

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF APPALACHIAN CELLULAR)	
GENERAL PARTNERSHIP FOR A CERTIFICATE)	
OF PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO. 91-073
CONSTRUCT AND OPERATE CELLULAR)	
TELEPHONE FACILITIES TO SERVICE RSA #9)	
IN KENTUCKY)	

O R D E R

On March 5, 1991, Appalachian Cellular General Partnership ("Appalachian Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications system for the Rural Service Area #9 ("RSA #9") in Kentucky. RSA #9 includes Morgan, Elliott, Lawrence, Martin, Pike, Floyd, Magoffin, Morgan, and Johnson counties in Kentucky. Appalachian Cellular has requested authorization to construct three cell sites, referred to as the Joe's Knob, Allen, and Paintsville cell sites, a microwave site, and a mobile telephone switching office ("MTSO").

The proposed Joe's Knob cell site consists of a 213 foot antenna tower to be located at Knob Fork Road off U.S. 119 in Zebulon, Pike County, Kentucky. The proposed Allen cell site consists of a 413 foot antenna tower to be located off a coal haul road, 1 mile south of U.S. 23 and Route 80 in Allen, Floyd County, Kentucky. The proposed Paintsville cell site consists of a 313 foot antenna tower to be located at Burnt Cabin Branch Road,

1 mile south of Paintsville, Johnson County, Kentucky. The microwave site, consisting of a small building to house microwave equipment and a 40 foot structure to mount two microwave antennas, will be located one-half mile on Route 1384, off U.S. 23. The MTSO will be located with the facilities of the Harold Telephone Company in Harold, Floyd County, Kentucky.

On April 10, 1991, the Commission ordered Appalachian Cellular to file additional information. Appalachian Cellular filed its response on March 7, 1991 and June 17, 1991.

Appalachian Cellular has provided information regarding the structure of the towers, safety measures, and antenna design criteria for the cell sites. Based upon the application, the towers and foundation design appear to meet the criteria of the Building Officials and Code Administrators International, Inc. (BOCA) National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the proposed cell sites' construction is exempt from local zoning ordinances. Appalachian Cellular has filed applications with the Federal Aviation Administration, the Kentucky Airport Zoning Commission, and the Federal Communications Commission seeking approval for construction and operation of the proposed cell sites. These applications have been approved.

On March 5, 1991, Appalachian Cellular filed an affidavit verifying that each resident/property owner whose property lies within 500 feet of the proposed cell sites has been notified. The notice, which was mailed on March 4, 1991, solicited comments from

the residents and property owners and informed them of their right to intervene.

The Commission received two letters from a property owner in the vicinity of the proposed Joe's Knob cell site. The letters do not object to the proposed cell site but express concern regarding a 1984 incident in which a cable television company, affiliated with Appalachian Cellular, cut some of the property owner's trees during the installation of a microwave dish receiver. Appalachian Cellular responded by stating that \$700 had been paid on this claim and if evidence of additional damage is submitted, a further settlement will be attempted. The Commission notes that this issue involves compensation for damages, a matter beyond the scope of this agency's jurisdiction.

Included as a part of Exhibit C to Appalachian Cellular's application was a letter from the National Board of Cooperatives committing a credit line of \$800,000. Prior to issuing any evidence of indebtedness, Appalachian Cellular should seek Commission approval pursuant to KRS 278.300.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, HEREBY ORDERS that:

1. Appalachian Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to operate a cellular telecommunications system in the RSA #9.

2. Appalachian Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate 3 cellular telecommunications antenna towers in the RSA #9 at the locations and within the heights described above.

3. Appalachian Cellular be and it hereby is granted authority to construct a mobile telephone switching office and a microwave site at the locations described above.

4. Appalachian Cellular's proposed rates and tariff are approved.

5. Within 30 days from the date of this Order, Appalachian Cellular shall file its tariff sheets in accordance with 807 KAR 5:011.

Done at Frankfort, Kentucky, this 19th day of July, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director