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June 25, 2004

VIA HAND DELIVERY

Kentucky Public Service Commission
Attn: Mr. Jeff Cline
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602-0615

RECEIVED

Case 2004-00248

JUN 25 2004

PUBLIC SERVICE
COMMISSION

RE: Application to Construct Wireless Communications Facility
Site Name: Wickliffe
Location: Highway 51 South, Wickliffe, Kentucky 42087
Applicant: Crown Communication Inc. and
BellSouth Personal Communications, LLC

Dear Jeff:

On behalf of my client I am submitting the enclosed original and four (4) copies of an Application for Certificate of Public Convenience and Necessity for Construction of a Wireless Communications Facility in an area of Ballard County outside the jurisdiction of a planning commission. I have also enclosed two (2) additional copies of this cover letter. Thank you for your assistance and do not hesitate to contact me if you have any comments or questions concerning this matter.

Sincerely,

A handwritten signature in black ink that reads "David A. Pike".

David A. Pike
Attorney for Crown Communication Inc. and
BellSouth Personal Communications, LLC

Enclosures

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

In the Matter of:

THE APPLICATION OF)
CROWN COMMUNICATION INC. AND)
BELLSOUTH PERSONAL COMMUNICATIONS, LLC)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC) CASE NO.: 2004-00248
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY AT)
HIGHWAY 51 SOUTH, WICKLIFFE, KY 42087)
IN THE WIRELESS COMMUNICATIONS LICENSE AREA)
IN THE COMMONWEALTH OF KENTUCKY)
IN THE COUNTY OF BALLARD)

SITE NAME: WICKLIFFE

RECEIVED

JUL 23 2004

PUBLIC SERVICE

**APPLICATION FOR
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR CONSTRUCTION OF A WIRELESS COMMUNICATIONS FACILITY**

Crown Communication Inc. and BellSouth Personal Communications, LLC (hereinafter referred to collectively as "Applicant"), by counsel, pursuant to (i) KRS §§ 278.020, 278.040, 278.665 and the rules and regulations applicable thereto, and (ii) the Telecommunications Act of 1996, respectfully submits this Application requesting issuance of a Certificate of Public Convenience and Necessity ("CPCN") from the Kentucky Public Service Commission ("PSC") to construct, maintain, and operate a wireless communications facility to serve the customers of the Applicant with wireless telecommunications services.

In support of this Application, Applicant respectfully provides and states the following information:

1. The complete name and address of the Applicant:

Crown Communication Inc.
375 Southpointe Boulevard
Canonsburg, PA 15317

and

BellSouth Personal Communications, LLC
The Prentice-Hall Corporation System, Registered Agent
421 West Main St
Frankfort, KY 40601
Attn.: Legal Department

2. Applicant proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located in an area outside the jurisdiction of a planning commission, and Applicant submits the within application to the Commission for a certificate of public convenience and necessity pursuant to KRS §§ 278.020(1), 278.650, and 278.665.

3. A certified copy of the Crown Communication Inc. Certificate of Authority issued by the Secretary of State of the Commonwealth of Kentucky and a certified copy of the Articles of Incorporation for Crown are attached or described as part of **Exhibit A**. Applicant BellSouth Personal Communications, LLC is not a corporation and, therefore, the requirements of 807 KAR 5:001(8) and 807 KAR 5:001(9) that applicant submit a certified copy of articles of incorporation is inapplicable. BellSouth Personal Communications, LLC has provided a copy of the Certificate of Authority issued by the Secretary of State of the Commonwealth of Kentucky for the as part of **Exhibit A**.

4. The proposed wireless communications facility will serve an area completely within applicant BellSouth Personal Communications, LLC's Federal Communications

Commission ("FCC") licensed service area in the Commonwealth of Kentucky. A reference copy of the Applicant's FCC license to provide wireless services is attached to this Application or described as part of **Exhibit A**.

5. The public convenience and necessity require the construction of the proposed wireless communications facility to replace a prior failed tower that is no longer in service and has been removed. The Wickliffe site is necessary to provide coverage and eliminate interference in southwestern Ballard County, near the city of Wickliffe. This site will improve the coverage and reduce interference on US Hwy 51, State Hwy 286, State Hwy 121, and in the city of Wickliffe. The closest existing site to this area for Applicant service provider is over 10 miles away. Thus, there is currently no dominant server in the area. This lack of a dominant server results in quality degradation for area customers. With the addition of this site, the customers in this area of Ballard County will experience improved reliability, better in-building coverage, and improved access to emergency 911 services.

6. To address the above-described service needs, Applicant proposes to construct a wireless communications facility at Highway 51 South, Wickliffe, Kentucky 42087 (36° 57' 01.977" North latitude, 89° 04' 57.421" West longitude), in an area located entirely within the county referenced in the caption of this application. The property on which the wireless communications facility will be located is owned by Westvaco Corp. pursuant to a Deed recorded at Deed Book 71, Page 225 in the office of the Ballard County Clerk. The proposed wireless communications facility will consist of a 100-foot monopole tower, with an approximately 15-foot tall lightning arrestor attached at the top, for a total

height of 115 feet. The wireless communications facility will also include concrete foundations to accommodate the placement of the Applicant's proprietary radio electronics equipment. The equipment will be housed in a prefabricated cabinet or shelter that will contain: (i) the transmitting and receiving equipment required to connect the wireless communications facility with the Applicant's users in Kentucky, (ii) telephone equipment that will link the wireless communications facility with the Applicant's other facilities, and (iii) all other necessary appurtenances. The Applicant's equipment cabinet or shelter will be approved for use in the Commonwealth of Kentucky by the relevant building inspector. The wireless communications facility compound will be fenced and all access gate(s) will be secured. A description of the manner in which the proposed wireless communications facility will be constructed is attached as **Exhibit B** and **Exhibit C**. Periodic inspections will be performed on the wireless communications facility in accordance with the applicable regulations or requirements of the PSC.

7. A list of competing utilities, corporations, or persons is attached as **Exhibit D**, along with three (3) maps of suitable scale showing the location of the proposed new construction as well as the location of any like facilities located anywhere within the map area, along with a map key showing the owner of such other facilities.

8. The site development plan and a vertical profile sketch of the wireless communications facility signed and sealed by a professional engineer registered in Kentucky depicting the tower height, as well as a proposed configuration for the antennas of the Applicant and future antenna mounts, has also been included as part of **Exhibit B**. Foundation design plans and a description of the standards according to which the tower

was designed, and which have been signed and sealed by a professional engineer registered in Kentucky, are included as part of **Exhibit C**.

9. Applicant has considered the likely effects of the installation of the proposed wireless communications facility on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate services can be provided, and that there are no reasonably available opportunities to co-locate Applicant's antennas on an existing structure. Applicant has attempted to co-locate on suitable existing structures such as telecommunications towers or other suitable structures capable of supporting Applicant's facilities, and no other suitable or available co-location site was found to be located in the vicinity of the site. Information regarding the Applicant's efforts to achieve co-location in the vicinity is presented as **Exhibit E**.

10. A Notice of Proposed Construction or Alteration ("FAA Notice") has been filed by Applicant with the FAA, and the FAA has issued a Determination of No Hazard to Air Navigation ("FAA Determination") for the site. The FAA Notice and FAA Determination are attached as **Exhibit F**. The FAA Determination includes a determination that no lighting or marking requirements are applicable to this facility for aviation safety.

11. A copy of the Kentucky Airport Zoning Commission ("KAZC") Application for the proposed wireless communications facility is attached as **Exhibit G**. The KAZC has reviewed the application and has determined that no KAZC permit is required to construct the subject wireless communication facility. A copy of a letter from KAZC Administrator Ronald Bland confirming that there are no applicable permit requirements for this facility is included with **Exhibit G**.

12. The wireless communications facility will be registered with the FCC pursuant to applicable federal requirements. Appropriate required FCC signage will be posted on the site upon receipt of the tower registration number.

13. A geotechnical engineering firm has performed soil boring(s) and subsequent geotechnical engineering studies at the wireless communications facility site. A copy of the geotechnical engineering report and evaluation, signed and sealed by a professional engineer registered in the Commonwealth of Kentucky, is attached as **Exhibit H**. The name and address of the geotechnical engineering firm and the professional engineer registered in the Commonwealth of Kentucky who supervised the examination of this wireless communications facility site are included as part of this exhibit.

14. Clear directions to the proposed wireless communications facility site from the County seat are attached as **Exhibit I**. The name and telephone number of the preparer of **Exhibit I** is included as part of this exhibit.

15. Applicant, pursuant to a written agreement, has acquired the right to use the wireless communications facility site and associated property rights. A copy of the agreement or an abbreviated agreement recorded with the County Clerk is attached as **Exhibit J**.

16. Personnel directly responsible for the design and construction of the proposed wireless communications facility are well qualified and experienced. The tower and foundation drawings for the proposed tower submitted as part of **Exhibit C** bear the signature and stamp of a professional engineer registered in the Commonwealth of Kentucky. The Project Manager and Contractor for the proposed facility is Crown

Communication Inc. and the person directly responsible for construction of the proposed tower will be Sam Ward, Field Manager for applicant Crown Communication Inc. All tower designs meet or exceed applicable laws and regulations.

17. Based on a review of Federal Emergency Management Agency Flood Insurance Rate Maps, the registered land surveyor has noted in **Exhibit B** that the proposed wireless communications facility is not located within any flood hazard area.

18. The possibility of high winds has been considered in the design of this tower. The tower has been designed and engineered by professional engineers using computer assistance and the same accepted codes and standards as are typically used for high-rise building construction. The tower design include a description of the standard according to which the tower was designed, signed and sealed by a professional engineer registered in Kentucky.

19. The site development plan was prepared by Birch, Trautwein & Mims, Inc. and is signed and sealed by a professional engineer registered in Kentucky (Woodrow W. Marcum, Jr.). The site survey was performed Kentucky licensed professional land surveyor John Charles. Page C1 of **Exhibit B** is drawn to a scale as necessary to illustrate and identify every owner of real estate within 500 feet of the proposed tower (according to the records maintained by the County Property Valuation Administrator). Every structure and every easement within 500 feet of the proposed tower or within 200 feet of the access road including intersection with the public street system is illustrated in **Exhibit B**.

20. Applicant has notified every person who, according to the records of the County Property Valuation Administrator, owns property which is within 500 feet of the

proposed tower or contiguous to the site property, by certified mail, return receipt requested, of the proposed construction. Each notified property owner has been given the docket number under which the proposed Application will be processed and has been informed of their right to request intervention. A list of the nearby property owners who received the notices, together with copies of the certified letters, are attached as **Exhibit K** and **Exhibit L**, respectively.

21. Applicant has notified the Ballard County Judge/Executive by certified mail, return receipt requested, of the proposed construction. This notice included the PSC docket number under which the application will be processed and informed the Ballard County Judge/Executive of his/her right to request intervention. A copy of this notice is attached as **Exhibit M**.

22. Two notice signs meeting the requirements prescribed by 807 KAR 5:063 measuring at least two (2) feet in height and four (4) feet in width with all required language in letters of required height have been posted in a visible location on the proposed site and on the nearest public road. Such signs shall remain posted for at least two (2) weeks after filing of the Application, and a copy of the posted text is attached as **Exhibit N**. Notice of the location of the proposed facility has also been published in a newspaper of general circulation in the county where the wireless communications facility is located.

23. The general area where the proposed facility is to be located is rural. A paper factory is located on the parent tract for the site property, and the parent tract is located outside the corporate limits of any city. There are no residential structures located within a 500-foot radius of the proposed tower location.

24. The process that was used by the Applicant's radio frequency engineers in selecting the site for the proposed wireless communications facility was consistent with the general process used for selecting all other existing and proposed wireless communications facility facilities within the proposed network design area. Applicant's radio frequency engineers have conducted studies and tests in order to develop a highly efficient network that is designed to serve the Federal Communications Commission licensed service area. The engineers determined an optimum area for the placement of the proposed facility in terms of elevation and location to provide the best quality service to customers in the service area. A radio frequency design search area prepared in reference to these radio frequency studies was considered by the Applicant when searching for sites for its antennas that would provide the coverage deemed necessary by the Applicant. Before beginning the site acquisition process, Applicant carefully evaluated locations within the search area for co-location opportunities on existing structures, and no suitable towers or other existing tall structures were found in the immediate area that would meet the technical requirements for the element of the telecommunications network to be provided by the proposed facility. A map of the area in which the tower is proposed to be located which is drawn to scale and clearly depicts the necessary search area within which the site should be located pursuant to radio frequency requirements is attached as **Exhibit O**.

25. All Exhibits to this Application are hereby incorporated by reference as if fully set out as part of the Application.

26. All responses and requests associated with this Application may be directed to:

David A. Pike
Pike Legal Group, PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, KY 40165-0369
Telephone: (502) 955-4400
Telefax: (502) 543-4410

WHEREFORE, Applicant respectfully request that the PSC accept the foregoing Application for filing, and having met the requirements of KRS §§ 278.020(1), 278.650, and 278.665 and all applicable rules and regulations of the PSC, grant a Certificate of Public Convenience and Necessity to construct and operate the wireless communications facility at the location set forth herein.

Respectfully submitted,



David A. Pike
Pike Legal Group, PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, KY 40165-0369
Telephone: (502) 955-4400
Telefax: (502) 543-4410
Attorney for Crown Communication Inc. and
BellSouth Personal Communications, LLC

LIST OF EXHIBITS

- A - Business Entity and FCC License Documentation
- B - Site Development Plan:
 - 500' Vicinity Map
 - Legal Descriptions
 - Flood Plain Certification
 - Site Plan
 - Vertical Tower Profile
- C - Tower and Foundation Design
- D - Competing Utilities, Corporations, or Persons List and Map of Like Facilities in Vicinity
- E - Co-location Report
- F - FAA Determination of No Hazard to Air Navigation
- G - Kentucky Airport Zoning Commission Letter
- H - Geotechnical Report
- I - Directions to Wireless Communications Facility Site
- J - Copy of Real Estate Agreement
- K - Notification Listing
- L - Copy of Property Owner Notification
- M - Copy of County Judge/Executive Notice
- N - Copy of Posted Notices
- O - Copy of Radio Frequency Design Search Area