

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #3 CELLULAR)	
GENERAL PARTNERSHIP FOR APPROVAL TO)	
CONSTRUCT AND OPERATE A NEW CELL)	CASE NO.
FACILITY TO PROVIDE CELLULAR RADIO)	2019-00177
SERVICE (FORDSVILLE) IN RURAL SERVICE AREA)	
#3 (OHIO COUNTY) OF THE COMMONWEALTH OF)	
KENTUCKY)	

ORDER

On August 2, 2019, Kentucky RSA #3 Cellular General Partnership (Kentucky RSA #3) filed an application seeking a Certificate of Public Convenience and Necessity (CPCN) to construct and operate a wireless telecommunications facility.¹ The proposed facility consists of a tower not to exceed 190 feet in height, with attached antennas, to be located at 415 Ridge Road, Fordsville, Ohio County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 38' 33" by West Longitude 86° 42' 46".

Kentucky RSA #3 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.

¹ Kentucky RSA #3 tendered its application on July 15, 2019. By letter dated July 17, 2019, the Commission rejected the application due to filing deficiencies. Kentucky RSA #3 cured the deficiencies and the application was deemed filed as of August 2, 2019.

Pursuant to 807 KAR 5:063, Kentucky RSA #3 has filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807 KAR 5:063, Kentucky RSA #3 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 July 10, 2019, James Wilkerson (Mr. Wilkerson) filed a public comment raising concerns about potential damage to his property and cattle should the proposed facility fall or attract lightning.² Wilkerson owns property adjacent to and within 500 feet of the proposed tower and has received written notice of the proposed construction from Kentucky RSA #3. On July 29, 2019, Kentucky RSA #3 filed its reply to Mr. Wilkerson, which states the tower will be fully grounded to guard against property damage or physical injury resulting from a lightning strike, and in the very unlikely event of a failure of the tower mast, all debris would most likely fall within a circle in which the center is the tower base and its radius is no more than 50 percent of the tower height (or 95 feet from the center of the tower), well outside the vicinity of any adjacent owner's property.³ Kentucky RSA #3 also explained the proposed location of the facility is the most suitable location in this area of the county due to its elevation, the nature of the terrain in the surrounding area, and its proximity to Ridge Road, Highway 54, Easton Road, and Highway 629.⁴

² James Wilkerson Public Comment (filed July 10, 2019).

³ Kentucky RSA #3 Response to James Wilkerson (filed July 29, 2019).

⁴ *Id.*

Kentucky RSA #3 filed an application with the Federal Aviation Administration seeking approval for the construction and operation of the proposed facility. That application has been approved. Kentucky RSA #3 filed documentation that the Kentucky Airport Zoning Commission's approval is not required for the construction of the proposed facility because the proposed facility is less than 200 feet in height from ground level.⁵

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA #3 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, Kentucky RSA #3 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 Kentucky RSA #3.

IT IS THEREFORE ORDERED that:

1. Kentucky RSA #3 is granted a CPCN to construct a wireless telecommunications facility. The proposed facility consists of a tower not to exceed 190 feet in height, with attached antennas, to be located 415 Ridge Road, Fordsville, Ohio

⁵ 602 KAR 50:030, Section 2(2) provides the Kentucky Airport Commission jurisdiction over the airspace of the Commonwealth that exceeds 200 feet in height above ground level.

County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 38' 33" by West Longitude 86° 42' 46".

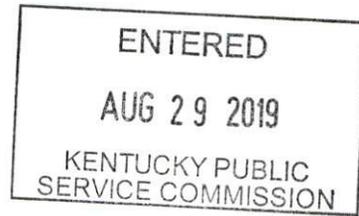
2. Kentucky RSA #3 shall immediately notify the Commission in writing if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of three months in the manner authorized by this Order.

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

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

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By the Commission



ATTEST:


Executive Director

Case No. 2019-00177

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