

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE CINCINNATI SMSA LIMITED)
PARTNERSHIP FOR THE ISSUANCE OF A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO)
CONSTRUCT A NEW CELL FACILITY FOR ITS)
DOMESTIC PUBLIC CELLULAR RADIO) CASE NO. 97-201
TELECOMMUNICATIONS SERVICE IN HIGHLAND)
HEIGHTS, IN THE KENTUCKY PORTION OF THE)
CINCINNATI MSA)

O R D E R

On April 16, 1997, Cincinnati SMSA Limited Partnership ("Cincinnati SMSA") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for the Cincinnati Market Service Area ("Cincinnati MSA"). The Cincinnati MSA includes Boone, Campbell, and Kenton counties. Cincinnati SMSA has requested authorization to construct a cell site in Campbell County. Cincinnati SMSA was previously granted authority to operate a cellular radio telecommunications system in the Cincinnati MSA in Case No. 8916.¹

The proposed cell site consists of a 154-foot or less monopole antenna tower to be located at 80-82 Campbell Drive, Highland Heights, in Campbell County, Kentucky ("the

¹ Case No. 8916, The Application of the Cincinnati SMSA Limited Partnership for the Issuance of a Certificate of Public Convenience and Necessity to Provide a New Domestic Public Cellular Radio Telecommunications Service to the Public in the Greater Cincinnati Metropolitan Area Including all, or Parts of, Butler, Clermont, Hamilton, and Warren Counties in Ohio, Boone, Campbell, Gallatin, and Kenton Counties in Kentucky.

Highland Heights cell site"). The coordinates for the Highland Heights cell site are North Latitude 39° 02' 29" by West Longitude 84° 28' 05".

Cincinnati SMSA has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Highland Heights 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 Highland Heights cell site's construction is exempt from local zoning ordinances; however, Cincinnati SMSA notified the Campbell County Planning Commission of the pending construction. Cincinnati SMSA 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 Highland Heights cell site. Both applications are pending.

Cincinnati SMSA has filed notices verifying that each person who owns property or who resides within 500 feet of the Highland Heights 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 Cincinnati SMSA'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, Cincinnati SMSA 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 Cincinnati SMSA.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cincinnati SMSA should be granted a Certificate of Public Convenience and Necessity to construct and operate the Highland Heights cell site in Cincinnati MSA under its previously approved tariff.


IT IS THEREFORE ORDERED that:

1. Cincinnati SMSA is granted a Certificate of Public Convenience and Necessity to construct and operate the Highland Heights cell site.
2. Cincinnati SMSA 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. Cincinnati SMSA 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 August, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director