

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CENTRAL KENTUCKY)
CELLULAR TELEPHONE COMPANY FOR ISSUANCE)
OF A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO CONSTRUCT AN) CASE NO. 92-170
ADDITIONAL CELL FACILITY IN THE)
LEXINGTON, METROPOLITAN STATISTICAL)
AREA (ATHENS/PURE GOLD CELL FACILITY))

O R D E R

On April 15, 1992, Central Kentucky Cellular Telephone Company ("Central Kentucky Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate an additional cellular radio telecommunications antenna tower in the Lexington Metropolitan Statistical Area ("Lexington MSA"). A modification of the application was filed on July 6, 1992. The Lexington MSA includes Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford counties in the Commonwealth of Kentucky. Central Kentucky Cellular has requested authorization to construct a cell site in Fayette County, Kentucky. Central Kentucky Cellular was previously granted authority to operate a cellular radio telecommunications system in the Lexington MSA in Case No. 10169.¹

¹ Case No. 10169, The Application of Louisville Cellular Telephone Company, Bluegrass Cellular Telephone Partners and Central Kentucky Cellular Telephone Company for Approval of the Transfer of Ownership and Control of the Public Service Businesses of Louisville Cellular Telephone Company and Bluegrass Cellular Telephone Partners to Central Kentucky Cellular Telephone Company.

The proposed cell site consists of a self-supporting antenna tower, with attached antennas, not to exceed 298 feet in height and an equipment shelter to be located at 5790 Athens-Boonesboro Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed cell site are North Latitude 37° 57' 19" by West Longitude 84° 22' 56".

Central Kentucky Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed cell site. Based upon the application, the tower and foundation design 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 proposed cell site's construction is exempt from local zoning ordinances. However, Central Kentucky Cellular has notified the Lexington-Fayette Urban County Planning Division of the proposed construction. Central Kentucky Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval of the proposed construction. Both decisions are pending.

Central Kentucky Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the proposed cell site 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 in the application

process. The Commission received several protest letters including two requests for intervention from Mr. and Mrs. Thomas Puckett and R.W. Coomer. Both requests for intervention were granted, and a hearing was held at the Commission's offices in Frankfort, Kentucky on August 7, 1992.

During the hearing, Central Kentucky Cellular testified that the proposed cell site was required to alleviate an area of weak or non-existent coverage in the Athens area and north of the Kentucky River. Central Kentucky Cellular also stated that at least two other potential cell site locations were investigated. However, the proposed location was ultimately chosen by Central Kentucky Cellular because of its higher elevation, and since it is located in a rural area close to a ballpark and an industrial park, it was considered to be less intrusive to surrounding property owners than the other sites.

The concerns of the intervenors focused on two main issues: potential property devaluation and possible interference with existing communications equipment (i.e., amateur radio and satellite television transmissions). Central Kentucky Cellular presented evidence that there would be minimal or no effect on property values in the vicinity. Central Kentucky Cellular offered expert testimony, including extensive numerical analysis, that refuted the probability of the proposed cell site interfering with any radio frequency transmissions or receptions. In any event, Central Kentucky Cellular stated that it would purchase the appropriate filtering equipment and pay for its installation if it

received evidence that a radio interference problem occurred due to the proposed cell site.

Central Kentucky Cellular was questioned by counsel for Mr. Puckett if it would be possible to locate the necessary cellular equipment on a nearby tower ("Clays Ferry Transmitting Site") currently being used by Danbury Cellular Telephone Company ("Danbury Cellular"), a carrier servicing the adjacent Rural Service Area No. 6 ("RSA No. 6"). Central Kentucky Cellular responded that it could obtain adequate coverage of its service area in southern Fayette County if it were to locate its facilities on the Clays Ferry Transmitting Site. However, because that tower is located in RSA No. 6, Central Kentucky Cellular would have to obtain permission from Danbury Cellular before locating within its service area.

On September 11, 1992, the Commission issued an Order scheduling another hearing on September 25, 1992 and made Danbury Cellular a party to this case. Kentucky Educational Television ("KET") owns the Clays Ferry Transmitting Site, and a KET designee was also subpoenaed to appear at the hearing to provide testimony on the reasonableness and feasibility of Central Kentucky Cellular placing cellular facilities on that tower.

At the September 25, 1992 hearing, KET indicated that it would be interested in leasing additional space to Central Kentucky Cellular if preliminary tests indicated the tower structure is strong enough to maintain Central Kentucky Cellular's facilities in a proper manner. Danbury Cellular did not object to Central

Kentucky Cellular placing its facilities on the Clays Ferry Transmitting Site tower during the hearing or at any other time.

On October 9, 1992, the Commission issued an Order requiring Central Kentucky Cellular to proceed with all steps necessary to determine the feasibility of locating its facilities on KET's Clays Ferry Transmitting Site and to report to the Commission within 60 days the steps taken and the current status.

On December 8, 1992, Central Kentucky Cellular filed a status report of the feasibility of locating its facilities on KET's Clays Ferry Transmitting Site. Central Kentucky Cellular reported that the final evaluation was not yet available but was expected by December 15, 1992.

On December 21, 1992, Central Kentucky Cellular filed a report disclosing the final results of the studies to determine the feasibility of locating Central Kentucky Cellular's facilities on KET's Clays Ferry Transmitting Site. The study revealed that the existing structure would be overstressed by Central Kentucky Cellular's additional facilities. Modification would be required to bring the tower up to acceptable strength. Included in the report was a letter from KET stating that after reviewing the results of the studies, KET has determined that it cannot provide service to Central Kentucky Cellular.

The original location Central Kentucky Cellular has chosen for the proposed cell site is within 1200 feet of Athens-Boonesboro Road where Blue Sky Industrial Park, Pure Gold Night Club, Holiday Inn, and other commercial properties are located. The site is in

a field where there are no houses or other dwellings within 500 feet. Given the nature of the surrounding property and the minimal safety concern, the site appears to be suitable for the proposed tower. Evidence presented as a result of the hearings reveals that Central Kentucky Cellular has gone to extensive measures to determine the existence of suitable alternative cell sites without success. Central Kentucky Cellular has addressed all of the concerns presented by the intervenors and has even offered to correct any interference problems that may result from the proposed facility's installation.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Central Kentucky Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the Lexington MSA under its previously approved tariff.

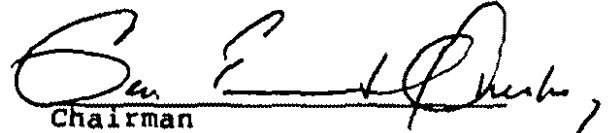
IT IS THEREFORE ORDERED that:

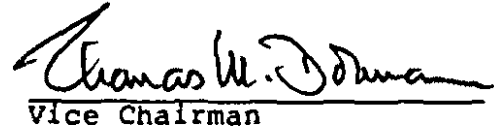
1. Central Kentucky Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a self-supporting cellular radio telecommunications antenna tower, with attached antennas, not to exceed 298 feet in height in the Lexington MSA to be located at 5790 Athens-Boonesboro Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed cell site are North Latitude 37° 57' 19" by West Longitude 84° 22' 56".

2. Central Kentucky Cellular shall file copies of the final decisions regarding its pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

Done at Frankfort, Kentucky, this 8th day of January, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director