

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK,)	
LLC DBA APPALACHIAN WIRELESS FOR THE)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT)	2015-00380
A TOWER IN FLOYD COUNTY, KENTUCKY)	

ORDER

On March 16, 2016, East Kentucky Network, LLC d/b/a Appalachian Wireless (“Applicant”) filed an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) to construct and operate a wireless telecommunications facility.

On March 23, 2016, Commission staff issued its First Request for Information to the Applicant requesting (1) clarification regarding the height of the proposed facility and (2) confirmation that appropriate site preparation and construction of the foundation would be performed in accordance with recommendations contained in the geotechnical report. On April 1, 2016, the Applicant provided its response that included revised exhibits to the application and supplemental information.

The proposed facility consists of a self-supporting antenna tower not to exceed 360 feet in height,¹ with attached antenna, to be located near 4777 Route 850, approximately 0.8 of a mile north of Hippo, Floyd County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 32' 38.5" by West Longitude 82° 51' 56.9".

¹ The Applicant clarified that the height of the proposed facility would not exceed 360 feet. See Applicant’s April 1, 2016 response to Commission Staff’s First Request for Information, Item 1.

The Applicant has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a licensed professional engineer has certified the plans.²

Pursuant to 807 KAR 5:063, the Applicant has filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807 KAR 5:063, the Applicant has 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. The notices solicited any comments and informed the recipients of their right to request intervention. To date, no public comments have been filed with the Commission.

The Applicant has filed applications with the Federal Aviation Administration (“FAA”) and the Kentucky Airport Zoning Commission (“KAZC”) seeking approval for the construction and operation of the proposed facility.³ Both decisions are pending.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated that a facility is necessary to provide adequate utility service and, therefore, a CPCN to construct the proposed facility should be granted.

² The Applicant confirmed that appropriate site preparation and construction of the foundation would be performed and provided supplemental information from a licensed professional engineer with the engineering firm responsible for the geotechnical recommendations stating that, based on a recent site visit, the additional site preparation originally recommended in the geotechnical report would not be necessary. See Applicant’s April 1, 2016 response to Commission Staff’s First Request for Information, Item 2.

³ The Applicant provided revised FAA and KAZC applications amending the height of the proposed facility from 310 feet to 360 feet. See Applicant’s April 1, 2016 response to Commission Staff’s First Request for Information, Item 1.

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 insufficient. To assist the Commission in its efforts to comply with this mandate, the Applicant should notify the Commission if the antenna tower is not used to provide service in the manner set out in the application and 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 should be observed by the Applicant.

IT IS THEREFORE ORDERED that:

1. The Applicant is granted a CPCN to construct a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 360 feet in height, with attached antenna, and is to be located near 4777 Route 850, approximately 0.8 of a mile north of Hippo, Floyd County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 32' 38.5" by West Longitude 82° 51' 56.9".

2. The Applicant shall file a copy of the final decisions regarding the pending FAA and KAZC applications for the proposed construction within ten days of receiving the decisions.

3. The Applicant shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of three months in the manner authorized by this Order.

4. Documents filed, if any, in the future pursuant to ordering paragraphs 2 and 3 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:


Acting Executive Director 

*Cindy D McCarty
Staff Attorney
East Kentucky Network, LLC dba Appalachian
101 Technology Trail
Ivel, KY 41642

*East Kentucky Network, LLC dba Appalachian
101 Technology Trail
Ivel, KY 41642

*Lynn Haney
Regulatory Compliance Director
East Kentucky Network, LLC dba Appalachian
101 Technology Trail
Ivel, KY 41642

*W.A. Gillum
General Manager
East Kentucky Network, LLC dba Appalachian
101 Technology Trail
Ivel, KY 41642