

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. 96-576  
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 CAVE RUN LAKE CELL FACILITY) )

O R D E R

On December 5, 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 requested authorization to construct a cell site in Bath County. Horizon Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 8 in Case No. 93-048.<sup>1</sup> The assets of Horizon Cellular, including this ongoing

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<sup>1</sup> 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.

proceeding, were subsequently acquired by PriCellular Corporation (hereinafter the "Applicant") on December 9, 1996, in Case No. 96-491.<sup>2</sup>

The proposed cell site consists of a 180-foot or less self-supporting antenna tower to be located off Forest Service Road and Dogwood Lane near Salt Lick, Bath County, Kentucky ("the Cave Run Lake cell site"). The coordinates for the Cave Run Lake cell site are North Latitude 38° 03' 34" by West Longitude 83° 30' 19".

Horizon Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Cave Run Lake 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 Cave Run Lake cell site's construction is exempt from local zoning ordinances; however, the Bath County Judge has been notified of the pending construction. Airspace Safety Analysis Corporation has determined that the Applicant will not need approval from the Federal Aviation Administration ("FAA") as the Cave Run Lake tower is located below airspace protected by the FAA. The Applicant awaits a decision from the Kentucky Airport Zoning Commission ("KAZC") for the construction and operation of the Cave Run Lake cell site.

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<sup>2</sup> Case No. 96-491, The Joint Application of PriCellular Corporation, a Delaware Corporation, Cellular Information Systems of Florence, Inc., an Alabama Corporation and Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership for the Approval of the Acquisition of the Assets of Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership and for Acceptance of Adoption of Tariff.

Horizon Cellular filed notices verifying that each person who owns property or who resides within 500 feet of the Cave Run Lake 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 the application was filed. On December 11, 1996, the Commission received supporting letters and intervention requests from Hobert and Carl Cassity, who support the proposed construction. Their intervention requests were granted on January 3, 1997. On January 2, 1997, a protest letter was received from Benjamin Worthington. On January 9, 1997, the Commission ordered the Applicant to respond to Mr. Worthington's inquiries and informed him of his right to intervene. To date, he has not intervened.

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, the Applicant 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 the Applicant.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant should be granted a Certificate of Public

Convenience and Necessity to construct and operate the Cave Run Lake cell site in RSA No. 8 under its previously approved tariff.

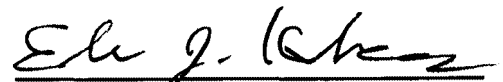
IT IS THEREFORE ORDERED that:

1. The Applicant is granted a Certificate of Public Convenience and Necessity to construct and operate the Cave Run Lake cell site.
2. The Applicant shall file a copy of the final decision regarding the pending KAZC application for this cell site construction within 10 days of receiving this decision.
3. The Applicant 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 4th day of March, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director