

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HORIZON CELLULAR TELEPHONE)
COMPANY OF CENTRAL KENTUCKY, L.P., A)
DELAWARE LIMITED PARTNERSHIP, FOR ISSUANCE)
OF A CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT AN ADDITIONAL CELL) CASE NO. 96-447
FACILITY IN THE KENTUCKY RURAL SERVICE AREA)
NO. 4 WHICH INCLUDES SPENCER, ANDERSON,)
HARDIN, NELSON, WASHINGTON, MERCER, MARION,)
LARUE, GREEN, AND TAYLOR COUNTIES IN KENTUCKY)
(THE I-65 (UPTON) CELL FACILITY))

O R D E R

On September 13, 1996, Horizon Cellular Telephone Company of Central Kentucky, L.P. ("Horizon Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for Rural Service Area No. 4 ("RSA No. 4"). RSA No. 4 includes Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, and Washington counties. Horizon Cellular has requested authorization to construct a cell site in Hardin County. Horizon Cellular Telephone Company of Spencer, L.P., was previously granted authority to operate a cellular radio telecommunications system in RSA No. 4 in Case No. 92-485.¹ Horizon

¹ Case No. 92-485, The Application of Horizon Cellular Telephone Company of Spencer, L.P., a Delaware Limited Partnership, for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications Service to the Public in Kentucky Rural Service Area Which Includes Spencer, Nelson, Anderson, Hardin, Washington, Mercer, Larue, Marion, Green, and Taylor Counties in Kentucky; for a Certificate of Public Convenience and Necessity to Construct a Cell Site in Elizabethtown, Kentucky; and Establishment of Initial Rates.

Cellular Telephone Company of Spencer, L.P., subsequently merged into Horizon Cellular pursuant to authority granted by the Commission in Case No. 94-421.²

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located at 15385 South Dixie Highway in Hardin County, Kentucky ("the Upton cell site"). The coordinates for the Upton cell site are North Latitude 37° 38' 39" by West Longitude 85° 53' 52".

Horizon Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Upton cell 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 Upton cell site's construction is exempt from local zoning ordinances; however, Horizon Cellular notified the Hardin County Planning Commission of the pending construction. Horizon Cellular 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 Upton cell site. Both applications are pending.

Horizon Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Upton cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or

² Case No. 94-421, The Application of Horizon Cellular Telephone Company of Spencer, L.P., a Delaware Limited Partnership, to Merge Into Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership.

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 Horizon Cellular'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, Horizon Cellular 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 Horizon Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Horizon Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Upton cell site in RSA No. 4 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Horizon Cellular is granted a Certificate of Public Convenience and Necessity to construct and operate the Upton cell site.
2. Horizon Cellular 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.

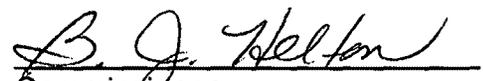
3. Horizon Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 26th day of November, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:



Executive Director