

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF KENTUCKY CGSA, INC. FOR |) | |
| ISSUANCE OF A CERTIFICATE OF PUBLIC |) | |
| CONVENIENCE AND NECESSITY TO CONSTRUCT |) | |
| AN ADDITIONAL CELL SITE IN LOUISVILLE, |) | CASE NO. 95-224 |
| KENTUCKY FOR THE PROVISION OF DOMESTIC |) | |
| PUBLIC CELLULAR RADIO TELECOMMUNICATIONS |) | |
| SERVICE TO THE PUBLIC IN JEFFERSON |) | |
| COUNTY, KENTUCKY AND THE LOUISVILLE MSA |) | |

O R D E R

On May 16, 1995, Kentucky CGSA, Inc. d/b/a BellSouth Mobility, Inc. ("Kentucky CGSA") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications facility in the Louisville Metropolitan Statistical Area ("the Louisville MSA"). The proposed cell site consists of a monopole not to exceed 108 feet in height, with attached antennas, to be located at 7320 New LaGrange Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 15' 03.26" by West Longitude 85° 36' 59.86".

Kentucky CGSA has provided information regarding the structure of the monopole, 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. However, Kentucky CGSA has notified the Louisville/Jefferson County Planning Commission of the proposed construction. Kentucky CGSA has filed applications with the Federal Aviation Administration and the Kentucky Airport Zoning Commission seeking approval for the construction and operation of the proposed cell site. Both applications have been approved.

Kentucky CGSA 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. In addition, notice was posted in a visible location on the proposed site for at least two weeks. The Commission received one letter opposing the proposed construction. The Commission treated the letter as a motion to intervene and granted the request. Kentucky CGSA responded in writing to the Intervenor's concerns, and a subsequent request for a public hearing was filed by the Intervenor. A public hearing was held on September 6, 1995. During the hearing, Kentucky CGSA presented testimony regarding its need to construct the facility, the scarcity of available property in the area, and the structural design and integrity of the proposed monopole. The Intervenor did not attend the hearing, and no additional comments have been filed.

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 CGSA should notify the Commission if it does not use this monopole 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 monopole, which should be observed by Kentucky CGSA.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky CGSA should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the Louisville MSA under its currently approved tariff.


IT IS THEREFORE ORDERED that:

1. Kentucky CGSA be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole not to exceed 108 feet in height, with attached antennas, to be located at 7320 New LaGrange Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 15' 03.26" by West Longitude 85° 36' 59.86".


2. Kentucky CGSA shall immediately notify the Commission in writing, if, after the monopole is built and utility service is commenced, the monopole is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 6th day of October, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director