Selent
Attorney at Law
Dinsmore & Shohl, LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202

James and Paula Shelton
Route 1, Box 283P
Monticello, KY 42633

Lafayette and Lottie Shelton
Route 1, Box 287
Monticello, KY 42633

John and Linda Tate
Route 1, Box 398
Monticello, KY 42633

Tracy Tucker
Route 5, Box 5555
Fall Creek, KY 42633

John Wilhite
Route 1, Box 434
Monticello, KY 42633

Kevin and Amanda Williams
Route 1, Box 397D
Monticello, KY 42633

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Main Case File 2005-00445
FROM: Dale Wright 
DATE: October 17, 2006
SUBJECT: Cumberland Cellular Partnership
d/b/a Bluegrass Cellular, Inc.

On August 29, 2006, an informal conference was conducted at the Commission's offices from 1:00 p.m. to approximately 3:00 p.m. The names of those present personally and by phone are listed on the attached sheet. Those persons listing themselves as "individuals" have been granted status as intervenors by the Commission. After introductions, the first step was to discuss the application for a Certificate of Public Convenience and Necessity to construct a telecommunications wireless cellular facility in Wayne County, Kentucky, by Cumberland Cellular Partnership d/b/a Bluegrass Cellular, Inc. ("Cumberland"). The detailed survey maps provided with the application were used to locate the tower and its access easement, each owner of property and property boundaries, and the nature of each building as reflected on the maps. After this discussion, all involved in the conference understood the factual surroundings of the general area of the proposed construction site. In addition, all understood that Cumberland would hold ownership of the facility and Bluegrass Cellular, Inc. would operate and maintain the facility.

During the discussion, the intervenors expressed the view that placing the tower facility at this proposed location would destroy the aesthetic value of the surrounding neighborhood and otherwise generally grossly interrupt the beauty of the landscape. This, in turn, they argued, would substantially lower the value of their real property.

Intervenor Linda Tate made a general presentation regarding the possible effects of radio emissions from and to the tower that may have an adverse effect on a person's health. Ms. Tate possessed numerous medical and research articles regarding health hazards. Staff counsel advised her that the environmental effects of radio frequency emissions, particularly the health issues raised, are not within the jurisdiction of this Commission. By federal statute and federal case law, radio emissions (health issues) are exclusively within the jurisdiction of the Federal Communications Commission. Staff counsel advised that she would have the opportunity to make her argument at the hearing as to whether her testimony and research might be submitted for the record and the Commission's consideration.

The last issue discussed was the possibility of resolution. Was there a compromise by which both the intervenors and Cumberland could resolve their differences? John Selent, representing Cumberland, stated that Cumberland's engineers had done a search and study to attempt to find a suitable alternative location at which to build the tower. He advised that there were no other structures other than towers upon which to co-locate their facilities and that their engineering studies had found that the towers that were within the necessary range were not suitable for the coverage they needed. The proposed site appeared to be the sole site on which they might construct their tower. Mr. Selent offered on behalf of Cumberland that Cumberland would do almost anything aesthetically to make the site more desirable such as plant trees, shrubs, or other such covering or hiding material. The intervenors were not receptive to Cumberland's offer and shortly thereafter the conference ended.

Attachment

Memo to File
Case No. 2005-00445
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