

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CROWN COMMUNICATION)
INC. AND KENTUCKY CGSA, LLC AND CELLCO)
PARTNERSHIP D/B/A VERIZON WIRELESS FOR)
ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY AT)
4275 TODDS ROAD, LEXINGTON, KENTUCKY)
40509 IN THE WIRELESS COMMUNICATIONS)
LICENSE AREA IN THE COMMONWEALTH OF)
KENTUCKY IN THE COUNTY OF FAYETTE)
)
SITE NAME: HAMBURG)
SITE NUMBER: 6203)

CASE NO.
2001-076-UAC

O R D E R

On April 10, 2001, Crown Communication Inc., and Kentucky CGSA, LLC d/b/a Cingular Wireless, and CellCo Partnership d/b/a Verizon Wireless ("Applicants") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a Wireless Communications Facility ("WCF"). The proposed facility was to be located at 4275 Todds Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed facility were North Latitude 37° 59' 48.88" by West Longitude 84° 23' 25.59".

On August 17, 2001, the Applicants filed an amendment to the original application. The amendment was submitted in response to suggestions made by representatives of the Lexington-Fayette Urban County Government ("LFUCG"), the LFUCG Planning Commission, and residents in the vicinity of the proposed WCF to change the location of the proposed WCF. As noted in the Applicants' amendment, the proposed facility is to be

located at 4131 Todds Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 59' 51.53" by West Longitude 84° 23' 34.71".

The Applicants have provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Licensed Professional Engineer has certified the plans.

Pursuant to 807 KAR 5:063, the Applicants have notified the local planning unit of the proposed construction. The location of the proposed WCF was changed in response to comments made by the local planning unit. On September 13, 2001, the local planning unit chose not to approve the Applicants' proposed construction. However, the local planning unit has not filed with the Commission any request for intervention in this case. In addition, the matter was submitted without objection to the Commission on the existing record. The Applicants have shown that the public convenience and necessity requires the proposed construction, and no acceptable alternate site has been identified. Therefore, pursuant to KRS 100.987(5)(a), the Commission must override the decision of the local planning unit.

The Applicants have filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. Both decisions are pending.

The Applicants have filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited any comments and informed the recipients of their right to request intervention. The Commission received comments from John R. Bryden,

President of the Todds Station Neighborhood Association, stating the association's support for the proposed WCF.

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, the Applicants should notify the Commission if they do not use this antenna tower to provide service in the manner set out in their 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 the Applicants.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicants have demonstrated that a facility is necessary to provide adequate utility service and therefore should be granted a Certificate of Public Convenience and Necessity to construct the proposed facility.

IT IS THEREFORE ORDERED that:

1. The Applicants are granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility is to be located at 4131 Todds Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 59' 51.53" by West Longitude 84° 23' 34.71".
2. The Applicants shall file a copy of the final decisions regarding their pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

3. The Applicants 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 3rd day of December, 2001.

By the Commission

ATTEST:


Executive Director