

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CROWN COMMUNICATION	)	
INC. AND KENTUCKY CGSA, INC. FOR	)	
ISSUANCE OF A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY TO	)	
CONSTRUCT A WIRELESS COMMUNICATIONS	)	
FACILITY AT 681 CLINTONVILLE ROAD, PARIS,	)	CASE NO.
KENTUCKY 40361 IN THE WIRELESS	)	2000-366-UAC
COMMUNICATIONS LICENSE AREA IN THE	)	
COMMONWEALTH OF KENTUCKY IN THE	)	
COUNTY OF BOURBON	)	
SITE NAME: PARIS DT	)	
SITE NUMBER: 801616	)	

O R D E R

On August 3, 2000, Crown Communication Inc. and Kentucky CGSA, Inc. (collectively "Applicants") filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility at 681 Clintonville Road, Paris, Bourbon County, Kentucky. On August 23, 2000, the Paris/Bourbon County Joint Planning Commission ("Planning Unit"), by counsel, filed a motion for full intervention. The Commission finds that such intervention is likely to present issues and develop facts that will assist the Commission without unduly complicating or disrupting the proceedings. Accordingly, the motion for full intervention should be granted.

The proposed site is in a jurisdiction in which the Planning Unit has adopted planning and zoning regulations in accordance with KRS Chapter 100, but the Planning

Unit did not plan for and regulate the setting of cellular antenna towers by officially registering with the Commission pursuant to KRS 100.987(1).

On December 8, 2000, the Planning Unit, by counsel, moved to consolidate the case herein with Case No. 2000-365-UAC. Case No. 2000-365-UAC is referred to as the Peacock Road site on Brentsville Road, Paris, Bourbon County, Kentucky. The Applicants filed their objection to the Planning Unit's motion on December 14, 2000. After considering the motion and the objection thereto (which sets out sufficient cause for denial of the motion), the Commission finds that the cases present different issues such that consolidation would not serve the interests of efficiency and clarity in the processing of these matters. Accordingly, the motion to consolidate should be denied.

The Commission, on its own motion, has scheduled a hearing in this matter for March 7, 2001 at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

If the Intervenor, the Planning Unit, wishes to appear at the hearing in opposition to the application and the proposed facility, it must, within 10 days of the date of this Order, so notify the Commission in writing, with a copy to all parties of record. If no statement of intent to appear at hearing and present evidence against the proposed facility is received by that date, the hearing will be cancelled and the matter will be submitted to the Commission for a decision based upon the written record without further Orders herein.

The Planning Unit is hereby notified that the hearing will be conducted pursuant to the evidentiary standards of KRS 278.650(4), and any evidence regarding potential alternative sites for the proposed construction and any requests for information must be

filed with the Commission, with a copy to all parties of record, no later than 20 days from the date of this Order. No intervenor may produce evidence at the hearing regarding alternative sites except in regard to specific sites filed of record as described in this Order. Applicants' responses to any filed information requests or regarding potential alternative sites shall be filed within 30 days from the date of this Order, including in such responses a report concerning the feasibility of the alternative sites.

Issues to be addressed at hearing by testimony and evidence are those relating to KRS 278.650(4), alternative sites, if any, engineering, design, construction, and safety of the facility, and the public necessity for the construction and operation of the facility. In this proceeding and hearing, the Federal Communications Commission ("FCC") has exclusive jurisdiction over radio emissions, including radio frequency interference. The Commission will not consider the "environmental effects of radio frequency emissions" that comply with FCC standards. 47 U.S.C. § 332(c)(7).

IT IS THEREFORE ORDERED that:

1. The request of the Planning Unit to consolidate cases is denied.
2. The request of the Planning Unit to fully intervene is granted.
3. The Planning Unit shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by the parties after the date of this Order.
4. Should the Planning Unit, or any subsequent intervenor, file documents of any kind with the Commission during the course of these proceedings, a copy of said documents shall also be served on all parties of record.

5. A hearing on the proposed wireless telecommunications facility is scheduled for March 7, 2001 at 9:00 a.m., Eastern Standard Time, in the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

6. If the Planning Unit intends to appear at the hearing and present evidence against the construction of the tower, it shall file a statement of intent to appear in opposition to the proposed telecommunications facility within 10 days of the date of this Order. If no statement is filed within 10 days of the date of this Order, the hearing shall be cancelled and the matter shall be submitted to the Commission on the existing record without further Orders herein.

7. Within 20 days from the date of this Order, the Planning Unit may file evidence regarding potential alternative sites for the proposed construction, with a copy to all parties of record.

8. The Planning Unit, or any person subsequently granted intervention herein, may not submit evidence at the hearing regarding alternative sites for the proposed facility, except in regard to those specific alternative sites filed herein within 20 days of the date of this Order.

9. Applicants shall respond in writing to information requests and potential alternative sites, if any, within 45 days of the date of this Order, and shall include in their responses information concerning the availability and feasibility of suggested alternative sites.

10. During this proceeding and public hearing, it is understood and ordered that the FCC has exclusive jurisdiction over issues regarding radio frequency, including

radio frequency interference, pursuant to 47 U.S.C. § 332(c) and Southwest Bell Wireless, Inc. v. Johnson County Board of Education, 199 F.3d 1185 (10<sup>th</sup> Cir. 1999).

11. Issues to be addressed at hearing by testimony and evidence are those relating to KRS 278.650(4), alternative sites, if any, engineering, design, construction, and safety of the facility, and the public necessity for the construction and operation of the facility.

12. Applicants shall appear at hearing and shall be prepared to present testimony and evidence regarding the matters set out herein, including safety and public necessity issues.

13. Neither opening statements nor witnesses' summaries of prefiled testimony shall be permitted at the hearing.

14. Any interested person shall have the opportunity to present testimony or comment on the proposed facility.

15. Prefiled testimony, if any, shall be filed within 45 days of the date of this Order.

Done at Frankfort, Kentucky, this 11<sup>th</sup> day of January, 2001.

By the Commission

ATTEST:

  
Executive Director