

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF SOUTHEAST TELEPHONE, LTD FOR)
THE ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT A) CASE NO.
PERSONAL COMMUNICATIONS SERVICES NETWORK) 97-291
FACILITY IN BETSY LAYNE, KENTUCKY AND CALLED THE)
BETSY LAYNE SITE, #01-002)

O R D E R

On July 31, 1997, SouthEast Telephone, LTD ("SouthEast") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate Personal Communications Service ("PCS") radio telecommunications facilities within six Basic Trading Areas ("BTA") in Kentucky. SouthEast seeks a CPCN to construct a facility in the Williamson-Pikeville BTA. The Williamson-Pikeville BTA includes Pike, Floyd, Martin, and Johnson counties. SouthEast has requested authorization to construct a PCS site in Floyd County. SouthEast was previously granted authority to operate a PCS radio telecommunications system in Case No. 97-227.¹

The proposed PCS site consists of a 190-foot or less self-supporting antenna tower to be located off U.S. Highway 23, 4.1 miles south of the intersection of U.S. Highway 23 and State Route 1428, near Betsy Layne, in Floyd County, Kentucky ("the Betsy Layne

¹ The Application of SouthEast Telephone, LTD. for a Certificate to Provide Personal Communications Service.

site"). The coordinates for the Betsy Layne site are North Latitude 37° 33' 26" by West Longitude 82° 39' 15".

SouthEast has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Betsy Layne 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 Betsy Layne site's construction is exempt from local zoning ordinances; however, SouthEast notified the Floyd County Judge/Executive of the pending construction. SouthEast has filed applications with the Federal Aviation Administration and the Kentucky Airport Zoning Commission seeking approval for the construction and operation of the Betsy Layne site. Both agencies advised SouthEast that approvals for this site were not required.

SouthEast has filed notices verifying that each person who owns property or who resides within 500 feet of the Betsy Layne 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 SouthEast's application was filed. To date, no intervention requests have been received.

During a routine site inspection, it was discovered that SouthEast might be in violation of KRS 278.020, constructing a PCS tower prior to obtaining a CPCN. On October 16, 1997, a violation settlement was filed in the case.

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, SouthEast should notify the Commission if it does not use this antenna tower to provide PCS 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 SouthEast.

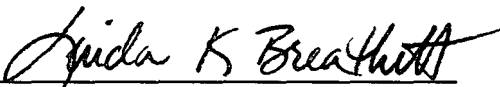
The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that SouthEast should be granted a Certificate of Public Convenience and Necessity to construct and operate the Betsy Layne site in the Williamson-Pikeville BTA under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. SouthEast is granted a Certificate of Public Convenience and Necessity to construct and operate the Betsy Layne site.
2. SouthEast 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 31st day of October, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director