

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CUMBERLAND CELLULAR PARTNERSHIP)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT A CELL) CASE NO.
SITE (TOMPKINSVILLE) IN RURAL SERVICE AREA #5) 98-330
(MONROE) OF THE COMMONWEALTH OF KENTUCKY)

O R D E R

On February 8, 1999, Cumberland Cellular Partnership ("Cumberland Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 5 ("RSA No. 5"). RSA No. 5 includes Adair, Barren, Clinton, Cumberland, Hart, McCreary, Metcalfe, Monroe, Russell, and Wayne counties. Cumberland Cellular has requested authorization to construct a cell site in Monroe County. Cumberland Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 5 in Case No. 91-180.¹

The proposed cell site consists of a 280-foot or less guyed antenna tower to be located at 403 Martin Subdivision, Tompkinsville, in Monroe County, Kentucky ("the Tompkinsville cell site"). The coordinates for the Tompkinsville cell site are North Latitude 36° 41' 54" by West Longitude 85° 41' 07".

¹ Case 91-180, The Joint Application of GTE Mobilnet Incorporated and Cumberland Cellular Partnership for Approval of the Transfer of Ownership and Control of the Certificate of Public Convenience and Necessity Granted to GTE Mobilnet Incorporated in Case No. 90-306 to Cumberland Cellular Partnership.

Cumberland Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Tompkinsville 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 807 KAR 5:063, Section 1, Cumberland Cellular notified the Monroe County Judge/Executive of the pending construction. Cumberland Cellular has filed applications with and received approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission seeking approval for the construction and operation of the Tompkinsville cell site.

Cumberland Cellular has filed notices verifying that each person who owns property within 500 feet of the Tompkinsville cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notices were published in a newspaper of general circulation in Monroe County and were posted in a visible location on the proposed site and on the nearest public road. The posted notices remained posted for at least two weeks after Cumberland Cellular'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, Cumberland Cellular 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 Cumberland Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cumberland Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Tompkinsville cell site in RSA No. 5 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Cumberland Cellular is granted a Certificate of Public Convenience and Necessity to construct and operate the Tompkinsville cell site.
2. Cumberland Cellular 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 29th day of March, 1999.

By the Commission

ATTEST:

Executive Director