

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #4 CELLULAR )  
GENERAL PARTNERSHIP FOR ISSUANCE OF )  
A CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT ADDITIONAL )  
CELL SITES FOR USE IN CONNECTION WITH ) CASE NO. 91-132  
THE APPLICANT'S OPERATION OF A CELLULAR )  
TELECOMMUNICATIONS SYSTEM IN RURAL )  
SERVICE AREA #4 OF THE COMMONWEALTH )  
OF KENTUCKY )

O R D E R

On April 24, 1991, Kentucky RSA #4 Cellular General Partnership ("RSA #4 Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate two cellular radio telecommunications towers in Rural Service Area #4 ("RSA #4"). RSA #4 includes Hardin, Nelson, Spencer, Anderson, Mercer, Washington, Marion, Taylor, Green and Larue counties in Kentucky.

The Commission previously granted RSA #4 Cellular authority to provide cellular services in RSA #4 and to construct cell sites in Radcliff, Bardstown, and Elizabethtown, Kentucky. The instant application proposed new cell sites in Harrodsburg and Lawrenceburg, Kentucky. By Order dated July 3, 1991, the Commission granted RSA #4 a Certificate of Public Convenience and Necessity to construct the Lawrenceburg cell site. The proposed

received from neighboring property owners in opposition to the cell site. Intervention was requested by and granted to Mr. and Mrs. Bradford Stewart, owners of property near the cell site.

Property owners have questioned the possibility of adverse health effects from operation of the cellular tower, diminution of property values, and the aesthetics of the facilities. Letters were also received from State Senator Tom Buford and State Representative Jack L. Coleman expressing their concerns that the proposed tower is too close to the residences. RSA #4 maintains that the cellular tower will not pose a hazard to humans or animals because it operates at a low power level and its height keeps any radiation from reaching the ground. In addition, RSA #4 stated that there will be no interference with television reception or the operation of any home appliance including cordless telephones.

Due to conflicting information in the record regarding the exact distance from the center of the proposed tower to the two closest residences, RSA #4 was required to submit an additional survey of the proposed site location. The results of this survey, filed on September 19, 1991, disclose the distance to the nearest residence will be 415 feet and the distance to the next closest residence, which is owned by the intervenors, will be 622 feet.

Based on a review of the record, and being sufficiently advised, the Commission hereby finds that there is no credible evidence to demonstrate that the cellular tower will have an adverse impact on humans or animals, or that there will be any diminution in property values. Due to the height of the tower

Harrodsburg cell site consists of a 285 foot antenna tower to be located at 1963 Cornishville Road in Harrodsburg, Kentucky.

On May 14, 1991, the Commission ordered RSA #4 Cellular to file additional information. On June 3, 1991, RSA #4 Cellular filed its response. A hearing was held on June 24, 1991 at the Commission's offices in Frankfort, Kentucky.

RSA #4 Cellular has provided information regarding the structure of the tower, safety measures and antenna design criteria for the proposed Harrodsburg cellular tower. Based upon the application, the tower and foundation 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 site construction is exempt from local zoning ordinances. RSA #4 Cellular has filed applications with the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA"), and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the operation and construction of the proposed cell site. The FCC and FAA have already approved the applications. The KAZC's application is still pending.

RSA #4 Cellular has notified each property owner and each resident within 500 feet of the proposed Harrodsburg cell site that: (1) an application to construct a cellular tower was pending at the Commission; (2) comments on the proposed construction were invited; and (3) intervention could be requested by contacting the Commission. Numerous protest letters were

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Based on a review of the record, and being sufficiently advised, the Commission hereby finds that there is no credible evidence to demonstrate that the cellular tower will have an adverse impact on humans or animals, or that there will be any diminution in property values. Due to the height of the tower

there will, of necessity, be some impact on aesthetics. RSA #4 stated that a line of trees will need to be removed from the site where the tower is to be constructed. Since this tree line would be beneficial to provide some screening for the base of the tower, the Commission finds that these trees should remain in place and the tower should be moved back, in a northerly direction, a minimum of 60 feet. This relatively minor relocation of the tower will provide some tree screening of the tower base when viewed from Cornishville Road. This will result in a fair resolution of the conflicting positions advanced in this case.

IT IS THEREFORE ORDERED that:


1. A Certificate of Public Convenience and Necessity to construct and operate a 285 foot cellular telecommunications antenna tower at 1963 Cornishville Road, Harrodsburg, Kentucky, be and it hereby is granted to RSA #4 contingent upon the tower being relocated and the tree line remaining intact as specified in the findings above.

2. Within 30 days of the date of this Order, RSA #4 shall file a written signed statement setting forth either: a) the details of how it intends to satisfy the conditions imposed in Ordering Paragraph No. 1; or b) its election to abandon the site at 1963 Cornishville Road and seek authority to construct at a different location.

Done at Frankfort, Kentucky, this 8th day of October, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

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Commissioner

ATTEST:

  
Executive Director