

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) 96-269
MAJOR TRADING AREA [MARKWELL PCS FACILITY)
LV03XC083B3])

O R D E R

On June 13, 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 250-foot or less self-supporting antenna tower to be located at 9604 Bardstown Road, Jefferson County, Kentucky ("the Markwell 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 Markwell PCS site are North Latitude 38° 06' 05.2" by West Longitude 85° 34' 09".

WirelessCo, L.P. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Markwell 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 Markwell PCS site's construction is exempt from local zoning ordinances; however, WirelessCo, L.P. notified the Louisville and Jefferson County Planning Commission of the pending construction. WirelessCo, L.P. has filed applications with and received approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the construction and operation of the Markwell cell site.

WirelessCo, L.P. has verified that each person who owns property or who resides within 500 feet of the Markwell 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. On July 2, 1996, the Commission received intervention requests from Leroy Williams and Marshall Chasteen and granted the requests on July 15, 1996. On August 27, 1996, the Commission notified the intervenors that a hearing would be held on October 9, 1996 if they wished to appear and present evidence in opposition to the proposed site. On September 9, 1996, Marshall

Chasteen notified the Commission of his intention to appear. Accordingly, the hearing was held on October 9, 1996.

WirelessCo, L.P. states that, in an effort to build as few towers as possible and minimize the effect of the structures in its service area, it has aggressively pursued collocations. The record is commendable, and accords with Commission policy. Aggressive collocation policies do, however, result in situations like the one here, where a tower must be built in a specific area to fill gaps in coverage left by a system design based upon collocation sites. The Markwell site is necessary to meld coverage provided by two collocated sites and one new tower site.

At the hearing, the intervenor contended that construction of the tower at a different site would be more suitable. However, there is no evidence before the Commission that an available alternative site more suitable for utility construction exists. The site proposed is located in the only available commercial node in the search area, behind a marine sales and service area.

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 Markwell 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 Markwell 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 6th day of January, 1997.

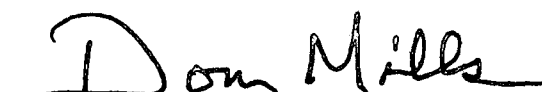
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director