

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LITCHFIELD COUNTY CELLULAR, INC.)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT ADDITIONAL)	95-407
CELL FACILITIES IN KENTUCKY RURAL SERVICE AREA)	
NO. 11 (RED BIRD CELL SITE))	

O R D E R

On November 10, 1995, Litchfield County Cellular, Inc. ("Litchfield 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. 11 ("RSA No. 11"). RSA No. 11 includes Bell, Clay, Harlan, Knox, Leslie, and Whitley counties. Litchfield Cellular has requested authorization to construct a cell site in Clay County. Litchfield Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 11 in Case No. 94-006.¹

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located approximately three miles west of the community of Big Creek, Clay County, Kentucky ("the Redbird cell site"). The coordinates for the Redbird cell site are North Latitude 37° 10' 53.3" by West Longitude 83° 36' 28.7".

¹ Case No. 94-006, The Joint Application of Contel Cellular of Kentucky B, Inc. and Litchfield County Cellular, Inc. for Approval to Transfer and Acquire Control of the Cellular Telephone Utility in Kentucky Rural Service Area No. 11.

Litchfield Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Redbird 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 Redbird cell site's construction is exempt from local zoning ordinances; however, Litchfield Cellular notified the Clay County Judge/Executive of the pending construction. Litchfield Cellular has filed applications with and received approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the construction and operation of the Redbird cell site.

Litchfield Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Redbird 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 Litchfield Cellular's application was filed. 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, Litchfield 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 Litchfield Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Litchfield Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Redbird cell site in RSA No. 11 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Litchfield Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Redbird cell site.

2. Litchfield 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 14th day of December, 1995.

PUBLIC SERVICE COMMISSION

Lynda K. Brethorst
Chairman

ATTEST:

Don Mills
Executive Director

Vice Chairman
Robert M. Davis
Commissioner