

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK,	)	
LLC, DBA APPALACHIAN WIRELESS FOR THE	)	
ISSUANCE OF A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT	)	2015-00381
A TOWER IN MAGOFFIN COUNTY, KENTUCKY	)	

ORDER

On March 16, 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 310 feet in height, with attached antenna, to be located approximately 1.3 miles south of Gunlock, Magoffin County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 31' 42.88" by West Longitude 82° 55' 21.03".

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. On March 28, 2016, the Commission received a letter from Ms. Buelah Leitch objecting to the location of the proposed tower and alleging that the proposed tower would have a negative aesthetic and financial impact on her property. The Commission sent an acknowledgement letter to Ms. Leitch on March 29, 2016, directing the Applicant to respond to Ms. Leitch within 15 days and giving Ms. Leitch 30 days from the date of the Commission's acknowledgement letter to request full intervention in this proceeding if further participation was desired. The Applicant responded to Ms. Leitch's letter on March 30, 2016. To date, the Commission has not received additional correspondence from Ms. Leitch in response to the Applicant's letter or a written request to intervene.

The Applicant has filed determinations of the Federal Aviation Administration and the Kentucky Airport Zoning Commission approving the construction and operation of the proposed facility.

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 310 feet in height, with attached antenna, and is to be located approximately 1.3 miles south of Gunlock, Magoffin County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 31' 42.88" by West Longitude 82° 55' 21.03".

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



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