

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY RSA #3, INC. FOR A )  
CERTIFICATE FOR PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT A CELL SITE OFF ) CASE NO. 96-365  
BASHAM DRIVE, OFF U.S. 54, APPROXIMATELY 0.4 )  
MILES WEST OF LEITCHFIELD IN GRAYSON COUNTY, )  
KENTUCKY (LEITCHFIELD SITE) )

O R D E R

On November 6, 1996, Kentucky RSA #3, Inc. 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. 3 ("RSA No. 3"). RSA No. 3 includes Allen, Breckinridge, Butler, Edmonson, Grayson, Hancock, Logan, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd, and Warren counties. Kentucky RSA #3, Inc. has requested authorization to construct a cell site in Grayson County. Kentucky RSA #3, Inc. was previously granted authority to operate a cellular radio telecommunications system in RSA No. 3 in Case No. 93-118.<sup>1</sup>

The proposed cell site consists of a 180-foot or less self-supporting antenna tower to be located off Basham Drive, off U.S. 54, approximately 0.4 miles west of Leitchfield in

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<sup>1</sup> Case No. 93-118, The Joint Application of Telephone and Data Systems, Inc., United States Cellular Corporation and Tsaconas Cellular, Inc. For Approval of the Acquisition of Tsaconas Cellular, Inc. by Telephone and Data Systems, Inc. and the Transfer to United States Cellular Corporation.

Grayson County, Kentucky ("the Leitchfield cell site"). The coordinates for the Leitchfield cell site are North Latitude 37° 26' 09" by West Longitude 87° 59' 06".

Kentucky RSA #3, Inc. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Leitchfield 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 Leitchfield cell site's construction is exempt from local zoning ordinances; however, Kentucky RSA #3, Inc. notified the Grayson County Judge/Executive of the pending construction. Kentucky RSA #3, Inc. 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 Leitchfield cell site.

Kentucky RSA #3, Inc. has filed notices verifying that each person who owns property or who resides within 500 feet of the Leitchfield cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or 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 Kentucky RSA #3, Inc.'s application was filed. On August 12, 1996, prior to the filing of the case, the Commission received a protest letter from Alan and Barbara Bernard. On November 14, 1996, the Commission informed the Bernards of their right to intervene in the filed case and ordered Kentucky RSA #3, Inc. to respond to their concerns. 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, Kentucky RSA #3, Inc. 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 Kentucky RSA #3, Inc.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA #3, Inc. should be granted a Certificate of Public Convenience and Necessity to construct and operate the Leitchfield cell site in RSA No. 3 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Kentucky RSA #3, Inc. is granted a Certificate of Public Convenience and Necessity to construct and operate the Leitchfield cell site.
2. Kentucky RSA #3, Inc. 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 5th day of February, 1997.

By the Commission

ATTEST:

  
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Executive Director