

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. 96-553
FACILITY IN THE KENTUCKY RURAL SERVICE AREA)
NO. 8 WHICH INCLUDES MASON, LEWIS, FLEMING,)
BATH, MONTGOMERY, ROWAN, BRACKEN,)
ROBERTSON, NICHOLAS, AND MENIFEE COUNTIES IN)
KENTUCKY (THE TOLLESBORO CELL FACILITY))

O R D E R

On November 14, 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. 8 ("RSA No. 8"). RSA No. 8 includes Bath, Bracken, Fleming, Lewis, Mason, Menifee, Montgomery, Nicholas, Robertson, and Rowan counties. Horizon Cellular has requested authorization to construct a cell site in Lewis County. Horizon Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 8 in Case No. 93-048.¹

¹ Case No. 93-048, The Joint Application of Danbury Cellular Telephone Co., a Connecticut Corporation d/b/a Cellular One/United Bluegrass Cellular Corp., and Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership, for Approval of the Transfer of the Assets and Liabilities of Danbury Cellular Telephone Co. to Horizon Cellular Telephone Company of Central Kentucky, L.P., and Related Financing.

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located one mile southeast of the intersection of KY 9 and Shaw Hollow Road, approximately five miles east of the community of Tollesboro in Lewis County, Kentucky ("the Tollesboro cell site"). The coordinates for the Tollesboro cell site are North Latitude 38° 33' 55" by West Longitude 83° 29' 06".

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

Horizon Cellular informed the Commission that the only person who owns property or who resides within 500 feet of the Tollesboro cell site is the lessor of the property. 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 Tollesboro cell site in RSA No. 8 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 Tollesboro 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 5th day of February, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breabott
Chairman

Elmer J. Hines
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Da Hills
Executive Director