

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK	)	
LIMITED LIABILITY COMPANY FOR THE	)	
ISSUANCE OF A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT	)	2009-00082
A TOWER IN HARLAN COUNTY, KENTUCKY	)	

O R D E R

On April 20, 2009, 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.<sup>1</sup> The proposed facility consists of a self-supporting antenna tower not to exceed 190 feet in height, with attached antenna, to be located on a tract of land approximately 0.4 miles north of Cumberland, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 58' 53" by West Longitude 82° 59' 45.8".

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.

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<sup>1</sup> The original application was received on April 2, 2008. The application was supplemented and deemed filed on April 20, 2009.

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. Both decisions are 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. To date, no public comments have been filed with the Commission.

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 190 feet in height, with attached antenna, and is to be located on a tract of land approximately 0.4 miles north of Cumberland, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude  $36^{\circ} 58' 53''$  by West Longitude  $82^{\circ} 59' 45.8''$ .

2. The Applicant shall file a copy of the final decisions regarding the pending FAA and KAZC applications for the proposed construction within 10 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 3 months in the manner authorized by this Order.

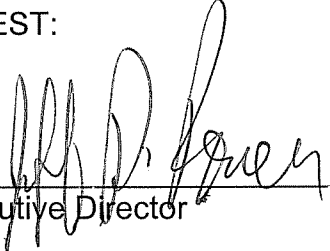
4. The Applicant shall also notify the Commission in writing, within 20 days of completion, that it has finished construction of the tower and the date upon which said construction was complete.

Done at Frankfort, Kentucky, this

By the Commission

ENTERED  
MAY 13 2009 *h*  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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Executive Director

Case No. 2009-00082

Gerald Robinette  
General Manager  
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