

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK,)	
LLC D/B/A APPALACHIAN WIRELESS FOR THE)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT)	2015-00421
A TOWER IN HARLAN COUNTY, KENTUCKY)	

ORDER

On February 4, 2016, East Kentucky Network, LLC d/b/a Appalachian Wireless (“Applicant”) filed an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) to construct and operate a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 190 feet in height, with attached antenna, to be located near the corner of Gap Branch Road and East Main Street, Lynch, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 57’ 47.07” by West Longitude 82° 54’ 26.94”.

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 filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807 KAR 5:063, the Applicant has filed evidence that the county judge/executive and all

property owners within 500 feet and contiguous to the cell site have been notified of the proposed construction. The notices solicited any comments and informed the recipients of their right to request intervention.

The Commission received comments from Claude and Anna Johnson (“Johnsons”) objecting to the proposed construction. The Applicant was directed to provide a written response to the Johnsons addressing their comments, and the Johnsons were simultaneously informed of the right to request intervention if the Applicant failed to satisfy their concerns regarding the proposed construction. The Applicant subsequently filed a written response to the Johnsons’ concerns and later filed correspondence indicating that the Johnsons no longer had any opposition to the proposed construction. To date, no further comments or requests for intervention have been received by the Commission.

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 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, therefore, a CPCN 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 the antenna tower is not used to provide service in the manner set out in the 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 CPCN to construct a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 190 feet in height, with attached antenna, and is to be located near the corner of Gap Branch Road and East Main Street, Lynch, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 57' 47.07" by West Longitude 82° 54' 26.94".

2. The Applicant shall file a copy of the final decisions regarding the pending FAA and KAZC applications for the proposed construction within ten 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 three months in the manner authorized by this Order.

4. Documents filed, if any, in the future pursuant to ordering paragraphs 2 and 3 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED 
APR 12 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Acting Executive Director 

Case No. 2015-00421

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