

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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. 95-275
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 June 26, 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 monopole in the Louisville Metropolitan Statistical Area ("the Louisville MSA"). The proposed cell site consists of a monopole not to exceed 156 feet in height, with attached antennas, to be located at 4316 Cane Run Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 11' 59.37" by West Longitude 85° 50' 13.86".

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 monopole 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 and Jefferson County Planning Commission of the proposed construction. The Planning Commission initially intervened in this matter but, subsequent to discussions with Kentucky CGSA, it filed a letter, dated September 18, 1995, which the Commission will treat as a motion, indicating its intent to withdraw as a party to this case. The Commission finds that the motion should be granted.

Kentucky CGSA 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.

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 following the filing of the application. Aside from the protest and withdrawn intervention of the Planning Commission, supra several protests from property owners were received by the Commission. The Commission ordered Kentucky CGSA to respond to each inquiry of each protestant. The Commission also notified each protestant that ". . . if after reviewing Kentucky CGSA'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 Kentucky CGSA's response." No requests to intervene were 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. The motion of the Louisville and Jefferson County Planning Commission to withdraw as a party to this case be and it hereby is granted.
2. Kentucky CGSA be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a

monopole antenna tower not to exceed 156 feet in height, with attached antennas, to be located at 4316 Cane Run Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 11' 59.37" by West Longitude 85° 50' 13.86".

3. Kentucky CGSA 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.


4. Kentucky CGSA 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 12th day of October, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director