

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SBA TOWERS IX, LLC FOR)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO)	CASE NO.
CONSTRUCT A WIRELESS)	2019-00149
COMMUNICATIONS FACILITY IN THE)	
COMMONWEALTH OF KENTUCKY IN THE)	
COUNTY OF PULASKI)	

ORDER

On July 15, 2019, SBA Towers IX, LLC (SBA Towers IX), 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 tower not to exceed 309 feet in height, with attached antennas, to be located on an approximately 10,000 (100' x 100') square feet tract of land within the property located at Highway 80 and Whitson Road in Somerset, Pulaski County. The coordinates for the proposed facility are North Latitude 37° 09' 22.69" by West Longitude 84° 30' 42.74".

SBA Towers IX 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, SBA Towers IX has filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807

KAR 5:063, SBA Towers IX 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. One public comment was filed by South Eastern Water Association, Inc. (South Eastern Water). South Eastern Water holds an easement within 500 feet of the proposed tower and has received notice of the proposed construction. Specifically, South Eastern Water has a water line in an area where SBA Towers IX proposes to access the proposed tower. South Eastern Water requests in the public comment that SBA Towers IX avoid any activity that would disrupt or cause damage to the water line.

SBA Towers IX's asserts that on or about February 2019, representatives of South Eastern Water and/or its attorneys conducted site visits in correlation to survey work and initial site development work being performed by SBA Towers IX's contractors at the proposed site. At this time, South Eastern Water requested that the main water valves be marked on the land survey, with which SBA Towers IX complied. Additionally, SBA Towers IX asserts that there was a discussion regarding the access road, the location of the access road in relation to the water valves, and the possibility of moving the access road to accommodate the water valves. SBA Towers IX further asserts that it indicated the existing water valves on the site plans and drawings, and that the proposed access road has been moved to accommodate South Eastern Water's concerns.

SBA Towers IX 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. SBA Towers IX filed evidence that its

application to the FAA has been approved. SBA Towers IX has also filed evidence from KAZC confirming that its application has been approved.

SBA Towers IX filed an application with the Federal Communications Commission (FCC) seeking registration of antenna structure. On October 11, 2019, SBA Towers IX filed proof that its application to the FCC was granted.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that SBA Towers IX 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, SBA Towers IX 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 SBA Towers IX.

IT IS THEREFORE ORDERED that:

1. SBA Towers IX is granted a CPCN to construct a wireless telecommunications facility. The proposed facility consists of a tower not to exceed 309 feet in height, with attached antennas, to be located on an approximately 10,000 (100' x 100') square feet tract of land within the property located at Highway 80 and Whitson

Road in Somerset, Pulaski County. The coordinates for the proposed facility are North Latitude 37° 09' 22.69" by West Longitude 84° 30' 42.74".

2. SBA Towers IX 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. SBA Towers IX shall file a copy of the final decision regarding the KAZC application for the proposed construction within ten days of this Order.

4. Documents filed, if any, in the future pursuant to ordering paragraph 2 herein shall reference this case number and shall be retained in the post-case correspondence file.

5. This case is closed and removed from the Commission's docket.

By the Commission

ENTERED
OCT 28 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

For [Signature]
Executive Director

*John Pace
Attorney
Denton Law Firm, PLLC
555 Jefferson Street, Suite 301
P.O. Box 0969
Paducah, KENTUCKY 42002

*Lisa H. Emmons
Denton Law Firm, PLLC
555 Jefferson Street, Suite 301
P.O. Box 0969
Paducah, KENTUCKY 42002