

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THIRD KENTUCKY CELLULAR)
CORPORATION D/B/A WIRELESS 2000)
TELEPHONE AND NORTHSTAR TECHNOLOGY,)
LLC FOR ISSUANCE OF A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY TO)
CONSTRUCT A WIRELESS COMMUNICATIONS)
FACILITY IN THE LOUISVILLE-LEXINGTON-)
EVANSVILLE MAJOR TRADING AREA, PARKER S)
LAKE, McCREARY COUNTY, KENTUCKY)

CASE NO.
2002-00006

O R D E R

On February 5, 2002, Third Kentucky Cellular Corporation (Third Kentucky) submitted an application to construct a wireless communications facility on the Parker s Lake, McCreary County, Kentucky site. The site proposed for the construction of the antenna tower is located in an area outside the jurisdiction of a planning commission. The application was found, on February 25, 2002, to be deficient for failure to file the boring logs as required by 807 KAR 5:063, Section 1(1)(d).

Third Kentucky filed a motion for an extension of time to complete its application, and that motion was granted. On January 8, 2003, Third Kentucky cured the deficiencies by filing a supplement to its application containing the completed boring logs. The application was considered filed as of that date.

On March 8, 2002, Richard and Sheryl Corder (collectively Intervenor) filed a motion for full intervention in this proceeding. No action was taken on that motion

pending the filing of this application. 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. Accordingly, the motion for full intervention should be granted to Richard and Sheryl Corder.

Prior to the filing of the application with the Commission, changes have occurred in the statute governing this type of proceeding. The procedure for public hearing is now contained in KRS 278.650, which provides that a local hearing will be held only upon the application of three interested persons or upon request of a local governing body. Consequently, if there is no request for a local hearing from three interested persons residing in the county or from a local governing body or municipal corporation in which the tower is proposed to be built, the Commission will not conduct a hearing.

Due to the length of time between the submission of the application and its filing, the Commission finds that the notice signs, as required by 807 KAR 5:063, Section 1(2), should be verified. Third Kentucky should supplement its application to confirm its compliance with 807 KAR 5:063, Section 1(1)(p).

IT IS HEREBY ORDERED that:

1. The motion of Richard and Sheryl Corder to fully intervene is granted.
2. The Intervenor shall be entitled to the full rights of a party and shall be served with Commission Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by the parties after the date of this Order.

3. Should an Intervenor file documents of any kind with the Commission during the course of these proceedings, he or she shall also serve a copy of said documents on all parties of record.

4. Within 10 days from the date of this Order, Third Kentucky shall supplement its application to confirm compliance with 807 KAR 5:063, Section 1(1)(p).

5. Any request for a public hearing from three interested persons residing in the county or from a local governing body or municipal corporation in which the tower is proposed must comply with the provisions of 807 KAR 5:063, Section 4, and be received by the Commission within 20 days from the date of this Order.

6. In regard to this uniform application, proceeding, and any hearing, it is understood and ordered that the Federal Communications Commission has exclusive jurisdiction over issues regarding radio frequency emissions, including radio frequency interference. 47 U.S.C. 332(c) and Southwest Bell Wireless, Inc. v. Johnson County Bd. of Education Commissioners, 199 F.3d 1185 (10th Cir. 1999).

Done at Frankfort, Kentucky, this 25th day of March, 2003.

By the Commission

ATTEST:


Executive Director