

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LEXINGTON MSA LIMITED PARTNERSHIP)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO CONSTRUCT AN)	CASE NO.
ADDITIONAL CELL SITE IN OWENTON, OWEN COUNTY,)	95-447
FOR THE PROVISION OF DOMESTIC PUBLIC CELLULAR)	
RADIO TELECOMMUNICATIONS SERVICE TO THE PUBLIC IN)	
THE B-3 PORTION OF RURAL SERVICE AREA NO. 7)	

O R D E R

On October 10, 1995, Lexington MSA Limited Partnership ("LMSALP") 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. 7 ("RSA No. 7"). RSA No. 7 includes Carroll, Franklin, Gallatin, Grant, Harrison, Henry, Owen, Pendleton, Shelby, and Trimble counties. LMSALP has requested authorization to construct a cell site in Owen County.

The proposed cell site consists of a 400-foot or less guyed antenna tower to be located at 418 Cabbage Avenue, Owen County, Kentucky ("the Owenton cell site"). The coordinates for the Owenton cell site are North Latitude 38° 31' 27.2" by West Longitude 84° 50' 38.8".

LMSALP has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Owenton 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 Owenton cell site's construction is exempt from local zoning ordinances; however, LMSALP notified the Owen County Judge/Executive of the pending construction. LMSALP 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 Owenton cell site. Both applications are pending.

The only persons who own property or who reside within 500 feet of the Owenton cell site are the lessors of the property. In addition, notice was posted in a visible location on the proposed site for at least two weeks after LMSALP'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, LMSALP 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 LMSALP.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that LMSALP should be granted a Certificate of Public Convenience and Necessity to construct and operate the Owenton cell site in RSA No. 7 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

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


2. LMSALP 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. LMSALP 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 4th day of December, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner