

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WIRELESSCO, L.P. THROUGH ITS AGENT )  
AND GENERAL PARTNER, SPRINT SPECTRUM, L.P. FOR )  
ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY TO CONSTRUCT A PERSONAL ) CASE NO.  
COMMUNICATION SERVICES FACILITY IN THE LOUISVILLE ) 96-224  
MAJOR TRADING AREA [ HOPEWELL PCS FACILITY )  
LV03XC012B1] )

O R D E R

On June 13, 1996, Sprint Spectrum, L.P. on behalf of WirelessCo, L.P. filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a personal communications services ("PCS") facility for the Louisville Major Trading Area, which encompasses the entire Commonwealth of Kentucky. On August 9, 1996, WirelessCo, L.P., through its agent and general partner Sprint Spectrum, L.P., amended the application, stating that the jurisdictional utility and applicant in this matter is WirelessCo, L.P. WirelessCo, L.P. has requested authorization to construct a PCS site in Jefferson County. WirelessCo, L.P. was previously granted the authority to operate in Case No. 96-077.<sup>1</sup>

The proposed PCS site consists of a 250-foot or less self-supporting antenna tower to be located at 4550 Hopewell Road, Jefferson County, Kentucky ("the Hopewell PCS

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<sup>1</sup> Case No. 96-077, The Application of WirelessCo, L.P., d/b/a Sprint Telecommunications Venture for Operating Authority and Issuance of Certificate of Public Convenience and Necessity to Construct Commercial Mobile Radio Service Transmission Facilities in Kentucky.

site"). The coordinates for the Hopewell PCS site are North Latitude 38° 10' 15" by West Longitude 85° 30' 44.4".

WirelessCo, L.P. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Hopewell PCS site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.324(1), the Hopewell PCS site's construction is exempt from local zoning ordinances; however, WirelessCo, L.P. notified the Jefferson County Planning Commission of the pending construction. WirelessCo, L.P. 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 Hopewell cell site. An approval has been received from the FAA while the KAZC application is pending.

WirelessCo, L.P. has filed notices verifying that each person who owns property or who resides within 500 feet of the Hopewell PCS 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 after WirelessCo, L.P.'s application was filed. On June 17, 1996, the Commission received a protest letter from Mrs. K. L. Ernspiker. On June 19, 1996, the Commission received a protest letter from Calvin Carrithers. On June 24, 1996, the Commission informed Mrs. Ernspiker and Mr. Carrithers of their right to intervene and request a hearing, and ordered WirelessCo, L.P. to respond to their inquiries. On July 5, 1996, WirelessCo, L.P. responded to Mrs. Ernspiker and Mr. Carrithers. On July

16, 1996, the Commission received an intervention letter from Mrs. Ernspiker and Mr. Carrithers. On July 26, 1996, the Commission granted intervenor status to Mrs. Ernspiker and Mr. Carrithers. On September 19, 1996, the Commission informed all the parties to the case of their right to request a hearing. No hearing requests were 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, WirelessCo, L.P. should notify the Commission if it does not use this antenna tower to provide PCS 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 WirelessCo, L.P.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that WirelessCo, L.P. should be granted a Certificate of Public Convenience and Necessity to construct and operate the Hopewell PCS site under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. WirelessCo, L.P. is granted a Certificate of Public Convenience and Necessity to construct and operate the Hopewell PCS site.
2. WirelessCo, L.P. shall file a copy of the final decision regarding the pending KAZC application for this cell site construction within 10 days of receiving this decision.

3. WirelessCo, L.P. 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 October, 1996.

PUBLIC SERVICE COMMISSION

Linda K Breathall  
Chairman

E. C. G. Hines  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director