

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY CGSA, INC. FOR)
ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
AN ADDITIONAL CELL SITE IN LOUISVILLE,)
KENTUCKY FOR THE PROVISION OF DOMESTIC) CASE NO. 96-268
PUBLIC CELLULAR RADIO)
TELECOMMUNICATIONS SERVICE TO THE)
PUBLIC IN JEFFERSON COUNTY, KENTUCKY AND)
THE LOUISVILLE MSA)

O R D E R

On June 2, 1996, Kentucky CGSA, Inc. d/b/a BellSouth Mobility, Inc. ("BellSouth Mobility") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications facility in the Louisville Metropolitan Statistical Area ("the Louisville MSA"). The proposed facility consists of a monopole antenna tower not to exceed 190 feet in height, with attached antennas, to be located at 2105 Johnson Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 15' 46.41" by West Longitude 85° 27' 6.96".

BellSouth Mobility has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. 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 proposed facility's construction is exempt from local zoning ordinances. However, BellSouth Mobility has notified the Jefferson County Planning Commission of the proposed construction. To date, no comments have been filed by the Planning Commission. BellSouth Mobility 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 proposed facility. Both applications have been approved.

BellSouth Mobility has filed notices verifying that each person who owns property or resides within 500 feet of the proposed facility 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, BellSouth Mobility has posted notice of the proposed construction in a visible location for at least two weeks after filing its application. The Commission received several protest letters from surrounding property owners and residents. Several protestors requested and were granted intervention in this matter (the "Intervenors") but only four attended and participated in the hearing which was held October 23, 1996. The Intervenors opposed the proposed construction because of the effect on property values and the aesthetic impact on the area. The Intervenors allege that more suitable alternative sites exist.

During the hearing, BellSouth Mobility presented testimony in support of the proposed construction including the necessity of the cell site and the structural design and integrity of the proposed tower. According to BellSouth Mobility, all property within the search area is zoned R-4 single family residential. BellSouth Mobility contends that the proposed site was selected due to existing commercial uses on the proposed property and

the immediately adjacent property and because of the natural screening from trees that would help provide a visual buffer to nearby residents. BellSouth Mobility stated that a nearby 654 foot WHAS radio tower was not feasible for collocation. BellSouth Mobility explained why nearby LG&E electric transmission towers could not support the cellular facilities and that a tower constructed within the right-of-way would be at a height requiring marking and lighting for air traffic which BellSouth Mobility has found to be most objectionable to surrounding residents. In response to an Intervenor's request, BellSouth Mobility offered to paint the proposed tower "sky blue" and provide landscaping for additional buffering. BellSouth Mobility stated that an alternative site was investigated but was not available for lease.

The Intervenors argued that more suitable sites could be found and remained concerned that the proposed construction would impact property values in the area. The Intervenors contend that a site within the LG&E right-of-way or on property near a prison located outside the search area would be more suitable.

The Commission finds that the proposed construction is necessary and that the location selected by BellSouth Mobility is the most appropriate within the search area. BellSouth Mobility has offered to take reasonable actions to minimize the aesthetic impact of the proposed facility including painting the monopole and providing additional landscaping.

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, BellSouth Mobility should

notify the Commission if it does not use this antenna tower to provide service 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 BellSouth Mobility.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that BellSouth Mobility should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed facility in the Louisville MSA under its currently approved tariff.

IT IS THEREFORE ORDERED that:

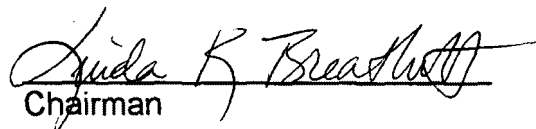
1. BellSouth Mobility is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole antenna tower not to exceed 190 feet in height, with attached antennas, to be located at 2105 Johnson Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 15' 46.41" by West Longitude 85° 27' 6.96".

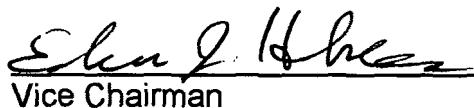
2. BellSouth Mobility shall paint the monopole as requested by an Intervenor during the hearing and shall provide additional landscaping as proposed in its November 6, 1996 post hearing filing.

3. BellSouth Mobility 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 6th day of February, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director