

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #3 CELLULAR GENERAL )  
PARTNERSHIP FOR ISSUANCE OF A CERTIFICATE OF ) CASE NO.  
PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A ) 94-448  
CELLULAR CELL SITE (ELKTON) IN RURAL SERVICE )  
AREA #3 (TODD) OF THE COMMONWEALTH OF KENTUCKY )

O R D E R

On December 16, 1994, Kentucky RSA #3 Cellular General Partnership ("RSA #3 Partnership") 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. 3 ("RSA No. 3"). RSA No. 3 includes Allen, Breckenridge, Butler, Edmonson, Grayson, Hancock, Logan, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd, and Warren counties. RSA #3 Partnership has requested authorization to construct a cell site in Todd County. RSA #3 Partnership was previously granted authority to operate a cellular radio telecommunications system in RSA No. 3 in Case No. 90-307.<sup>1</sup>

The proposed cell site consists of a 175-foot or less monopole antenna tower to be located at 1106 Stringtown Road, Elkton, Todd County, Kentucky ("the Elkton cell site"). The coordinates for the

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<sup>1</sup> Case No. 90-307, Application of Kentucky RSA #3 Cellular General Partnership for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Telecommunications Service to the Public in Rural Service Area #3 (Meade) of the Commonwealth of Kentucky.

Elkton cell site are North Latitude 36° 50' 40.5" by West Longitude 87° 12' 42".

RSA #3 Partnership has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Elkton 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 Elkton cell site's construction is exempt from local zoning ordinances. Approval from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the Elkton cell site is not required, as the monopole is less than 200 feet in height.

RSA #3 Partnership has filed notices verifying that each person who owns property or resides within 500 feet of the Elkton 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. On January 11, 1995, a protest letter was received from Harold Hightower. On January 13, 1995, the Commission informed Mr. Hightower of the intervention procedure and directed RSA #3 Partnership to respond to his questions. RSA #3 Partnership did so by certified letter delivered January 25, 1995. 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, RSA #3 Partnership 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 RSA #3 Partnership.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that RSA #3 Partnership should be granted a Certificate of Public Convenience and Necessity to construct and operate the Elkton cell site in RSA No. 3 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. RSA #3 Partnership be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Elkton cell site.

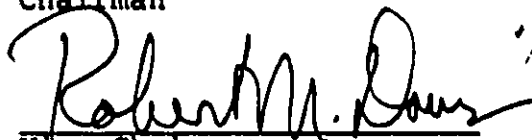
2. RSA #3 Partnership shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 28th day of March, 1995.


PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman

  
Commissioner

ATTEST:



Executive Director