

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY CGSA, INC.,     )  
FOR AN ORDINARY COURSE OF BUSINESS         )  
EXTENSION, OR ALTERNATIVELY, FOR ISSUANCE   )  
OF A CERTIFICATE OF PUBLIC CONVENIENCE       )  
AND NECESSITY TO CONSTRUCT A NEW CELL        )  
SITE FOR THE BENEFIT OF THE PUBLIC IN         )  
GREATER LEXINGTON, KENTUCKY METROPOLITAN     )  
STATISTICAL AREA INCLUDING ALL, OR PARTS     )  
OF, BOURBON, CLARK, FAYETTE, JESSAMINE,     )  
SCOTT, AND WOODFORD COUNTIES, KENTUCKY     )

CASE NO. 10381

O R D E R

On September 9, 1988, Kentucky CGSA, Inc., ("Kentucky CGSA") filed an application requesting authority to construct a new cell site on Hutchison Road in Bourbon County, Kentucky. Kentucky CGSA proposes to construct a 280 foot self-supported antenna tower at this location, in order to improve the capacity, signal coverage, and technological capabilities of its cellular telephone system in the Lexington Metropolitan Statistical Area.

On September 21, 1988, a letter was sent by the Executive Director notifying the Bourbon County Joint Planning Commission ("Planning Commission") of the application. The Planning Commission responded to the letter on October 21, 1988 and indicated that it had no objections to the proposed location.

On November 1, 1988, Judith Woosley, Donnie and Betty Spencer, Ottis and Reeda Landrum, Phyllis Robb and Joyce Florence, Gregory and Judy Wade, Phyllis and T. K. Adkinson, Sara and Jerry

Price, Margaret, David M., David H. and La Vonna Snell, Clara and Billy Justice, and C. E. Stout, all residents on Hutchison Road in Bourbon County, Kentucky, ("the residents"), filed a letter expressing concerns over the proposed construction and requesting intervention in this proceeding. The Commission treated the letter as a motion for limited intervention and granted the motion by Order dated November 11, 1988.

On November 21, 1988, Kentucky CGSA filed a response to the concerns of the residents and requested the Commission to issue an Order without a formal hearing.

On December 1, 1988, a letter was sent to the residents stating the Commission's intention to proceed without a formal public hearing in evaluating Kentucky CGSA's application. However, the residents were allowed until December 12, 1988 to request a hearing pertaining to safety issues. No timely response to the letter was filed.

By this Order, we are granting Kentucky CGSA a certificate of public convenience and necessity ("CPCN") to construct its proposed cell site. Although we are granting the request of Kentucky CGSA, the utility must be admonished regarding an error in its certificate filing, and its premature commencement of construction.

In its application, Kentucky CGSA suggested that the proposed site was located far away from any populated areas or structures, other than those owned by the lessor of the real property on which the tower will be located. See generally Application at pp. 3-4. A map filed by Kentucky CGSA on October 5, 1988 in response to a

Commission Order showed no structures within 500 feet of the site, other than those on the lessor's property. However, investigation by the Commission Staff revealed that there are other structures nearby.

The Commission requests information about the cell site area so that notice of any proposed construction may be given to surrounding property owners and residents. The failure to provide candid responses to our Orders jeopardizes our efforts to provide such notice.

Additionally, Kentucky CGSA has begun preliminary construction work before obtaining its CPCN. KRS 278.020(1) states in relevant part that:

No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, . . . until such person has obtained from the public service commission a certificate that public convenience and necessity require such construction.

In the future Kentucky CGSA should take notice of the command of the statute, and await the issuance of a CPCN before beginning construction.

#### FINDING AND ORDER

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that public convenience and necessity require the construction proposed by Kentucky CGSA and described in its application.

IT IS THEREFORE ORDERED that Kentucky CGSA be, and hereby is, granted a certificate of public convenience and necessity to construct a cellular antenna site as described in its application.

Done at Frankfort, Kentucky, this 20th day of December, 1988.

PUBLIC SERVICE COMMISSION

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Chairman

*Robert M. Davis*  
\_\_\_\_\_  
Vice Chairman

*Spencer N. Williams, Jr.*  
\_\_\_\_\_  
Commissioner

ATTEST:

\_\_\_\_\_  
Executive Director