

CASE

NUMBER:

99-387

INDEX FOR CASE: 1999-387UAC AS OF : 12/28/99
 KENTUCKY CGSA, INC., DBA BELLSOUTH MOBILITY, WESTEL-MILWAUKEE, BSC
 Construct
 CELL SITE - 1118 RED POND ROAD - WARREN COUNTY

IN THE MATTER OF THE APPLICATION OF CROWN COMMUNICATION INC.
 AND WESTEL-MILWAUKEE COMPANY, INC. FOR ISSUANCE OF A
 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT
 A WIRELESS COMMUNICATIONS FACILITY AT 1118 RED POND ROAD,
 BOWLING GREEN, KY 42103
 IN THE WIRELESS COMMUNICATIONS LICENSE AREA
 IN THE COMMONWEALTH OF KENTUCKY
 IN THE COUNTY OF WARREN COUNTY
 SITE NAME: NORTH EAST BOWLING GREEN

SEQ NBR	ENTRY DATE	REMARKS
0001	09/29/1999	Application.
0002	10/11/1999	Acknowledgement letter.
0003	10/26/1999	Filing deficiencies letter, response due 11/10/99.
M0001	11/03/1999	DAVID PIKE CROWN COMMUNICAITONS-RESPONSE TO FILING DEFICIENCIES NOTICE OF 10-26-99
0004	11/09/1999	Deficiencies cured letter
M0002	11/17/1999	SHIRLEY CARTER CITY CO PLANNING COMM-APPROVAL FOR TELECOMMUNICATIONS TOWER WITH 2 CONDITION
M0003	11/24/1999	CROWN COMMUNICATIONS DAVID PIKE-MOTION TO SUBMIT FOR EXPIDITED DECISION WITHOUT PUBLIC HEAR
0005	12/28/1999	Final Order granting a Certificate to construct.



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. 1999-387 UAC
KENTUCKY CGSA, INC., DBA BELLSOUTH MOBILITY, WESTEL-MILWAUKEE, BSC

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 December 28, 1999.

See attached parties of record.

Stephanie Bell
Secretary of the Commission

SB/hv
Enclosure

Lloyd McCarthy
Crown Communication Inc.
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Louisville, KY. 40299

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Honorable David A. Pike
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1100 Peachtree Street
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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CROWN COMMUNICATION INC.)
AND WESTEL-MILWAUKEE COMPANY, INC. FOR)
ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY AT)
1118 RED POND ROAD, BOWLING GREEN, KY)
42103 IN THE WIRELESS COMMUNICATIONS)
LICENSE AREA IN THE COMMONWEALTH OF)
KENTUCKY IN THE COUNTY OF WARREN)
SITE NAME: NORTHEAST BOWLING GREEN)
SITE NUMBER: KY261)

CASE NO.
99-387-UAC

O R D E R

On November 3, 1999, Crown Communication Inc. ("Crown") and Westel-Milwaukee Company, Inc. d/b/a BellSouth Mobility Inc. (collectively, the "Applicants") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility is to be located at 1118 Red Pond Road, Bowling Green, Warren County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 0' 6.07" by West Longitude 86° 19' 52.47".

Crown 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 the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.987, the Applicants have submitted a uniform application to the local planning unit which approved the proposed construction. The Applicants have 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 Applicants have 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 opposing the proposed construction have been filed with the Commission.

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, Crown 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 Crown.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicants have demonstrated that a facility is necessary to provide adequate utility service and therefore should be granted a Certificate of Public Convenience and Necessity to construct the proposed facility.

IT IS THEREFORE ORDERED that:

1. Crown is granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility to be located at 1118 Red Pond Road, Bowling Green, Warren County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 0' 6.07" by West Longitude 86° 19' 52.47".

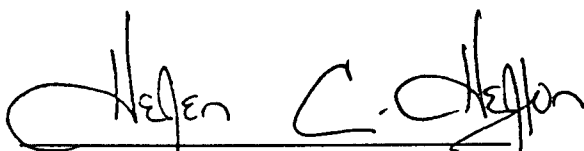
2. The Applicants shall file a copy of the final decisions regarding their pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

3. Crown 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 28th day of December, 1999.

By the Commission

ATTEST:


Executive Director

CITY-COUNTY PLANNING COMMISSION OF WARREN COUNTY

1141 State Street • Bowling Green, KY 42101 • Phone: (502) 781-3076 • Fax: (502) 842-1282

November 12, 1999

Executive Director's Office
Public Service Commission of KY
P. O. Box 615
Frankfort, KY 40602

REC'D
NOV 17 1999
PUBLIC SERVICE
COMMISSION

SUBJECT: Recommendation to Approve
Telecommunications Tower, 1118 Red Pond Rd., Bowling Green, KY 42103
Case No. 99-387 UAC

To Whom It May Concern:

The City-County Planning Commission of Warren County met in regular session on November 4, 1999 in the Bowling Green City Commission Chambers with eleven (11) members present. After a public hearing had been conducted, the Planning Commission unanimously approved subject telecommunications tower application, with two conditions, based on the findings of fact as presented in the staff report and the testimony presented in the public hearing that the proposed telecommunication tower is in agreement with the adopted Comprehensive Plan.

The two conditions were:

1. The applicant submit a subdivision plat showing all structures, guy wires, and pertinent structures located upon the property. (This plat has been submitted and is in review by the Planning Commission staff.)
2. Unless required otherwise by State or Federal regulations, the proposed tower should be painted a uniform gray color to enhance its ability to blend with the surrounding environment. (Applicant testified these structures are gray).

Please find attached a copy of the Minutes of this hearing and the staff's report.

Sincerely,


Shirley J. Carter
Zoning Administrator

PC: Lloyd McCarthy, Crown Communications, Inc.
David A. Pike, Legal Counsel for Crown Communications

ACTION: The motion was made by Williams, seconded by Butler and unanimously approved to approve the development plan on zoning map amendment Docket #99-40-Z-CO.

ACTION: The motion was made by Williams, seconded by Chelf and unanimously approved to approve the zoning map amendment on Docket #99-40-Z-CO based upon the findings of fact as presented in the staff report and the testimony presented in this public hearing that the zoning map amendment is in agreement with the adopted Comprehensive Plan and further request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment.

IV. PUBLIC HEARING ON WIRELESS COMMUNICATION FACILITY:

1. 99-1-T-CO Crown Communication, Inc. and Westel-Milwaukee Company, Inc. have filed an application with the Public Service Commission to locate a wireless communication facility at 1118 Red Pond Road.

Attorney Hamp Moore stated this is the first time the Commission has conducted one of these reviews. He said the construction and placement of telecommunication towers have historically been solely within the purview of the State Public Service Commission. He said there were even court cases that deprived the Planning Commission to comment and regulate the placement of cell towers saying that was something that was solely within the purview of the Public Service Commission. He said the General Assembly in Kentucky nearly two years ago recognized that there had occurred deregulation of the cell tower industry and that was likely to increase the construction of telecommunication facilities within the state and because of that there should be some mechanism for local entities to have the opportunity to comment concerning the placement of those towers. He said so the General Assembly passed a statute which became effective in July of 1998 which empowered local planning commissions to opt into the process. He said you passed a resolution and declared your intent to be a part of that process and that obligated folks who wanted to construct communication towers in this county to notify you of that intent and give you an opportunity to comment. He said the staff developed a set of criteria and regulations that they follow when they receive notice of those applications and those procedures have been implemented. He said now we have an application and we review that application, not with the power to approve or disapprove it, but simply to comment to the Public Service Commission concerning whether or not it is consistent with our Comprehensive Plan and whether or not it is consistent with local zoning and regulations.

Alice Burks, Assistant Director, stated one of the difficulties we have right now in reviewing these applications is the fact that our Comprehensive Plan has not been updated to reflect this new technology. She said we are currently drafting some policies that will be presented to you after the first of the year. She said we did review this with the policies we already have in place and found this is in focal point 116-3 McFadden Station. She said this is mostly agriculture area with some scattered low density single family residential and this particular site is currently zoned Agriculture. Ms. Burks said policy G-5 states the citizens of Warren County are committed to providing infrastructure and public services at levels of service consistent with the quality of life we now enjoy. To that end we expect all to assume their fair share of the burden. She said policy EC-2 says that Warren County recognizes the importance of maintaining and fostering the growth of existing business and industry. The community should monitor the continuing needs of existing businesses and be prepared to meet those needs in areas of infrastructure, public service and education of the labor force. Ms. Burks said we found that this proposed telecommunications tower provides improved wireless service as well as opportunities for emergency service access for parts of Bowling Green and Warren County. An increase in the overall level of service is anticipated. She said this proposed tower will be located in an appropriate zoning district and is surrounded by predominantly agricultural uses as well as a few scattered single family houses. Ms. Burks said according to the information we received and our visual inspection, there were no opportunities for collocation within this applicant's engineered search ring. She said the applicant has filed a subdivision plat which is in process currently. She said we did find the proposed tower should be painted a uniform gray color which helps to enhance the ability to blend in with the landscape and sky. She said the staff recommends approval of the application with the condition they submit to the color scheme we recommended.

David Pike, regional counsel for Crown Communications, Inc. came forward and asked Ms. Burks, did we waive confidentiality on this application, and she replied no. He said we probably should do that right now because if the contents of a uniform application are publically discussed then it constitutes a criminal offense so on behalf of Crown Communications, Inc. I hereby waive confidentiality as to all provisions of the uniform application with the exception of the grid map that is included as an exhibit. Mr. Pike introduced Crown Communication's state director of government compliance, the registered surveyor and site design worker for this project, the national regional project manager for Bell South Mobility new tower construction project on behalf of Crown Communications and the senior site acquisition specialist for this area on behalf of Crown Communications/Bell South Mobility. He said we can answer any questions you might have. Mr. Pike said this facility is being constructed initially with Bell South Mobility as the primary customer. He said we will build this facility so it can accommodate a minimum of four full wireless providers which makes it a very high capacity facility. He said the

primary objective of this specific site on behalf of Bell South is to provide infill which is to provide service to areas of your county which do not currently have service and also to provide enhanced capacity along I-65 for the G.M. plant and also for the museum and for the high capacity public functions that are often held there. He said we have had interest expressed in this site from other wireless communication providers who would like to collate there. He said each collation reduces the number of towers that might have to be constructed in order to provide the same level of service. Mr. Pike said we are prepared to accept the stipulations that are listed except that we do not paint these towers, the steel actually comes gray. He asked about the plat, and Ms. Burks said I checked and everything had been submitted and there were some notes for your folks to finish the plat. The surveyor stood and said he would deal with any remaining plat issues.

Commissioner Mansfield asked, how tall is the tower, and Mr. Pike said 300', self support design. He asked, has it been approved by FFA, and Mr. Pike replied affirmatively, they have all their approvals.

Commissioner Dickerson asked what this has to offer our community other than improved services, and Mr. Pike said the ability to effectively compete as a community in the 21st. Century. He said wired communications have peaked in this country and the future of all telecommunications is wireless. He said in the very near future whether a community is economically competitive or not will no longer depend on solely water, sewer and roadways, but whether or not you are technologically competitive. He said in the absence of reliable wireless service a community won't be. He said it will be a question of whether you have Internet service, computer networking, and whether business will be competitive. He said communities that don't have this will be left behind.

Commissioner Huston asked if this would interfere with the local residents in this general vicinity with other communications, and Mr. Pike said we have to construct this will full FCC compliance which requires us to not only certify but to actively implement zero interference with other radio emission sources. He said the types of problems you are talking about by and large happened several generations ago in this technology. He said the newer version never creates a problem and if it does all you have to do is call the FCC and they will shut us down.

Commissioner Ritter asked what provision is made to have three other communications systems on it, and Mr. Pike replied a couple of hundred thousand dollars. Mr. Pike said these towers max out based on their ability to handle the wind loading. He said in order for us to be able to accommodate the providers we have to have a lot of extra steel in that tower and that makes a big difference in the cost. He said we engineer these facilities for the maximum collocation. He said we made every effort to meet all the requirements of the local regulations as they currently exist and although this isn't a "transmission tower" we try to take as a model of what

the Commission might be looking for. He said based on that we were even able to satisfy the setback requirements.

Commissioner Dickerson said you were only required to contact adjoining landowners within 500' radius, and Mr. Pike said the provisions that govern notice are dictated by the Kentucky Public Service Commission. He said they require us to do a newspaper notice and post a sign at the nearest public roadway and one at the site and send a letter to the Planning Commission and also to the owners of all real estate within 500' of the tower.

Chairman Runner asked if there was anyone in the audience who had a question, and Melissa Monroe came forward and said she is a Warren County resident and said this is the first I have heard of this and asked where it would be located.

Ms. Burks said Red Pond Road which is between Porter Pike and Bristow Road.

Chairman Runner asked if there were any other questions or comments, and there were none.

ACTION: The motion was made by Butler, seconded by Williams and unanimously approved to approve the proposed telecommunications tower application, Docket #99-1-T-CO based on the findings of fact as presented in the staff report and the testimony presented in this public hearing that the proposed telecommunication tower is in agreement with the adopted Comprehensive Plan and further request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed telecommunication tower.

Ms. Burks explained that the process from here on is once the minutes are prepared we will cover a letter with a recommendation to the Public Service Commission and they will have these minutes on record when they get ready to have their public hearing.

Mr. Pike said we still have the sixty (60) day issue, do you think this can be submitted prior to the expiration of that 60 days and she replied yes.

TELECOMMUNICATIONS TOWER STAFF REPORT

City-County Planning Commission
1141 State Street
Bowling Green, Kentucky 42104
(502) 842-1953

PUBLIC HEARING DATE: November 4, 1999
DOCKET NUMBER: 99-1-T-CO
PETITIONER'S NAME: Crown Communications, Inc.

LOCATION OF PROPOSED TOWER: 1118 Red Pond Road, Bowling Green, KY 42103

FOCAL POINT: 116-3 McFadden Station. *Agriculture/Open Space.* Mostly agriculture but with scattered low density single family residential.

CURRENT ZONING: Agriculture

COMPREHENSIVE PLAN COMPLIANCE:

- G-5 The citizens of Warren County are committed to providing infrastructure and public services at levels of service consistent with the "quality of life" we now enjoy. To that end, we expect all to assume their fair share of the burden.
- EC-2 Warren County recognizes the importance of maintaining and fostering the growth of existing business and industry. The community should monitor the continuing needs of existing businesses and be prepared to meet those needs in areas of infrastructure, public service and education of the labor force.

This proposed telecommunications tower provides improved wireless service, as well as opportunities for emergency service access, for parts of Bowling Green and Warren County. An increase in the overall level of service is anticipated.

STAFF REVIEW:

1. The application was complete and was submitted in a timely manner.
2. The proposed telecommunications tower will be located in an appropriate zoning district. The site is surrounded by predominantly agricultural uses as well as a few scattered single family houses.

STAFF REVIEW (continued):

3. No opportunities for collocation were found within the applicant's engineered search ring.
 4. The applicant must file a subdivision plat showing all structures, guy wires, and pertinent structures located upon the property. The lot does not have to meet minimum lot size under the Zoning Ordinance/Resolution but must note on the plat "Not a Building Lot of Record; Lot Has Been Established for Recording Purposes Only."
 5. Unless required otherwise by state or federal regulations, the proposed tower should be painted a uniform gray color to enhance its ability to blend with the surrounding environment.
-

STAFF RECOMMENDATION:

The Staff recommends that the application for a telecommunications tower be **approved** with the following conditions:

1. That the applicant submit a subdivision plat as indicated above, and
 2. That the applicant commit to the color scheme recommended above.
-

MOTIONS

MOTION TO APPROVE THE TELECOMMUNICATIONS TOWER APPLICATION:

I make the motion to approve the proposed telecommunications tower application, docket number, 99-1-T-CO. My motion is based on the findings of fact as presented in the staff report and the testimony presented in this public hearing, that the proposed telecommunications tower is in agreement with the adopted Comprehensive Plan. Further, I request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed telecommunications tower.

OR

MOTION TO DENY THE TELECOMMUNICATIONS TOWER APPLICATION:

I make a motion to deny the proposed telecommunications tower, docket number 99-1-T-CO. My motion is based on the findings of fact as presented in the staff report and the testimony as presented in this public hearing that the proposed telecommunications tower is not in agreement with the adopted Comprehensive Plan. Further, I request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed telecommunications tower.

FOR THE PUBLIC RECORD

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

APPLICATION OF CROWN COMMUNICATION INC.)	
AND WESTEL-MILWAUKEE COMPANY, INC.)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.:99-387 UAC
CONVENIENCE AND NECESSITY TO CONSTRUCT)	
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1118 RED POND ROAD, BOWLING GREEN, KY 42103)	
IN THE WIRELESS COMMUNICATIONS LICENSE AREA)	
IN THE COMMONWEALTH OF KENTUCKY)	
IN THE COUNTY OF WARREN COUNTY)	

SITE NAME: NORTH EAST BOWLING GREEN
SITE NUMBER: KY 261

Crown Communication Inc. and Westel-Milwaukee Company, Inc., as a licensed public utility in the Commonwealth of Kentucky, make this application.

The property on which the Wireless Communication Facility ("WCF") will be located is 1118 Red Pond Road, Bowling Green, Kentucky, 42103. The WCF site is geographically positioned at 37° 00' 06.07" North latitude, 86° 19' 52. 47" West longitude.



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

November 9, 1999

To: All parties of record

RE: Case No. 99-387 UAC
KENTUCKY CGSA, INC., DBA BELLSOUTH MOBILITY, WESTEL-MILWAUKEE, BSC

The Commission staff has reviewed your response of November 3, 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

Lloyd McCarthy
Crown Communication Inc.
11001 Bluegrass Parkway, Suite 330
Louisville, KY. 40299

Richard Guittar
1650 Lyndon Farms Court
Louisville, KY. 40223

Honorable Sam G. McNamra
Attorney at Law
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1100 Peachtree Street
Room 809
Atlanta, GA. 30309

FOR THE PUBLIC RECORD

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED
SEP 29 1999
PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF CROWN COMMUNICATION INC.)
AND WESTEL-MILWAUKEE COMPANY, INC.)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
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IN THE COUNTY OF WARREN COUNTY)

CASE NO.:99-387 UAC

FILED
NOV 03 1999
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COMMISSION

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PUBLIC SERVICE COMMISSION
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(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

October 26, 1999

To: All parties of record

Re: Case No. 99-387 UAC
Filing Deficiencies

Gentlemen:

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 geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs, foundation design recommendations, and a finding as to the proximity of the proposed site to flood hazard areas (findings re: flood hazard proximity may be prepared by a land surveyor).

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 Kyle Willard of my staff at 502-564-3940, extension 418.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

hv



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

Lloyd McCarthy
Crown Communication Inc.
11001 Bluegrass Parkway, Suite 330
Louisville, KY. 40299

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1650 Lyndon Farms Court
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COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

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

October 11, 1999

To: All parties of record

RE: Case No. 99-387 UAC
KENTUCKY CGSA, INC., DBA BELLSOUTH MOBILITY, WESTEL-MILWAUKEE, BSC
(Construct) CELL SITE - 1118 RED POND ROAD - WARREN COUNTY

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received September 29, 1999 and has been assigned Case No. 99-387. 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

Lloyd McCarthy
Crown Communication Inc.
11001 Bluegrass Parkway, Suite 330
Louisville, KY. 40299

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1650 Lyndon Farms Court
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FOR THE PUBLIC RECORD

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

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AND WESTEL-MILWAUKEE COMPANY, INC.)
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CASE NO.:99-387 UAC

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SITE NAME: NORTH EAST BOWLING GREEN
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