

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF FIRST KENTUCKY )  
CELLULAR CORP., A DELAWARE CORPORATION )  
D/B/A CELLULAR TELEPHONE COMPANY OF )  
KENTUCKY, FOR ISSUANCE OF A CERTIFICATE ) CASE NO. 92-035  
OF PUBLIC CONVENIENCE AND NECESSITY FOR )  
THE OPERATION AND CONSTRUCTION OF A )  
TOWER AT THE LOCATION OF THE MTSO )

O R D E R

On January 21, 1992, First Kentucky Cellular Corporation d/b/a Cellular Telephone Company of Kentucky ("First Kentucky Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in Rural Service Area No. 11 ("RSA No. 11") of Kentucky. RSA No. 11 includes Bell, Clay, Harlan, Knox, Leslie, and Whitley counties in Kentucky. First Kentucky Cellular has requested authorization to construct a cell site in Knox County, Kentucky. First Kentucky Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 11 in Case No. 91-247.<sup>1</sup>

The proposed cell site consists of a self-supporting tower, with attached antennas, not to exceed 147 feet in height to be

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<sup>1</sup> In Case No. 91-247, the Application of First Kentucky Cellular Corp., a Delaware Corporation D/B/A Cellular Telephone of Kentucky, for the Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications Service to the Public in the Kentucky Rural Service Area Which Includes Bell, Clay, Harlan, Knox, Leslie and Whitley Counties in Kentucky, for Approval of Financing and for Establishment of Initial Rates.

located behind Tri-County Square Shopping Center at 1629 Ohler Road, Corbin, Knox County, Kentucky ("the MTSO cell site"). The coordinates for the MTSO cell site are North Latitude 36° 57' 44" by West Longitude 84° 04' 29".

First Kentucky Cellular filed notices verifying that each property owner and/or resident within 500 feet of the MTSO cell site was notified of the proposed construction. The notice solicited any comments and informed the property owner and/or resident of their right to intervene. Several protest letters were received by the Commission, many of which questioned the safety and aesthetics of the proposed MTSO cell site. A letter in support of the proposed MTSO cell site was also received. There were no requests for intervention in this proceeding. First Kentucky Cellular was required by Orders to address, in writing, the concerns presented by the residents and/or property owners. On May 8, 1992, a hearing was held at the Commission's offices in Frankfort, Kentucky at which counsel for First Kentucky Cellular appeared. Pam Martin, the daughter of Hazel Brock who is a resident and property owner within 500 feet of the proposed MTSO cell site, was present at the hearing and offered comments opposing the proposed construction.

In Case No. 91-247 by Order dated November 18, 1991, First Kentucky Cellular was authorized to operate a cellular radio telecommunications system in RSA No. 11 and to construct two antenna tower sites referred to as the Corbin and Williamsburg cell sites. The November 18, 1991 Order was modified by Order dated

November 22, 1991 to specifically include authority for First Kentucky Cellular to locate its Mobile Telephone Switching Office ("MTSO") behind Tri-County Shopping Center at 1629 Ohler Road, Corbin, Knox County, Kentucky. The MTSO cell site of the instant case is proposed to be located at the same location as this switching office. First Kentucky Cellular contends that the proposed MTSO cell site will be necessary for the interconnection of the existing Corbin and Williamsburg cell sites as well as the Gray cell site, which is currently being constructed, with the MTSO by the use of microwave facilities. First Kentucky Cellular currently uses the local telephone network for its interconnection purposes. Additional information providing a cost comparison of microwave facilities versus local telephone network lines for the interconnection of First Kentucky Cellular's cellular system, was filed by First Kentucky Cellular on May 26, 1992.

An issue originally raised in a letter to the Commission by Herman C. Faulkner, a property owner and/or resident within 500 feet of the proposed MTSO cell site, pertained to the close proximity of the proposed cell site to the existing high voltage electric transmission lines. The cell site is proposed to be located within 120 feet of the transmission lines. Although Kentucky Utilities Company ("Kentucky Utilities") does not oppose the proposed construction, it did reject a request by First Kentucky Cellular for a reduction in Kentucky Utilities' right-of-way associated with the transmission lines. Through correspondences with Kentucky Utilities, First Kentucky Cellular

was advised of certain safety guidelines to be followed during construction of the proposed cell site to preserve the integrity of Kentucky Utilities' transmission lines.

First Kentucky Cellular has argued that the MTSO tower is necessary for the interconnection, by microwave, of its existing and future cellular network. However, First Kentucky Cellular is currently operating its cellular system through interconnection by local telephone network lines without the use of microwave facilities. First Kentucky Cellular has also contended that the location of the MTSO tower is technically limited to close proximity with the MTSO. Apparently, First Kentucky Cellular has created its own necessity by requesting authority to locate its MTSO in a previous Commission case<sup>2</sup> without informing the Commission of its future plans to locate a tower at that same location.

The Commission finds that the proposed MTSO cell site is not necessary for the interconnection of First Kentucky Cellular's cellular system. The Commission also finds that there are significant safety concerns including the close proximity of the proposed MTSO cell site to high voltage electric transmission lines and inhabited dwellings that warrant reconsideration of the proposed location of the MTSO cell site.

Based on these findings, the Commission concludes that the public convenience and necessity do not require construction of the proposed MTSO cell site.

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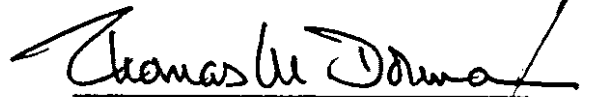
<sup>2</sup> Ibid.

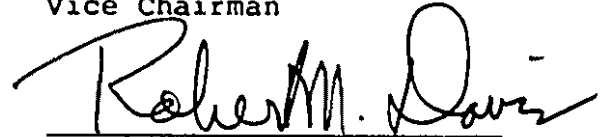
IT IS THEREFORE ORDERED that First Kentucky Cellular be and it hereby is denied a Certificate of Public Convenience and Necessity to construct and operate a self-supporting tower, with attached antennas, not to exceed 147 feet in height to be located behind Tri-County Square Shopping Center at 1629 Ohler Road, Corbin, Knox County, Kentucky ("the MTSO Cell Site").

Done at Frankfort, Kentucky, this 13th day of August, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director