

**CASE**

**NUMBER:**

99 - 157

HISTORY INDEX FOR CASE: 1999-157UAC  
ACC OF KENTUCKY, LLC  
Construct  
CELL SITE - 460 GRAHAM ROAD - BARREN

IN THE MATTER OF THE APPLICATION OF ACC OF KENTUCKY LLC, A  
DELAWARE LIMITED LIABILITY COMPANY FOR ISSUANCE OF A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT  
AN ADDITIONAL CELL FACILITY IN THE KENTUCKY RURAL SERVICE  
AREA NO. 5 WHICH INCLUDES ADAIR, BARREN, CLINTON,  
CUMBERLAND, HART, MCCREARY, METCALFE, MONROE, RUSSELL AND  
WAYNE COUNTIES IN KENTUCKY  
(THE BARREN RIVER LAKE CELL FACILITY)

SEQ NBR	ENTRY DATE	REMARKS
M0001	04/19/1999	BRENT RICE / ACC OF KENTUCKY-NOTICE OF INTENT TO FILE CELL SITE APPLICATION
0001	04/23/1999	Application.
0002	04/27/1999	Acknowledgement letter.
0003	05/06/1999	Filing deficiencies letter, response due 5/21/99.
M0002	05/06/1999	BRENT RICE ACC OF KY-RETURN RECEIPTS SENT TO PROPERTY OWNERS WITHIN 500 FEET
M0003	05/10/1999	BOBBY RICHARDSON / MILDRED BULL-OPPOSED TO THE FACILITY
M0004	05/14/1999	BRENT RICE ACC OF KY-RESPONSE TO MAY 6,99 FILING DEFICIENCIES
0005	05/20/1999	Response to Bobby Richardson re: Bull property line.
M0005	05/20/1999	BRENT RICE ACC OF KY-COPIES OF INFO FORWARDED TO BOBBY RICHARDSON
0004	05/21/1999	Deficiencies cured letter
0006	08/05/1999	Final Order granting a Certificate to construct & operate cell site.
M0006	08/19/1999	BRENT RICE-FINAL DETERMINATIONS OF KY AIRPORT ZONING COMM & FEDERAL AVIATION

Lisa Jenrette  
General Manager  
ACC of Kentucky, LLC  
301 Highland Park Drive  
Richmond, KY. 40475

Honorable W. Brent Rice  
Attorney at Law  
McBrayer, McGinnis, Leslie  
& Kirland PLLC  
163 West Short Street  
Suite 300  
Lexington, KY. 40507 1361

**McBRAYER, MCGINNIS, LESLIE & KIRKLAND PLLC**

163 WEST SHORT STREET

SUITE 300

LEXINGTON, KENTUCKY 40507-1361

606-231-8780

FACSIMILE 606-231-6518

REAL ESTATE FAX 606-255-9777

WWW.MMLK.COM

WATSON CLAY (1908-1985)  
OSCAR SAMMONS (1908-1985)

MAIN & HARRISON STREETS  
P. O. BOX 347  
GREENUP, KENTUCKY 41144-0347  
606-473-7303  
FACSIMILE 606-473-9003

300 STATE NATIONAL  
BANK BUILDING  
P. O. BOX 1100

FRANKFORT, KENTUCKY 40602-1100  
502-223-1200  
FACSIMILE 502-227-7385

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APR 19 1999

PUBLIC SERVICE  
COMMISSION

DIRECTOR OF GOVERNMENTAL RELATIONS  
MIKE HELTON  
STATE NATIONAL BANK BUILDING  
305 ANN STREET  
SUITE 308  
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502-875-1176  
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W. TERRY McBRAYER  
JOHN R. MCGINNIS  
PHILLIP BRUCE LESLIE \*  
WILLIAM D. KIRKLAND  
J. D. ATKINSON, JR.  
JAMES G. AMATO  
GEORGE D. GREGORY \*\*  
BRENT L. CALDWELL  
W. BRENT RICE  
JAMES H. FRAZIER, III +  
STEPHEN C. CAWOOD  
CHRISTOPHER M. HILL  
LISA ENGLISH HINKLE  
WILLIAM R. PALMER, JR.  
BRUCE W. MACDONALD \*  
LUKE BENTLEY III  
STEPHEN G. AMATO  
MARY ESTES HAGGIN  
R. STEPHEN MCGINNIS ++  
JON A. WOODALL  
MARIA S. BUCKLES  
MARGARET M. YOUNG  
JULIE A. COBBLE  
MELINDA G. WILSON  
MARY ELIZABETH CUTTER  
LINDA J. WEST  
JARON P. BLANDFORD

\* ALSO ADMITTED IN OHIO  
\*\* ALSO ADMITTED IN COLORADO  
+ ALSO ADMITTED IN TEXAS & FLORIDA  
++ ALSO ADMITTED IN WEST VIRGINIA

Ms. Stephanie Bell  
Secretary of the Commission  
Kentucky Public Service Commission  
P.O. Box 615  
730 Schenkel Lane  
Frankfort, KY 40601

RE: Case Number 99-157 UAC

Dear Ms. Bell:

This letter is to follow up my request for a case number on April 19, 1999. The application is on behalf of ACC of Kentucky LLC, for a cell site located at 460 Graham Road, Glasgow, Barren County, Kentucky, Kentucky. I was given Case Number 99-157 UAC. We intend to file the application no later than April 23, 1999. If there are any questions, you may contact the undersigned at our Lexington office (606)231-8780). Thank you for your attention to this matter.

Sincerely,



W. Brent Rice

WBR/dkw

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COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 99-157 UAC  
ACC OF KENTUCKY, LLC

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on August 5, 1999.

Parties of Record:

Lisa Jenrette  
General Manager  
ACC of Kentucky, LLC  
301 Highland Park Drive  
Richmond, KY. 40475

Honorable W. Brent Rice  
Attorney at Law  
McBrayer, McGinnis, Leslie  
& Kirland PLLC  
163 West Short Street  
Suite 300  
Lexington, KY. 40507 1361

  
Secretary of the Commission

SB/hv  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ACC OF KENTUCKY LLC, A DELAWARE )  
LIMITED LIABILITY COMPANY FOR ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY )  
TO CONSTRUCT AN ADDITIONAL CELL FACILITY IN THE )  
KENTUCKY RURAL SERVICE AREA NO. 5 WHICH INCLUDES ) CASE NO.  
ADAIR, BARREN, CLINTON, CUMBERLAND, HART, ) 99-157-UAC  
MCCREARY, METCALFE, MONROE, RUSSELL, AND WAYNE )  
COUNTIES IN KENTUCKY )  
(THE BARREN RIVER LAKE CELL FACILITY) )

O R D E R

On May 14, 1999, ACC of Kentucky LLC ("ACC of Kentucky") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 5 ("RSA No. 5"). RSA No. 5 includes Adair, Barren, Clinton, Cumberland, Hart, McCreary, Metcalfe, Monroe, Russell, and Wayne counties.

The proposed cell site will be located at 460 Graham Road, Glasgow, in Barren County, Kentucky ("the Barren River Lake cell site"). The coordinates for the Barren River Lake cell site are North Latitude 36° 56' 36.9" by West Longitude 86° 00' 52.2".

ACC of Kentucky has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Barren River Lake cell site. Based upon the application, the design of the tower and foundation conforms to applicable

nationally recognized building standards, and a Registered Professional Engineer has certified the plans.

Pursuant to 807 KAR 5:063, Section 4(3)(a), ACC of Kentucky notified the Glasgow Barren County Planning Commission of the pending construction. ACC of Kentucky 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 Barren River Lake cell site. Both applications are pending.

ACC of Kentucky has filed notices verifying that each person who owns property within 500 feet of the Barren River Lake cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notices were published in a newspaper of general circulation in Barren County and were posted in a visible location on the proposed site and on the nearest public road. The posted notices remained posted for at least two weeks after ACC of Kentucky's application was filed. To date, no intervention requests have been received.

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, ACC of Kentucky should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services 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 ACC of Kentucky.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that ACC of Kentucky should be granted a Certificate of Public Convenience and Necessity to construct and operate the Barren River Lake cell site in RSA No. 5 under its previously approved tariff.

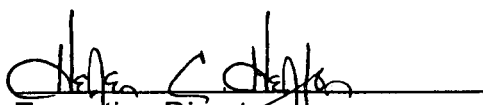
IT IS THEREFORE ORDERED that:

1. ACC of Kentucky is granted a Certificate of Public Convenience and Necessity to construct and operate the Barren River Lake cell site.
2. ACC of Kentucky shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.
3. ACC of Kentucky 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 5th day of August, 1999.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
www.psc.state.ky.us  
(502) 564-3940  
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**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**

**Helen Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

May 20, 1999

Honorable Bobby H. Richardson  
Richardson, Gardner & Barrickman  
Attorneys-At-Law  
117 E. Washington Street  
Glasgow, KY 42141-2696

Re: Case No. 99-157 UAC

Dear Mr. Richardson:

The Commission is in receipt of your letter concerning the above application for approval to construct a cell facility. The Commission will carefully analyze this application before rendering its final decision. If you wish to intervene in this matter, you must notify the Commission in writing. However, please be advised that property rights issues are not within the scope of the Commission's jurisdiction.

It may be helpful for you to know that authority, specifically that of the Public Service Commission, in this matter has been limited by federal law. For example, Section 704 of the federal Telecommunications Act of 1996 prohibits this Commission from regulating the placement of wireless facilities on the basis of environmental effects of radio frequency emissions to the extent the facilities comply with Federal Communications Commission regulations. Section 704 also prohibits a state or local government from prohibiting telecommunications facilities construction if such denial will have the effect of prohibiting service. In addition, this Commission is required by statute to ensure that utility service, including telecommunications service, is adequate and reliable. The Commission does, however, consider appropriate placement of necessary facilities within applicable engineering boundaries. It also pursues a policy of collocation of facilities whenever possible.



Ltr. Hon. Richardson  
Page Two  
May 20, 1999

Thank you for your interest and concern in this matter.

Sincerely,  
*Stephanie Bell*

Stephanie Bell  
Secretary of the Commission

sh



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

**RICHARDSON, GARDNER & BARRICKMAN**

ATTORNEYS-AT-LAW

117 E. WASHINGTON STREET

GLASGOW, KENTUCKY 42141-2696

E-MAIL: rg&b\_attys@glasgow-ky.com

BOBBY H. RICHARDSON  
WOODFORD L. GARDNER, JR.  
UHEL O. BARRICKMAN

T. RICHARD ALEXANDER II

(502) 651-8884  
(502) 651-2116  
FAX (502) 651-3662

May 6, 1999

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MAY 10 1999

PUBLIC SERVICE  
COMMISSION

EXECUTIVE DIRECTOR'S OFFICE  
PUBLIC SERVICE COMMISSION  
P O BOX 615  
FRANKFORT KY 40602

Re: Case 99-157 UAC

Gentlemen:

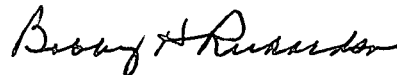
On behalf of Mildred Bull, I am communicating to you her opposition to the location of the new sale facility that is proposed in the above case. The notice that should have gone to Ms. Bull was sent to Mamie Ritter, of 3055 Finney Road, Glasgow, Kentucky.

Ms. Bull was the grantee of a deed from Ms. Ritter approximately ten years ago. Ms. Bull's address is 3088 Finney Road, Glasgow, Kentucky. Ms. Bull believes, from the map that has been provided, that a portion of the sale facility is to be located on her property. She believes that the survey has not taken into account her property line, and she verily believes that a portion of the area is on her property.

Ms Bull is opposed to the facility because it will interfere with her farming operation and detract from the value of her property.

A copy of this letter is forwarded to Mr. Rice, counsel for ACC of Kentucky, so that he will be aware of the boundary line issue.

Yours truly,



Bobby H. Richardson

el

pc: W. Brent Rice  
McBrayer, McGinnis, Leslie & Kirkland  
163 West Short St.- Suite 300  
Lexington, KY 40507-1361



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

May 21, 1999

Lisa Jenrette  
General Manager  
ACC of Kentucky, LLC  
301 Highland Park Drive  
Richmond, KY. 40475

Honorable W. Brent Rice  
Attorney at Law  
McBrayer, McGinnis, Leslie  
& Kirland PLLC  
163 West Short Street  
Suite 300  
Lexington, KY. 40507 1361

RE: Case No. 99-157 UAC  
ACC OF KENTUCKY, LLC

The Commission staff has reviewed your response of May 14, 1999 and has determined that your application in the above case now meets the minimum filing requirements set by our regulations. Enclosed please find a stamped filed copy of the first page of your filing. This case has been docketed and will be processed as expeditiously as possible.

If you need further information, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

**FOR THE PUBLIC RECORD**

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

**RECEIVED**

APR 23 1999

PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF ACC OF KENTUCKY LLC, A )  
DELAWARE LIMITED LIABILITY COMPANY FOR )  
ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO CONSTRUCT )  
AN ADDITIONAL CELL FACILITY IN THE )  
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INCLUDES ADAIR, BARREN, CLINTON, )  
CUMBERLAND, HART, McCREARY, METCALFE, )  
MONROE, RUSSELL AND WAYNE COUNTIES )  
IN KENTUCKY )  
(THE BARREN RIVER LAKE CELL FACILITY) )

**FILED**

MAY 14 1999

**PUBLIC SERVICE  
COMMISSION**

) Case No. 99-157 UAC

**UNIFORM APPLICATION: CONFIDENTIAL AND PROPRIETARY**

\* The specific location of the proposed construction is 460 Graham Road, Glasgow, Barren County, Kentucky.

\*\* This additional page is filed pursuant to 807 KAR 5:063 Section 5(2).



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
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Fax (502) 564-3460

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**Public Protection and**  
**Regulation Cabinet**

**Helen Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

May 6, 1999

Mr. Steve Lochmueller  
Vice President  
Central Kentucky Cellular  
221 South Porter Drive  
Richmond, Kentucky 40475

Re: Case No. 99-157 UAC  
Filing Deficiencies

Dear Mr. Lochmueller:

The Commission staff has reviewed your application in the above case. This filing is rejected pursuant to 807 KAR 5:001, Section 2, for the reasons set forth below. These items are either required to be filed with the application or to be referenced in the application if they are already on file in another case or will be filed at a later date.

Filing deficiency pursuant to 807 KAR 5:063, Section 4(1):

A map of the area in which the tower is proposed to be located that is drawn to scale and that clearly depicts the search area in which a site should, pursuant to radio frequency requirements, be located.

The statutory time period in which the Commission must process this case will not commence until the above-mentioned information is filed with the Commission. You are requested to file one copy of this information within 15 days of this letter. If you need further information, please contact Jeff Johnson of my staff at 502-564-3940, extension 417.

Sincerely,

Stephanie Bell  
Secretary of the Commission

hv  
cc: Honorable W. Brent Rice





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

April 27, 1999

Steve Lochmueller  
Vice President  
Central Kentucky Cellular  
221 South Porter Drive  
Richmond, KY. 40475

Honorable W. Brent Rice  
Attorney at Law  
McBrayer, McGinnis, Leslie  
& Kirland PLLC  
163 West Short Street  
Suite 300  
Lexington, KY. 40507 1361

RE: Case No. 99-157 UAC  
CENTRAL KENTUCKY CELLULAR  
(Construct) CELL SITE - 460 GRAHAM ROAD - BARREN

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received April 23, 1999 and has been assigned Case No. 99-157. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

*Stephanie Bell*  
Stephanie Bell  
Secretary of the Commission

SB/jc



**FOR THE PUBLIC RECORD**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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APR 23 1999

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(THE BARREN RIVER LAKE CELL FACILITY) )

FILED

MAY 14 1999

PUBLIC SERVICE  
COMMISSION

Case No. 99-157 UAC

**UNIFORM APPLICATION: CONFIDENTIAL AND PROPRIETARY**

\* The specific location of the proposed construction is 460 Graham Road, Glasgow, Barren County, Kentucky.

\*\* This additional page is filed pursuant to 807 KAR 5:063 Section 5(2).