

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF GTE WIRELESS OF THE)	
MIDWEST INCORPORATED FOR ISSUANCE OF)	
A CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO CONSTRUCT A PERSONAL)	
COMMUNICATIONS SERVICE FACILITY IN THE)	
CINCINNATI-DAYTON MAJOR TRADING AREA)	CASE NO. 98-308
WHICH INCLUDES BOONE, KENTON, CAMPBELL,)	
GALLATIN, GRANT, PENDLETON, BRACKEN,)	
MASON, LEWIS, GREENUP, CARTER, BOYD,)	
ELLIOTT, LAWRENCE, JOHNSON, MARTIN,)	
FLOYD AND PIKE COUNTIES, KENTUCKY)	
(THE CVG 320 FACILITY))	

O R D E R

On November 23, 1998, GTE Wireless of the Midwest Incorporated ("GTE Wireless") moved the Commission to set a hearing date in this matter. The City of Highland Heights (the "City") filed a written objection on November 30, 1998, stating it has not yet received complete answers to data requests served upon GTE Wireless. The City asks that the hearing be held in abeyance until such time as it receives complete responses to its data requests. Also on November 30, 1998, the City filed a motion to compel GTE Wireless to provide full and complete answers to its data requests and requested a hearing on its motion. The City does not, however, indicate which data responses it considers inadequate.

GTE Wireless in its responses to the City's requests indicates its understanding that it has responded fully to the City's data requests, except for those to which it has objected on the basis that the request calls for confidential and proprietary information, is overly burdensome, or calls for irrelevant information.

807 KAR 5:001, Section 7(5)(a) states that "[n]o party to any proceeding before the commission shall fail to respond to discovery by the commission or its staff or any other party to the proceeding on grounds of confidentiality." If the information requested is relevant to the proceeding, and may reasonably be furnished, it should be filed in proper form, together with a petition for confidential treatment, and the parties should enter into a protective agreement. Thus, an objection to furnishing material on the basis of confidentiality alone is meaningless. In addition, Section 704 of the Telecommunications Act of 1996 prohibits this Commission from considering issues involving environmental emissions of the proposed facility if the facility complies with the regulations of the Federal Communications Commission.

Taking these parameters into consideration, the City shall file, within 10 days of the date of this Order, a memorandum stating with particularity which responses it considers inadequate and why it requires the requested information to participate meaningfully in the proceeding. Within 10 days of the date the City files its memorandum, GTE Wireless may file a response. Oral argument on the motion is set for January 5, 1999 at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky. If, within 10 days of the date of this Order, the City has not filed a memorandum in support of its motion as described herein, the Commission will conclude that the dispute has been settled to the City's satisfaction, the oral argument on the motion scheduled for January 5, 1999, shall be cancelled, and the hearing on the merits of the application shall proceed on that date.

IT IS SO ORDERED.

Done at Frankfort, Kentucky, this 8th day of December, 1998.

PUBLIC SERVICE COMMISSION

B. G. Helton
For the Commission

ATTEST:

Helen C. Helton
Executive Director