

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF APPALACHIAN)	
CELLULAR GENERAL PARTNERSHIP FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY TO CONSTRUCT AND)	
OPERATE CELLULAR CELL SITES AT)	CASE NO. 92-085
LOUISA, LAWRENCE COUNTY, KY;)	
SALYERSVILLE, MAGOFFIN COUNTY, KY;)	
AND WEST LIBERTY, MORGAN COUNTY,)	
KY - ON AN EXISTING TOWER)	

O R D E R

On June 17, 1992, Appalachian Cellular General Partnership ("Appalachian Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate two additional cellular radio telecommunications antenna towers in Rural Service Area No. 9 ("RSA No. 9"). RSA No. 9 includes Elliott, Floyd, Johnson, Lawrence, Magoffin, Martin, Morgan, and Pike counties in Kentucky. Appalachian Cellular has requested authorization to construct cell sites in Lawrence and Magoffin counties and to locate a cell site on an existing tower in Morgan County, Kentucky. Appalachian Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 9 in Case No. 91-073.¹ On July 17, 1992, Appalachian

¹ Case No. 91-073, The Application of Appalachian Cellular General Partnership for a Certificate of Public Convenience and Necessity to Construct and Operate Cellular Telephone Facilities to Serve RSA#9 in Kentucky.

Cellular was ordered to file additional information. Appalachian Cellular filed its response on July 22, 1992.

The proposed Lawrence County cell site consists of a guyed antenna tower with attached antennas, not to exceed 314 feet in height, and an equipment shelter to be located approximately 6 miles south of Louisa in the head of House Branch, .7 miles west of US Route 23, in Adams, Lawrence County, Kentucky ("Louisa cell site"). The coordinates for the Louisa cell site are North Latitude 38° 02' 02" by West Longitude 82° 39' 41".

The proposed Magoffin County cell site consists of a guyed antenna tower with attached antennas, not to exceed 414 feet in height, and an equipment shelter to be located approximately 1 mile northeast of Ivyton and 4 miles east of Salyersville in the head of Kelly Branch, 600 feet north of Route 114, in Salyersville, Magoffin County, Kentucky ("Salyersville cell site"). The coordinates for the Salyersville cell site are North Latitude 37° 43' 08" by West Longitude 82° 58' 44".

Appalachian Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Louisa and Salyersville cell sites. Based upon the application, the tower and foundation designs appear to meet the criteria of the Building Officials and Code Administrators International, Inc. (BOCA) National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Louisa and Salyersville cell sites' constructions are exempt from local zoning ordinances.

Appalachian Cellular has filed applications with the Federal Communications Commission ("FCC"), Federal Aviation Administration ("FAA"), and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Louisa and Salyersville cell sites. The FAA and KAZC applications for the Louisa and Salyersville cell sites have been approved. The FCC application has been approved for the Salyersville cell site but remains pending for the Louisa cell site.

Appalachian Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the Louisa and Salyersville cell sites has been notified of the pending construction. The notice solicited any comments and informed the property owner and/or resident of their right to intervene. No objections to the proposed construction have been received. Several letters in support of the proposed construction have been received.

In response to Item 1 of the Order requesting additional information, Appalachian Cellular offered a list of activities which the FCC considers permissible preparatory steps prior to granting a construction permit. The Commission realizes the necessity for certain activities prior to receiving approval to construct; however, the Commission's opinion of what constitutes construction does not necessarily have to agree with that of the FCC. The Commission has particular concern with at least one of the items identified by the FCC as permissible steps prior to receiving permission to construct, namely, the installation of

tower bases and anchors. Although the installation of a tower base and anchors has not been performed in this case, it is recommended that in the future Appalachian Cellular should first request an official opinion from the Commission staff, through the Executive Director's office, before beginning any activities which are directly associated with a proposed construction application and may constitute construction.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Appalachian Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Louisa and Salyersville cell sites in RSA No. 9 under its previously approved tariff as revised on July 22, 1992. The Commission further finds that a Certificate of Public Convenience and Necessity to construct is not required for the West Liberty cell site which will be located on an existing tower north of West Liberty in Morgan County, Kentucky.

IT IS THEREFORE ORDERED that:

1. Appalachian Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate:

- a. The Louisa cell site which consists of a guyed antenna tower with attached antennas, not to exceed 314 feet in height, and an equipment shelter to be located approximately 6 miles south of Louisa in the head of House Branch, .7 miles west of US Route 23, in Adams, Lawrence County, Kentucky. The coordinates


for the Louisa cell site are North Latitude 38° 02' 02" by West Longitude 82° 39' 41".


b. The Salyersville cell site which consists of a guyed antenna tower with attached antennas, not to exceed 414 feet in height, and an equipment shelter to be located approximately 1 mile northeast of Ivyton and 4 miles east of Salyersville in the head of Kelly Branch, 600 feet north of Route 114, in Salyersville, Magoffin County, Kentucky. The coordinates for the Salyersville cell site are North Latitude 37° 43' 08" by West Longitude 82° 58' 44".

2. Appalachian Cellular shall file a copy of the final decision regarding its pending FCC application for the Louisa cell site construction, within 10 days of receiving this decision.

Done at Frankfort, Kentucky, this 2nd day of September, 1992.

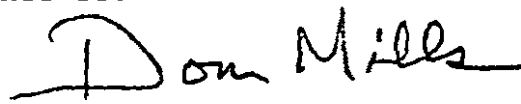
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director