

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) 96-241
MAJOR TRADING AREA [I-265 I-71 PCS FACILITY)
LV03XC009B1])

O R D E R

On July 10, 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 system ("PCS") facility in 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. 96-077.¹

The proposed PCS site consists of a 120-foot or less monopole antenna tower to be located at 5221 Chamberlain Road, Jefferson County, Kentucky ("the I-265 I-71 PCS

¹ 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 I-265 I-71 PCS site are North Latitude 38° 19' 02.5" by West Longitude 85° 34' 46".

WirelessCo, L.P. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the I-265 I-71 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 I-265 I-71 PCS site's construction is exempt from local zoning ordinances;² however, WirelessCo, L.P. notified the Jefferson County Planning Commission of the pending construction. The Airspace Safety Analysis Corporation has determined that filing with the Federal Aviation Administration ("FAA") regarding this site is unnecessary. The Kentucky Airport Zoning Commission ("KAZC") similarly has stated that its approval is not necessary.

WirelessCo, L.P. has verified that each person who owns property or who resides within 500 feet of the I-265 I-71 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. To date, no intervention requests have been received.

² Subsequent to the filing of this application, KRS 100.324(1) was amended to require initial filing with the local planning unit for cellular and PCS facilities proposed to be constructed in Jefferson County.

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 I-265 I-71 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 I-265 I-71 PCS site.
2. 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 4th day of November, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

Ed J. Helton
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director