

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SPRINT SPECTRUM L.P. )  
ON BEHALF OF WIRELESSCO, L.P. FOR )  
ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO )  
CONSTRUCT A PERSONAL COMMUNICATION ) CASE NO. 96-228  
SERVICES FACILITY IN THE LOUISVILLE )  
MAJOR TRADING AREA (MONTCLAIR PCS )  
FACILITY) )

O R D E R

On September 6, 1996, the Commission granted WirelessCo, L.P. ("WirelessCo") a Certificate of Public Convenience and Necessity to construct a 250 foot self-supporting antenna tower at 1306 Buck Creek Road in Shelby County, Kentucky. In granting the Certificate the Commission relied, in part, upon the representations of WirelessCo that it sent notice of the proposed tower to all property owners and residents within 500 feet.

On October 7, 1996, Hunters Pointe Development Company, Lisa Fleming, and Joe Ware filed a verified complaint alleging that they own property within 500 feet of the tower but had not been notified of the proposed construction. WirelessCo filed a response denying the allegations of the complaint and a motion to dismiss with supporting affidavits. The Commission then scheduled a hearing on November 19, 1996 to receive evidence on the notice issue.

On November 7, 1996, Ronald W. Pottinger filed a letter requesting intervention on the grounds that he also owns property "in the area" and was not notified of the proposed tower. On November 14, 1996, the Complainants and WirelessCo filed an agreement to

dismiss the complaint as settled based on WirelessCo's commitment to landscape around the tower site.

Based on the settlement agreement and being otherwise sufficiently advised, the Commission finds good cause to dismiss the pending complaint and cancel the hearing scheduled on November 19, 1996. The Commission also finds that while Mr. Pottinger may own property in the area, a utility is only required to give notice of a proposed tower to those owning property or residing within 500 feet of the site. Mr. Pottinger does not allege that his property is within 500 feet of the tower and the land survey filed by WirelessCo evidences that he does not.

IT IS THEREFORE ORDERED that:

1. The hearing scheduled on November 19, 1996 is cancelled.
2. The request of Ronald W. Pottinger to intervene is denied.
3. The pending complaint is dismissed as settled.

Done at Frankfort, Kentucky, this 18th day of November, 1996.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director