

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF UBIQUITEL COMMUNICATIONS, )  
INC. AND UBIQUITEL FINANCE, INC. ("UBIQUITEL"))  
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO )  
CONSTRUCT A PERSONAL COMMUNICATIONS )  
SERVICES FACILITY IN THE LOUISVILLE MAJOR )  
TRADING AREA [EDDYVILLE] )

CASE NO.  
2001-185-UAC

O R D E R

On June 28, 2001, Ubiquitel Communications, Inc. and Ubiquitel Finance, Inc. ("Applicants") filed an application requesting a Certificate of Public Convenience and Necessity to construct and operate a personal communications services facility at 1805 Ky. Hwy. 730, Eddyville, Lyon County, Kentucky. In conjunction with that application, the Applicants moved for waiver of the requirement that all cellular tower applications include a certification stating whether the property on which the construction is proposed is within a special flood hazard area. 807 KAR 5:063, Sections 1(1)(d) and 4(1).

As grounds, the Applicants stated that Jeffrey K. Clark, a land surveyor licensed with the Commonwealth of Kentucky, recognized that "Lyon County does not participate in the F.E.M.A. [Federal Emergency Management Agency] Study." See Application, Exhibit C, Site Survey, Sheet No. SV-1, Note 2. The Applicants proffer that because "Lyon County does not participate in the F.E.M.A. study, the property does not appear on published flood area maps." See Motion for Waiver of Regulatory Filing Requirement at 1.

Having considered the motion and being otherwise sufficiently advised, the Commission finds that:

1. The Applicants' statement regarding the lack of a FEMA study of flood areas within Lyon County satisfies the requirements of Administrative Regulation 807 KAR 5:063, Sections 1(1)(d) and 4(1).

2. As the Applicants have satisfied the requirements of Administrative Regulation 807 KAR 5:063, Sections 1(1)(d) and 4(1), no deviation from that regulation is required.

3. Applicants' motion is moot and should be denied.

IT IS THEREFORE ORDERED that:

1. Applicants' Motion for Deviation is denied as moot.
2. Applicants' application shall be considered filed as of June 28, 2001.
3. Nothing contained herein precludes the Commission from examining in this proceeding the proximity of the proposed site to flood hazard areas.

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

By the Commission

ATTEST:

  
Executive Director