

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK )  
LIMITED LIABILITY COMPANY FOR ISSUANCE OF )  
A CERTIFICATE OF PUBLIC CONVENIENCE AND ) CASE NO.  
NECESSITY TO CONSTRUCT A TOWER IN ) 2008-00318  
HARLAN COUNTY, KENTUCKY )

O R D E R

On January 15, 2009, East Kentucky Network, LLC, formerly Mountaineer Cellular Limited Liability Company ("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 self-supporting antenna tower not to exceed 314 feet in height, with attached antenna, to be located on a tract of land at Pine Hill approximately 2.9 miles NNE of Baxter, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 54' 1.3" by West Longitude 83° 18' 16.7".

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 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 self-supporting antenna tower not to exceed 314 feet in height, with attached antenna, and is to be located on a tract of land at Pine Hill approximately 2.9 miles NNE of Baxter, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 54' 1.3" by West Longitude 83° 18' 16.7".

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.

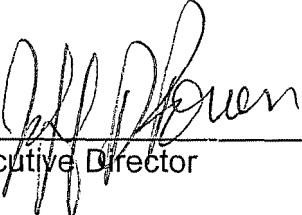
3. The Applicant shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

4. The Applicant shall also notify the Commission in writing, within 20 days of completion, that it has finished construction of the tower and the date upon which said construction was complete.

Done at Frankfort, Kentucky, this 24th day of February, 2009.

By the Commission

ATTEST:

  
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Executive Director

Case No. 2008-00318

Janice Robinson  
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