

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CROWN COMMUNICATION INC.)
AND GTE WIRELESS OF THE MIDWEST INC.)
D/B/A VERIZON WIRELESS FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A WIRELESS)
COMMUNICATIONS FACILITY AT AUDUBON)
PKWY & KY HWY 279, OWENSBORO, KENTUCKY)
42301 IN THE WIRELESS COMMUNICATIONS)
LICENSE AREA IN THE COMMONWEALTH OF)
KENTUCKY IN THE COUNTY OF DAVIESS)
)
SITE NAME: SORGHO)
SITE NUMBER: 20089)

CASE NO.
2001-222-UAC

O R D E R

Crown Communication Inc. and GTE Wireless of the Midwest Inc. d/b/a Verizon Wireless (“Applicants”) have filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility located at Audubon Parkway and Kentucky Highway 279, Owensboro, Kentucky 42301 (Site Name: Sorgho; Site Number: 20089).

James W. and Barbara Schwartz, Larry Abel, and Brian and Theresa Szemethy (collectively “Intervenors”) have requested intervention in this matter. The Commission finds that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

The Commission, on its own motion, has scheduled a hearing in this matter for January 17, 2002 at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

The Intervenor is hereby notified that the hearing will be conducted pursuant to the evidentiary standards of KRS 278.650(4). All proposed alternative sites that the Intervenor wishes to be considered must be specifically identified and submitted to the Commission in writing, within 15 days of the date of this Order, if they are to be considered by the Commission. The location of proposed alternative sites must be submitted to the Commission within 15 days of the date of this Order even if they were previously identified by the Intervenor or others.

Issues 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.

If any Intervenor presents the location of any alternative site for the Commission to consider, then within 45 days of the date of this Order, the Applicants must file a statement regarding their efforts to investigate each alternative and to determine whether a tower at each alternative location would satisfy system requirements.

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 January 17, 2002, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices, at 211 Sower Boulevard, Frankfort, Kentucky.

2. The motions to intervene are granted.

3. Intervenor 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 the Intervenor file documents of any kind with the Commission in the course of these proceedings, they shall also serve a copy of said documents on all other parties of record.

5. If any Intervenor intends to appear at the hearing and present evidence against the construction of the tower, he or she shall file a statement of intent to appear in opposition to the proposed telecommunications facility within 15 days of the date of this Order. Such statement shall include any alternative locations, which the Intervenor wishes the Commission to consider.

6. If no statement of intent to appear at the hearing 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.

7. If any Intervenor presents the location of any alternative site for the Commission to consider, then within 45 days of the date of this Order, the Applicants must file a statement regarding their efforts to investigate each alternative site and to

determine whether a tower at each alternative location would satisfy system requirements.

8. During this proceeding and public hearing, it is understood and ordered that the FCC has exclusive jurisdiction over issues regarding radio frequency emissions, including radio frequency interference, pursuant to 47 U.S.C. § 332(c)(7) and Southwest Bell Wireless, Inc. v. Johnson County Board of Education, 1999 F. 3d 1185 (10th Cir. 1999).

9. Issues to be addressed at the 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.

10. 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.

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

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

13. A copy of this Order will also be served on the Daviess County Planning and Zoning Commission, 101 East 4th Street, Post Office Box 732, Owensboro, Kentucky 42302-0732.

Done at Frankfort, Kentucky, this 25th day of October, 2001.

By the Commission

ATTEST:


Executive Director