

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #3, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY)	
TO CONSTRUCT A CELL SITE LOCATED ON THE SOUTH)	CASE NO.
SIDE, OF HIGHWAY 144, FOUR MILES EAST OF HIGHWAY)	95-185
259, IN UNION STAR, BRECKINRIDGE COUNTY, KENTUCKY)	
(GARFIELD CELL SITE))	

O R D E R

On May 9, 1995, Kentucky RSA #3, Inc. 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, Breckinridge, Butler, Edmonson, Grayson, Hancock, Logan, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd, and Warren counties. Kentucky RSA #3, Inc. has requested authorization to construct a cell site in Breckinridge County. Kentucky RSA #3, Inc. was previously granted authority to operate a cellular radio telecommunications system in RSA No. 3 in Case No. 93-118.¹

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located on the south side of Highway 144, four miles east of Highway 259, in Union Star, Breckinridge County,

¹ Case No. 93-118, The Joint Application of Telephone and Data Systems, Inc., United States Cellular Corporation and Tsaconas Cellular, Inc. For Approval of the Acquisition of Tsaconas Cellular, Inc. by Telephone and Data Systems, Inc. and the Transfer to United States Cellular Corporation.

Kentucky ("the Garfield cell site"). The coordinates for the Garfield cell site are North Latitude 37° 57' 06" by West Longitude 86° 24' 39".

Kentucky RSA #3, Inc. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Garfield 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 National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Garfield cell site's construction is exempt from local zoning ordinances; however, Kentucky RSA #3, Inc. notified the Breckinridge County Judge/Executive of the pending construction. Kentucky RSA #3, Inc. 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 Garfield cell site. Both applications are still pending.

Kentucky RSA #3, Inc. has filed notices verifying that each person who owns property or who resides within 500 feet of the Garfield 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, Kentucky RSA #3, Inc. 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 Kentucky RSA #3, Inc.

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

IT IS THEREFORE ORDERED that:


1. Kentucky RSA #3, Inc. be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Garfield cell site.

2. Kentucky RSA #3, Inc. 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. Kentucky RSA #3, Inc. 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 22nd day of June, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director