

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WIRELESSCO, L.P. D/B/A )  
SPRINT SPECTRUM, L.P. FOR ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT A PERSONAL ) CASE NO. 96-240  
COMMUNICATION SERVICES FACILITY IN THE )  
LOUISVILLE MAJOR TRADING AREA [LONGRUN )  
PCS FACILITY LV03XC0085B5] )

O R D E R

On June 24, 1996, WirelessCo, L.P. ("WirelessCo"), through its agent, Sprint Spectrum, L.P. filed an application requesting a certificate of public convenience and necessity to construct a personal communications services facility at 775 Colt Run Road in Shelby County, Kentucky. In response to numerous protests by area residents, WirelessCo amended its petition on September 24, 1996, to specify that the facility is now proposed to be located at 513 Brooks Lane. The amendment resulted in protests from additional residents who claim that the second proposed location is unsuitable. Several residents have been granted intervention in this case. Both the applicant and intervenors have requested that the Commission schedule a hearing.

The Commission finds that a hearing should be scheduled. However, one of the concerns raised by the intervenors is allegedly dangerous levels of radio frequency emissions. The parties hereto are hereby put on notice that the Commission will not consider this issue at the hearing as it has been preempted from doing so by the Telecommunications Act of 1996, Section 704 ("No State or local government . . . may

regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communications] Commission's regulations concerning such emissions").

The Commission being sufficiently advised, IT IS HEREBY ORDERED that:

1. A hearing on the proposed facility is scheduled for January 28, 1997, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

2. WirelessCo, L.P. shall appear at the hearing and be prepared to present testimony on the engineering design, location, and construction of the proposed facility, the safety issues relating to the facility, and all other issues raised by the intervenors with the exception of those the Telecommunications Act of 1996 prohibits the Commission from considering.

3. The parties shall file, no later than 30 days from the date of this Order, lists of the issues to be addressed at the hearing.

4. The parties shall file, no later than 45 days from the date of this Order, any prefiled testimony, together with lists of their witnesses who will present testimony at the hearing and a brief statement of those matters to which each witness will testify.

6. Any interested person shall have the opportunity to present testimony or comment on any aspect of the proposed cell site.

7. Pursuant to KRS 100.324, a copy of this Order is being sent to the Triple S Planning and Zoning Commission for the purpose of notification that the above-scheduled

hearing may affect locations or relocations of service facilities within the planning unit's jurisdiction.

Done at Frankfort, Kentucky, this 21st day of November, 1996.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

  
Executive Director