

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CELLULAR PHONE OF)
KENTUCKY, INC. FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT ADDITIONAL) CASE NO. 93-019
CELL FACILITIES IN KENTUCKY RURAL)
SERVICE AREA NO. 6(B1) (SOMERSET)
CELL SITE))

O R D E R

On January 19, 1993, Cellular Phone of Kentucky, Inc. ("Cellular Phone of Kentucky") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 6(B1) ("RSA No. 6(B1)"). RSA No. 6(B1) includes Laurel, Rockcastle, and Pulaski counties. Cellular Phone of Kentucky has requested authorization to construct a cell site in Somerset in Pulaski County ("the Somerset site"). Contel Cellular of Louisville, Inc. ("Contel Cellular") was previously granted authority to operate a cellular radio telecommunications system in RSA No. 6(B1) in Case No. 91-408.¹ Contel Cellular transferred this authority to Rural Cellular Communications, Inc. ("Rural

¹ Case No. 91-408, Application of Contel Cellular of Louisville, Inc. for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications in Kentucky Rural Service Area No. 6(B1).

Cellular") in Case No. 91-458.² Rural Cellular then transferred this authority to Cellular Phone of Kentucky in Case No. 92-079.³

The proposed Somerset site consists of a 285-foot or less guyed antenna tower to be located on the top of Reservoir Knob, approximately 2,250 feet east of the intersection of Highway 80 and Highway 39 in Somerset, Pulaski County, Kentucky. The coordinates for the Somerset site are North Latitude 37° 06' 10.25" by West Longitude 84° 35' 44.49".

Cellular Phone of Kentucky has provided information regarding the structure of this tower, safety measures, and antenna design criteria. Based upon the application, the tower and foundation design appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Somerset site's construction is exempt from local zoning ordinances. Cellular Phone of Kentucky has filed applications with the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA"), and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Somerset site. Cellular

² Case No. 91-458, The Joint Application of Contel Cellular of Louisville, Inc. and Rural Cellular Communications, Inc. for Approval of the Transfer and Acquisition of Cellular Telephone Assets in Kentucky Rural Service Area No. 6(B1) and the Financing Thereof.

³ Case No. 92-079, The Joint Application of Rural Cellular Communications, Inc. and Cellular Phone of Kentucky, Inc. for Approval of the Transfer and Acquisition of Cellular Telephone Assets in Kentucky Rural Service Area 6(B1) and the Financing of the Construction of the Cellular System.

Phone of Kentucky has received approval from the FCC and FAA, while the KAZC approval is still pending.

Cellular Phone of Kentucky has filed notices verifying that each property owner and/or resident within 500 feet of the Somerset site has been notified of the pending construction. The notice solicited any comments and informed the property owners and/or residents of their rights to intervene. To date, no comments or requests to intervene have been received.

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, Cellular Phone of Kentucky should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its 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 Cellular Phone of Kentucky.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cellular Phone of Kentucky should be granted a Certificate of Public Convenience and Necessity to construct and operate the Somerset site in RSA No. 6(B1) under its previously approved tariff.

IT IS THEREFORE ORDERED that:

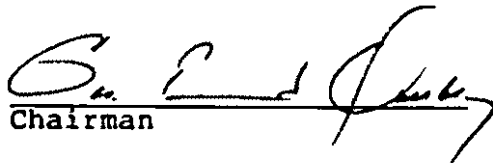
1. Cellular Phone of Kentucky be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a 285-foot or less guyed cellular radio telecommunications antenna tower in RSA No. 6(B1) to be located on the top of Reservoir Knob, approximately 2,250 feet east of the intersection of Highway 80 and Highway 39 in Somerset, Pulaski County, Kentucky. The coordinates for the Somerset site are North Latitude 37° 06' 10.25" by West Longitude 84° 35' 44.49".

2. Cellular Phone of Kentucky shall file a copy of the final decision regarding its pending KAZC application for the Somerset site within 10 days of receiving this decision.

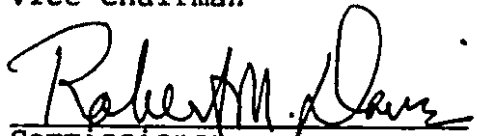
3. Cellular Phone of Kentucky shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 5th day of March, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director