

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HORIZON CELLULAR TELEPHONE COMPANY)	
OF CENTRAL KENTUCKY, L.P., A DELAWARE LIMITED)	
PARTNERSHIP, FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AN)	CASE NO.
ADDITIONAL CELL FACILITY IN THE KENTUCKY RURAL)	95-164
SERVICE AREA NO. 5 WHICH INCLUDES ADAIR, BARREN,)	
CLINTON, CUMBERLAND, HART, MCCREARY, METCALFE,)	
MONROE, RUSSELL, AND WAYNE COUNTIES IN KENTUCKY)	
(THE TOMPKINSVILLE CELL FACILITY))	

O R D E R

On August 24, 1995, Horizon Cellular Telephone Company of Central Kentucky, 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. 5 ("RSA No. 5"). RSA No. 5 includes Adair, Barren, Clinton, Cumberland, Hart, McCreary, Metcalf, Monroe, Russell, and Wayne counties. Horizon Cellular has requested authorization to construct a cell site in Monroe County. Horizon Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 5 in Case No. 93-048.¹

¹ Case No. 93-048, The Joint Application of Danbury Cellular Telephone Co., a Connecticut Corporation d/b/a Cellular One/United Bluegrass Cellular Corp. and Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership, for Approval of the Transfer of the Assets and Liabilities of Danbury Cellular Telephone Co. to Horizon Cellular Telephone Company of Central Kentucky, L.P., and Related Financing.

The proposed cell site consists of a 180-foot or less guyed antenna tower to be located off Kentucky Highway 163, Edmonton Road, Tompkinsville, Monroe County, Kentucky ("the Tompkinsville cell site"). The coordinates for the Tompkinsville cell site are North Latitude 36° 44' 13" (See Exhibits) by West Longitude 85° 42' 10".

Horizon Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Tompkinsville 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 Tompkinsville cell site's construction is exempt from local zoning ordinances; however, Horizon Cellular notified the Monroe County Judge/Executive of the pending construction. 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 Tompkinsville cell site. Both applications are pending.

Horizon Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Tompkinsville 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. In

addition, notice was posted in a visible location on the proposed site for at least two weeks after Horizon Cellular's application was filed. On September 8, 1995, the Commission received a letter from Clay Hundley, Jr., representing Fred and Nina Emberton. On September 27, 1995, the Commission informed Mr. Hundley of the Embertons' right to intervene and ordered Horizon Cellular to respond to the Embertons' concerns. The Commission also notified the Embertons' that ". . . if after reviewing Horizon Cellular's response . . . you wish to actually participate in the proceeding, you must file a letter requesting full intervention with the Commission within 10 days of receiving Horizon Cellular's response." 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 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 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 Tompkinsville cell site in RSA No. 5 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 Tompkinsville cell site.

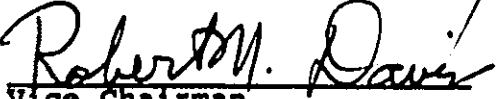
2. Horizon Cellular shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

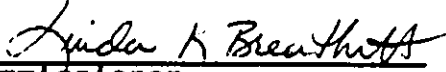
3. Horizon Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 1st day of November, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director