

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SBA TOWERS, INC. AND WEST )  
VIRGINIA CELLULAR TELEPHONE CORPORATION )  
D/B/A AT&T WIRELESS SERVICES FOR ISSUANCE )  
OF A CERTIFICATE OF PUBLIC CONVENIENCE ) CASE NO. 2001-130  
AND NECESSITY TO CONSTRUCT A WIRELESS )  
TELECOMMUNICATIONS FACILITY IN THE )  
HUNTINGTON-ASHLAND METROPOLITAN )  
STATISTICAL AREA [SOUTH ASHLAND FACILITY] )

O R D E R

SBA Towers, Inc. and West Virginia Cellular Telephone Corporation d/b/a AT&T Wireless Services (“Applicants”) have moved for waivers of certain requirements set forth in Administrative Regulation 807 KAR 5:063. Having reviewed the motion, the Commission will treat it as a motion for leave to incorporate by reference materials previously filed in Case No. 98-077<sup>1</sup> and for a declaratory ruling that certain aspects of Applicants’ filing comply with Administrative Regulation 807 KAR 5:063.

Applicants have applied for a Certificate of Public Convenience and Necessity to augment an existing 195-foot self-supporting antenna tower at 1633 Paradise Lane, Ashland, Boyd County, Kentucky to 210 feet. The Commission issued a Certificate of Public Convenience and Necessity for the existing tower in Case No. 98-077. In that

---

<sup>1</sup> Case No. 98-077, Application of Horizon Personal Communications, Inc. For the Issuance of a Certificate of Public Convenience and Necessity to Construct a Telecommunications Antenna Tower at the South Ashland Site in Boyd County, Kentucky (Ky.PSC. Jun. 10, 1998).

proceeding, the applicants for the certificate submitted a geotechnical investigative report, the site lease agreement, site plan/survey, and a ring survey in support of their application. Applicants in this proceeding state that the proposed augmentation neither affects nor alters the previously submitted information, nor reduces its relevance or currency and they request leave to omit a physical copy from their application. Based upon our review of the record, we find that Applicants should be permitted to incorporate by reference these documents within their application and that such incorporation satisfies the requirements of Administrative Regulation 807 KAR 5:063, Section 1(1).

Applicants have proposed minor modifications to the proposed notices that Administrative Regulation 807 KAR 5:063, Section 1(2)(a)(2) requires. These modifications more accurately describe the nature of their proposal. Having reviewed these proposed modifications, we find their use to be in substantial compliance with Administrative Regulation 807 KAR 5:063, Section 1(2)(a)(2).

IT IS THEREFORE ORDERED that:

1. Applicants' motion to incorporate by reference in their application certain materials from Case No. 98-077 is granted.
2. Applicants' motion for a declaratory ruling that their proposed notices substantially comply with Administrative Regulation 807 KAR 5:063, Section 1(2)(a)(2), is granted.
3. Applicants' application shall be considered filed as of the date of this Order.

Done at Frankfort, Kentucky, this 24<sup>th</sup> day of July, 2001.

By the Commission

ATTEST:

  
Executive Director