

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK)	
LIMITED LIABILITY COMPANY FOR THE)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT)	2009-00384
A WIRELESS COMMUNICATIONS FACILITY IN)	
CLAY COUNTY, KENTUCKY)	

O R D E R

On October 21, 2009, East Kentucky Network, LLC, d/b/a Appalachian Wireless (“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 171 feet in height, with attached antenna, to be located on a tract of land approximately 2.7 miles north of Manchester, Clay County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 11’ 22.91” by West Longitude 83° 46’ 30.95”.

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. The FAA has approved the application and the KAZC notified the Applicant that the tower is not under their jurisdiction due to the proposed height of the tower.

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.

The Commission received public comments in support of the application from Mr. Carl Sizemore, Clay County Judge/Executive. Manchester Rentals, LLC (“Manchester Rentals”) also submitted comments and moved to intervene in this proceeding. By Order dated November 5, 2009, the Commission granted the motion of Manchester Rentals. An informal conference was held on January 8, 2010 wherein the parties and Commission Staff discussed the scope of the Intervenor’s concerns as to the proposed tower construction. On January 27, 2010, the Applicant and Manchester Rentals submitted to the Commission an Agreed Order which noted that the Intervenor was withdrawing its objections to the application. The Commission will treat the Agreed Order as the Intervenor’s motion to withdraw as a party to this proceeding. Having reviewed the motion and the statements contained therein, the Commission finds that the motion is granted.

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 171 feet in height, with attached antenna, and is to be located on a tract of land approximately 2.7 miles north of Manchester, Clay County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 11' 22.91" by West Longitude 83° 46' 30.95".

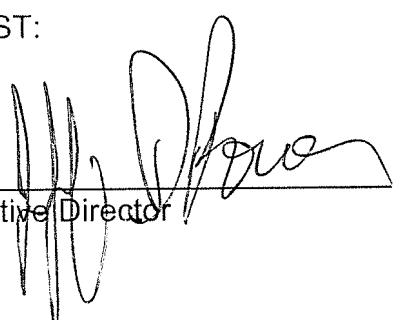
2. The Applicant shall immediately notify the Commission in writing if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of three months in the manner authorized by this Order.

3. The motion of Manchester Rentals to withdraw as an Intervenor is granted.

By the Commission

ENTERED
FEB 22 2010 *M*
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2009-00384

William S Kendrick
Francis, Kendrick and Francis First
Suite 504, 311 North Arnold Avenue
P.O. Box 268
Prestonsburg, KY 41653-0268

Gerald Robinette
General Manager
East Kentucky Network, LLC dba Appalachian
101 Technology Trail
Ivel, KY 41642

Joseph C White, P.S.C.
Attorney At Law
303 Main Street
Manchester, KY 40962