

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALPHA CELLULAR TELEPHONE COMPANY, A FLORIDA)	
GENERAL PARTNERSHIP, FOR THE ISSUANCE OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY FOR THE OPERATION AND CONSTRUCTION)	CASE NO.
OF A CELL SITE SO AS TO ENLARGE THE COVERAGE)	93-026
OF THE KENTUCKY RURAL SERVICE AREA WHICH)	
INCLUDES POWELL, ESTILL, WOLFE, LEE,)	
JACKSON, OWSLEY, BREATHITT, PERRY, KNOTT AND)	
LETCHER COUNTIES IN KENTUCKY)	

O R D E R

On July 6, 1993, Alpha Cellular Telephone Company ("Alpha Cellular") 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. 10 ("RSA No. 10"). RSA No. 10 includes Breathitt, Estill, Jackson, Knott, Lee, Letcher, Owsley, Perry, Powell, and Wolfe counties. Alpha Cellular has requested authorization to construct a cell site in Powell County. Alpha Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 10 in Case No. 91-410.¹

¹ Case No. 91-410, I. The Application of Metro Mobile CTS of Powell, Inc., a Kentucky Corporation, for Issuance of A Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications Service to The Public in the Kentucky Rural Service Area Which Includes Powell, Estill, Wolfe, Lee, Jackson, Owsley, Breathitt, Perry, Knott, and Letcher Counties in Kentucky, for Approval of Financing, and for Establishment of Initial Rates. II. The Joint Application of Metro Mobile CTS of Powell, Inc. and Alpha Cellular Telephone Company, A Florida General Partnership, For The Transfer of the Assets and Liabilities of Metro Mobile CTS of Powell, Inc. to Alpha Cellular Telephone Company and of Related Financing.

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located approximately 2.1 miles northeast of Stanton, Kentucky ("the Stanton cell site"). The coordinates for the Stanton cell site are North Latitude 37° 52' 03" by West Longitude 83° 49' 11".

Alpha Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Stanton cell site. Based upon the application, the design of the tower and foundation 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 Stanton cell site's construction is exempt from local zoning ordinances. Alpha Cellular has filed an application with and received approval from the Kentucky Airport Zoning Commission, while an application with the Federal Aviation Administration ("FAA") is still pending.

Alpha Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the Stanton cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and/or residents of their right to intervene. On August 2, 1993, the Commission received an inquiry letter from Jo Anne Lake. On August 11, 1993, Alpha Cellular was ordered by the Commission to respond to Ms. Lake. The Commission concurrently notified Ms. Lake of her right to intervene. On August 16, 1993, Ms. Lake advised the Commission

that she had no objection to the tower being built. To date, no intervention requests 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, Alpha Cellular 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 the removal of the unused antenna tower, which should be observed by Alpha Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Alpha Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in RSA No. 10 under its previously approved tariff.

IT IS THEREFORE ORDERED that:


1. Alpha Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site consisting of a 300-foot or less guyed antenna tower to be located approximately 2.1 miles northeast of Stanton, Powell County, Kentucky. The coordinates for the proposed cell site are North Latitude 37° 52' 03" by West Longitude 83° 49' 11".

2. Alpha Cellular shall file a copy of the final decision regarding its pending FAA application for the Stanton cell site within 10 days of receiving this decision.

3. Alpha Cellular 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 9th day of September, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director