

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|  |   |            |
|--|---|------------|
| THE APPLICATION OF NEW CINGULAR          | ) |            |
| WIRELESS PCS, LLC FOR ISSUANCE OF A      | ) |            |
| CERTIFICATE OF PUBLIC CONVENIENCE AND    | ) |            |
| NECESSITY TO CONSTRUCT A WIRELESS        | ) |            |
| COMMUNICATIONS FACILITY AT 867 HEATER    | ) |            |
| STORE ROAD, SMITHLAND, KENTUCKY 42081 IN | ) | CASE NO.   |
| THE WIRELESS COMMUNICATIONS LICENSE      | ) | 2005-00168 |
| AREA IN THE COMMONWEALTH OF KENTUCKY     | ) |            |
| IN THE COUNTY OF LIVINGSTON              | ) |            |
|  | ) |            |
| SITE NAME: JEWELL HILL                   | ) |            |

O R D E R

On April 26, 2005, New Cingular Wireless PCS, LLC, successor in interest to BellSouth Mobility, LLC, d/b/a Cingular Wireless - Kentucky ("Applicant") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a guyed antenna tower not to exceed 320 feet in height, with attached antenna, to be located at 867 Heater Store Road, Smithland, Livingston County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 7' 7.71" by West Longitude 88° 20' 28.97".

The Applicant has 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 807 KAR 5:063, the Applicant has notified the County Judge/Executive of the proposed construction. The Applicant has 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 Applicant has 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. To date, no public comments have been filed with the Commission.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated that a facility is necessary to provide adequate utility service 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 Applicant should notify the Commission if it does not use this antenna tower to provide service in the manner set out in its 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 Applicant.

IT IS THEREFORE ORDERED that:

1. The Applicant is granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility consists of a guyed antenna tower not to exceed 320 feet in height, with attached antenna, and is to be located at 867 Heater Store Road, Smithland, Livingston County, Kentucky. The coordinates for the proposed facility are North Latitude  $37^{\circ} 7' 7.71''$  by West Longitude  $88^{\circ} 20' 28.97''$ .

2. The Applicant 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 Applicant 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 24<sup>th</sup> day of June, 2005.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and flourishes, positioned above a horizontal line.

Executive Director

Case No. 2005-00168