

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LEXINGTON MSA LIMITED)
PARTNERSHIP FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT AN ADDITIONAL)
CELL SITE IN LIBERTY, CASEY COUNTY,) CASE NO. 95-030
KENTUCKY FOR THE PROVISION OF DOMESTIC)
PUBLIC CELLULAR RADIO TELECOMMUNICATIONS)
SERVICE TO THE PUBLIC IN THE B2 PORTION)
OF KENTUCKY RURAL SERVICE AREA NO. 6)

O R D E R

On January 25, 1995, Lexington MSA Limited Partnership ("Lexington MSA Partnership") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in the B2 portion of Rural Service Area No. 6 ("B2 portion of RSA No. 6"). The proposed cell site consists of a guyed antenna tower not to exceed 231 feet in height, with attached antennas, to be located southeast of the intersection of State Road 70 and U.S. Highway 127 in Liberty, Casey County, Kentucky. The coordinates for the proposed cell site are North Latitude 37° 18' 37.20" by West Longitude 84° 55' 40.20".

Lexington MSA Partnership 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 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 proposed cell site's construction is exempt from local zoning ordinances. Lexington MSA Partnership 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 proposed cell site. Both decisions are pending.

Lexington MSA Partnership has filed notices verifying that each person who owns property or resides within 500 feet of the proposed cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. To date, no comments have been received by the Commission.

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, Lexington MSA 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 Lexington MSA Partnership.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Lexington MSA Partnership should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the B2 portion of RSA No. 6 under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. Lexington MSA Partnership be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a guyed antenna tower not to exceed 231 feet in height, with attached antennas, to be located southeast of the intersection of State Road 70 and U.S. Highway 127 in Liberty, Casey County, Kentucky. The coordinates for the proposed cell site are North Latitude 37° 18' 37.20" by West Longitude 84° 55' 40.20".

2. Lexington MSA Partnership shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.


3. Lexington MSA 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 3rd day of April, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director