

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF AT&T WIRELESS PCS, INC. BY )  
AND THROUGH ITS AGENT, WIRELESS PCS, INC., )  
FOR THE ISSUANCE OF A CERTIFICATE OF )  
PUBLIC CONVENIENCE AND NECESSITY TO ) CASE NO. 97-230  
CONSTRUCT A PERSONAL COMMUNICATIONS )  
SERVICES NETWORK FACILITY IN HEBRON, )  
KENTUCKY AND CALLED THE RUEHL ELECTRIC )  
SITE, SITE #02-028-03 )

O R D E R

On May 1, 1997, AT&T Wireless PCS, Inc. ("AT&T Wireless") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a personal communications service facility in the Cincinnati-Dayton Major Trading Area ("Cincinnati-Dayton MTA"). The proposed facility consists of a monopole antenna tower not to exceed 165 feet in height, with attached antennas, to be located at 1654 Petersburg Road, Hebron, Boone County, Kentucky. The coordinates for the proposed facility are North Latitude 39° 4' 4.5" by West Longitude 84° 41' 25.8".

AT&T Wireless has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. 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 proposed facility's construction is exempt from local zoning ordinances. However, AT&T Wireless has notified the Boone County Planning Commission ("Planning Commission") of the proposed construction. Comments were filed on behalf of the Planning Commission in this proceeding and ultimately the Planning Commission requested and was granted intervention. AT&T Wireless 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 proposed facility. Both decisions are pending.

AT&T Wireless has filed notices verifying that each person who owns property or resides within 500 feet of the proposed facility 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, AT&T Wireless has posted notice of the proposed construction in a visible location for at least two weeks after filing its application. To date, no comments have been filed by area residents or property owners. Pursuant to a request by the Planning Commission, a hearing was held in this matter on July 24, 1997.

The Planning Commission opposes the proposed construction and claims that the facility is incompatible with existing and future uses on and near the industrial zoned site as prescribed by local zoning regulations and the comprehensive plan. The Planning Commission proposes that an existing tower located on property owned by the Hebron Fire Protection District would be a more appropriate site for collocating the proposed facility.

In addition to providing evidence in support of the proposed construction, AT&T Wireless advised that the alternative site proposed by the intervenor had been investigated. AT&T Wireless concluded that the existing tower was inadequate for collocation and that

another tower, of greater height, would have to be constructed to support the proposed facility.

The Commission finds that the proposed construction is necessary and that the location selected by AT&T Wireless appears appropriate for the proposed facility. Although an alternative location was considered in this proceeding, no evidence was submitted that the alternative site would be less objectionable to surrounding property owners or residents than the proposed location.

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, AT&T Wireless should notify the Commission if it does not use this antenna tower to provide service 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 AT&T Wireless.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that AT&T Wireless should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed facility in the Cincinnati-Dayton MTA.

IT IS THEREFORE ORDERED that:

1. AT&T Wireless is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole antenna tower not to exceed 165 feet in height, with attached antennas, to be located at 1654 Petersburg Road, Hebron, Boone County,

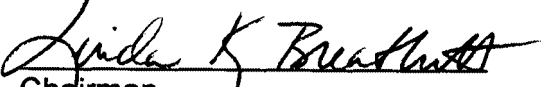
Kentucky. The coordinates for the proposed facility are North Latitude 39° 4' 4.5" by West Longitude 84° 41' 25.8".

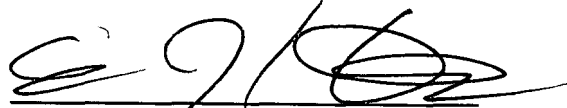
2. AT&T Wireless shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

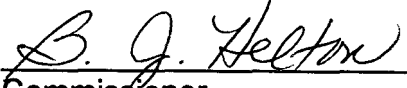
3. AT&T Wireless shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 30th day of September, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director