

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HORIZON CELLULAR TELEPHONE )  
COMPANY OF SPENCER, L.P., A DELAWARE LIMITED )  
PARTNERSHIP, FOR ISSUANCE OF A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND NECESSITY FOR THE ) CASE NO.  
CONSTRUCTION AND OPERATION OF A CELL SITE IN ) 93-473  
THE KENTUCKY RURAL SERVICE AREA WHICH INCLUDES )  
SPENCER, NELSON, ANDERSON, HARDIN, WASHINGTON, )  
MERCER, LARUE, MARION, GREEN AND TAYLOR )  
COUNTIES IN KENTUCKY )

O R D E R

On December 17, 1993, Horizon Cellular Telephone Company of Spencer, L.P. ("Horizon 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. 4 ("RSA No. 4"). RSA No. 4 includes Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, and Washington counties. Horizon Cellular has requested authorization to construct a cell site in Marion County. Horizon Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 4 in Case No. 92-485.<sup>1</sup>

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<sup>1</sup> Case No. 92-485, The Application of Horizon Cellular Telephone Company of Spencer, L.P., a Delaware Limited Partnership, for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications Service to the Public in Kentucky Rural Service Area Which Includes Spencer, Nelson, Anderson, Hardin, Washington, Mercer, Larue, Marion, Green, and Taylor Counties in Kentucky; for a Certificate of Public Convenience and Necessity to Construct a Cell Site in Elizabethtown, Kentucky; and for Establishment of Initial Rates.

The proposed cell site consists of 315-foot or less guyed antenna tower to be located approximately 4 miles south of Lebanon, Kentucky, south of U.S. Highway 68, north of Ky. Highway 208, Marion County, Lebanon, Kentucky ("the Lebanon cell site"). The coordinates for the Lebanon cell site are North Latitude 37° 31' 14" by West Longitude 85° 16' 14".

Horizon Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Lebanon 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 Lebanon cell site's construction is exempt from local zoning ordinances. Horizon Cellular has filed applications with the Federal Aviation Administration ("FAA"), and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Lebanon cell site. These applications are still pending.

Horizon Cellular has filed notices verifying that each property owner or resident within 500 feet of the Lebanon cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. 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, Horizon Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications service 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 Horizon Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Horizon Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Lebanon cell site in RSA No. 4 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Horizon Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Lebanon cell site.


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

3. Horizon 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 14th day of February, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director