

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CROWN COMMUNICATION INC.	)	
AND POWERTEL/KENTUCKY, INC. FOR ISSUANCE	)	
OF A CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY TO CONSTRUCT A WIRELESS	)	CASE NO.
COMMUNICATIONS FACILITY AT 211 PETERSON	)	2000-493-UAC
DRIVE, ELIZABETHTOWN, KENTUCKY 42701	)	
IN THE WIRELESS COMMUNICATIONS LICENSE AREA	)	
IN THE COMMONWEALTH OF KENTUCKY	)	
IN THE COUNTY OF HARDIN	)	
SITE NAME: BILLY CREEK	)	

O R D E R

Crown Communication Inc. ("Crown") and Powertel/Kentucky, Inc. ("Powertel") have filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility at 211 Peterson Drive, Elizabethtown, Hardin County, Kentucky.

The Elizabethtown Planning Commission ("Elizabethtown") has requested intervention in this proceeding. The Commission finds that the Elizabethtown Planning Commission has a special interest which will not otherwise be adequately represented. Elizabethtown is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting proceedings.

The Commission, on its own motion, has scheduled a hearing in this matter for June 12, 2001, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

If Elizabethtown wishes to appear at the hearing in opposition to the application and the proposed facility, it must, within 15 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 the hearing or 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.

Elizabethtown is hereby notified that the hearing will be conducted pursuant to the evidentiary standards of KRS 278.650(4). Issues to be presented at this 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).

Accordingly, IT IS THEREFORE ORDERED that:

1. A hearing on the proposed wireless telecommunications facility is scheduled for June 12 2001, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.
2. Elizabethtown's motion to intervene is granted.
3. Elizabethtown 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 parties after the date of this Order.

4. Should Elizabethtown file documents of any kind with the Commission in the course of these proceedings, it shall also serve a copy of said documents on all other parties of record.

5. If Elizabethtown 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 15 days of the date of this Order. If no statement is filed within 15 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.

6. 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, 1999 F. 3d 1185 (10<sup>th</sup> Cir. 1999).

7. 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.

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

9. Neither opening statements or witnesses' summaries of prefiled testimony shall be permitted at the hearing.

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

11. Prefiled testimony, if any, shall be filed within 20 days of the date of this Order.

Done at Frankfort, Kentucky, this 15<sup>th</sup> day of May, 2001.

By the Commission

ATTEST:

  
Executive Director