

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MOUNTAINEER CELLULAR GENERAL PARTNERSHIP)	
)	
<hr style="width:40%; margin-left:0;"/>)	CASE NO. 92-120
ALLEGED VIOLATION OF KRS 278.020)	
)	

O R D E R

On April 20, 1992, Mountaineer Cellular General Partnership ("Mountaineer Cellular") appeared at an informal conference to negotiate a proposed settlement resolving the issues in this case. The proposed Settlement Agreement, attached hereto and incorporated herein as Appendix A, was filed into the record on May 19, 1992. The settlement expresses Staff and Mountaineer Cellular's agreement on a mutually satisfactory resolution of all issues in this case.

In determining whether the results of the Settlement Agreement are in the public interest and are reasonable, the Commission has taken into consideration the admissions made by Mountaineer Cellular in the Settlement Agreement and the steps taken by Mountaineer Cellular to remediate and cure the outstanding violation. After consideration of the proposed settlement agreement and being otherwise sufficiently advised, the Commission finds that the proposed Settlement Agreement is in accordance with the law and does not violate any regulatory

principle. This Settlement Agreement is in the public interest and results in a reasonable solution of this case.

IT IS THEREFORE ORDERED that:

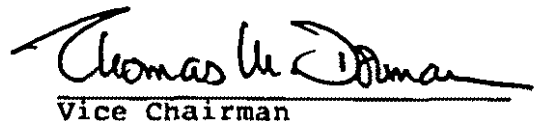
1. The Settlement Agreement is hereby adopted and approved in its entirety as a reasonable resolution to the issues in this case. Mountaineer Cellular shall adhere to and comply with all provisions of the Settlement Agreement the same as if individually ordered herein.

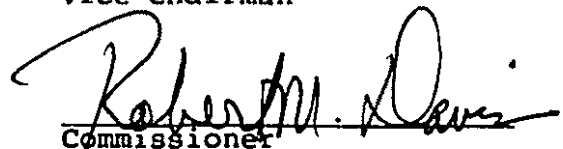
2. Mountaineer Cellular shall pay the agreed penalty of \$1,000 within 30 days of the date of this Order by certified check or money order made payable to Treasurer, Commonwealth of Kentucky. Said check or money order shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 3rd day of June, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting

APPENDIX TO AN ORDER OF THE PUBLIC SERVICE
COMMISSION IN CASE NO. 92-120 DATED JUNE 3, 1992

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MOUNTAINEER CELLULAR GENERAL PARTNERSHIP)	
)	
_____)	CASE NO. 92-120
)	
ALLEGED VIOLATION OF KRS 278.020)	

SETTLEMENT AGREEMENT

WHEREAS, on March 27, 1992, the Public Service Commission issued an Order requiring Mountaineer Cellular General Partnership ("Mountaineer Cellular") to appear before the Commission on April 29, 1992 to show cause why it should not be penalized for constructing cellular telephone facilities prior to receiving a Certificate of Public Convenience and Necessity in violation of KRS 278.020.

WHEREAS, on April 20, 1992 at 2:00 p.m. Mountaineer Cellular, represented by counsel, B. E. Mullins, met with Staff in an informal conference to discuss a resolution of this proceeding.

WHEREAS, Mountaineer Cellular and Staff have reached an agreement on the resolution of the issues as follows:

1. Mountaineer Cellular is a utility subject to the jurisdiction of this Commission pursuant to KRS 278.010.

2. Such jurisdiction mandates that Mountaineer Cellular seek prior approval from the Commission pursuant to KRS 278.020 for construction projects which are not in the ordinary course of business.

3. Mountaineer Cellular commenced construction of a cellular tower and facilities without prior approval of the Commission in violation of KRS 278.020.

4. Mountaineer Cellular has removed the cellular tower from the site and will in the future comply with all rules and regulations of the Commission regarding its cellular construction projects and/or operations.

5. Mountaineer Cellular agrees to pay a penalty in the amount of \$1,000 by certified check or money order made payable to the Kentucky State Treasurer within 30 days of the date of the final Order of the Commission and will deliver said check or money order to the Office of the General Counsel, Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602.

6. Mountaineer Cellular and Staff agree that upon payment of this penalty the issues addressed in the Commission's Show Cause Order will be resolved and, therefore, no hearing is necessary.

7. This Settlement Agreement is submitted for purposes of this case only and is not deemed binding upon the parties hereto in any other proceeding, nor is it to be offered or relied upon in any other proceeding involving any other utility.

8. Mountaineer Cellular and Staff agree that this Settlement Agreement is reasonable and in the best interest of all concerned, and recommend that the Commission adopt this agreement in its entirety.

9. If the Commission issues an Order adopting this Settlement Agreement in its entirety, Mountaineer Cellular agrees

that it shall file neither an application for rehearing with the Commission, nor an appeal to Franklin Circuit Court from such Order.

10. If the Settlement Agreement is not adopted in its entirety, Mountaineer Cellular reserves the right to withdraw from it and require that hearings go forward upon all or any matters involved herein, and that in such event that terms of the agreement shall not be deemed binding upon the signatories hereto, nor shall such agreement be admitted into evidence or referred to or relied on in any matter by any signatory hereto.

AGREED TO BY:

B. E. Mullins
Hon. B. E. Mullins on behalf of
Mountaineer Cellular

5-11-92
Date

Rosemary F. Center
Hon. Rosemary F. Center on behalf
of Commission Staff

5/11/92
Date