

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EVANSVILLE CELLULAR TELEPHONE)	
COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE)	CASE NO.
AND NECESSITY TO CONSTRUCT A CELL SITE AT 1900)	95-261
U.S. 41 NORTH IN HENDERSON, HENDERSON COUNTY,)	
KENTUCKY (NORTH HENDERSON CELL SITE))	

O R D E R

On July 3, 1995, Evansville Cellular Telephone Company ("Evansville Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for the Evansville Metropolitan Statistical Area ("Evansville MSA"). The Evansville MSA includes Daviess and Henderson counties. Evansville Cellular has requested authorization to construct a cell site in Henderson County. Evansville Cellular was previously granted authority to operate a cellular radio telecommunications system in the Evansville MSA in Case No. 10228.¹

The proposed cell site consists of a 140-foot or less monopole antenna tower to be located at 1900 U.S. 41 North in the Old Orchard Shopping Center, Henderson County, Kentucky ("the North

¹ Case No. 10228, The Application of Evansville Cellular Telephone Company for the Establishment of Initial Rates and for the Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications Service to the Public in Evansville, Indiana, Metropolitan Statistical Area, Including Portions of Henderson County, Kentucky.

Henderson cell site"). The coordinates for the North Henderson cell site are North Latitude 37° 51' 44" by West Longitude 87° 34' 18".

Evansville Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the North Henderson 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 North Henderson cell site's construction is exempt from local zoning ordinances; however, Evansville Cellular notified the Henderson County Planning Commission of the pending construction. Approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission are not required, as the tower does not exceed 200 feet in height.

Evansville Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the North Henderson 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 July 10, 1995, the Commission received a letter from Seton Norris, III. On July 31, 1995, the Commission informed Mr. Norris of his right to intervene and ordered Evansville Cellular to respond to his concerns. On August 2, 1995, the Commission received a signed

document from Mr. Norris, waiving his intervention rights. 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, Evansville 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 Evansville Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Evansville Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the North Henderson cell site in the Evansville MSA under its previously approved tariff.

IT IS THEREFORE ORDERED that:

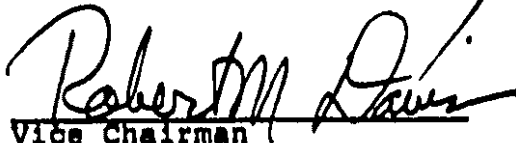
1. Evansville Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the North Henderson cell site.
2. Evansville Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and

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 10th day of August, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director