

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF TITAN TOWERS, LP,	)	
TRITEL COMMUNICATIONS, INC. AND TRITEL	)	
FINANCE, INC. ( TRITEL ) FOR ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	CASE NO.
NECESSITY TO CONSTRUCT A PERSONAL	)	2001-00219-UAC
COMMUNICATIONS SERVICES FACILITY IN THE	)	
LOUISVILLE MAJOR TRADING AREA [MCAFFEE	)	
FACILITY]	)	

O R D E R

On August 6, 2001, Titan Towers, LP, Tritel Communications, Inc, and Tritel Finance, Inc. ( Applicants ) filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility is to be located at 3053 Louisville Road, Harrodsburg, Mercer County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 51' 16" by West Longitude 84° 50' 52".

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 KRS 100.987, the Applicants have submitted the uniform application to the local planning unit. On October 3, 2001, the Greater Harrodsburg/Mercer County Planning & Zoning Commission denied the application stating that the tower violated

land uses approved for Agricultural Zoning. 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. Requests for intervention were received from Leroy and Carol Hagan, Ernest and Denise Newton, and Kenneth and Phyllis Taylor. The requests were granted. The Greater Harrodsburg/Mercer County Planning & Zoning Commission chose not to intervene and a hearing was subsequently scheduled for and held on March 13, 2002.

During the hearing, representatives of the Applicants and the intervenors compromised on the location of the proposed tower. The agreement called for moving the tower 175 feet due North from its proposed location. With the agreement in place, and recorded on the record, the hearing was adjourned with the understanding that the Applicants would provide the new location information to the Commission.

On April 25, 2002, the Applicants filed a survey purporting to represent the change of site location agreed upon during the hearing along with a request for an expedited review of the material by the Commission. The information proved to be erroneous, raising the concerns of the intervenors that the tower construction would not occur at the agreed-upon site.

On May 13, 2002, the Applicants re-filed a survey purporting to represent the change of site location to which the parties had stipulated during the hearing, along with another request for an expedited review of the material by the Commission. Upon review, we find that the May 13 filing reflects the agreed-upon location.

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, that the intervenors concerns have been addressed, and that, therefore, a Certificate of Public Convenience and Necessity to construct the proposed facility should be granted.

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.

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 3053 Louisville Road, Harrodsburg, Mercer County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 51' 16" by West Longitude 84° 50' 52".

2. The Applicants shall file a copy of the final decisions regarding the pending FAA and KAZC applications for the proposed construction within 10 days of receiving the 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 19<sup>th</sup> day of June, 2002.

By the Commission

ATTEST:

  
Executive Director