

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY	)	
NETWORK LIMITED LIABILITY COMPANY FOR	)	
THE ISSUANCE OF A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT	)	2008-00319
A TOWER IN LESLIE COUNTY, KENTUCKY	)	

O R D E R

On October 20, 2008, East Kentucky Network, LLC, formerly Mountaineer Cellular Limited Liability Company ("Applicant") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 315 feet in height, with attached antenna, to be located near Bear Branch, Leslie County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 10' 9.3" by West Longitude 83° 31' 53.4".

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 notified the County Judge/Executive of the proposed construction. 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. The FAA application has been approved, but the KAZC decision is still pending.

The Applicant has filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited comments and informed the recipients of their right to request intervention. On November 7, 2008, the Commission received a letter requesting information regarding the proposed construction from Cecil Sizemore. The Commission responded to Mr. Sizemore's request by letter dated November 10, 2008. The Commission has received no further correspondence from Mr. Sizemore.

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 that, therefore, a Certificate of Public Convenience and Necessity 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 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 the Applicant.

IT IS THEREFORE ORDERED that:

1. The Applicant is granted a Certificate of Public Convenience and

Necessity to construct a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 315 feet in height, with attached antenna, and is to be located near Bear Branch, Leslie County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 10' 9.3" by West Longitude 83° 31' 53.4".

2. The Applicant shall file a copy of the final decision regarding the pending KAZC application for the proposed construction within 10 days of receiving the decision.

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 3 months in the manner authorized by this Order.

4. The Applicant shall also notify the Commission in writing, within 20 days of completion, that it has finished construction of the tower and the date upon which said construction was complete.

Done at Frankfort, Kentucky, this 30<sup>th</sup> day of January, 2009.

By the Commission

ATTEST:

  
\_\_\_\_\_  
Executive Director

Gerald Robinette  
General Manager  
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