

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF MOUNTAINEER CELLULAR)
GENERAL PARTNERSHIP FOR THE ISSUANCE OF) CASE NO. 92-398
A CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A TOWER)

O R D E R

On October 26, 1992, Mountaineer Cellular General Partnership ("Mountaineer Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 10 ("RSA No. 10"). RSA No. 10 includes Breathitt, Estill, Jackson, Knott, Lee, Letcher, Owsley, Perry, Powell and Wolfe counties. Mountaineer Cellular has requested authorization to construct a cell site in Jackson County. Mountaineer Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 10 in Case No. 91-002.¹

The proposed cell site consists of a 300 foot or less guyed antenna tower to be located 0.25 miles north of the intersection of State Route 587 and Jacks Ridge Road, McKee, Kentucky ("the McKee site"). The coordinates for the McKee site are North Latitude 37° 25' 39" by West Longitude 82° 56' 22".

¹ Case No. 91-002, The Application of Mountaineer Cellular General Partnership for the Issuance of A Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications Services to the Public and for Establishment of Initial Rates.

Mountaineer Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the McKee cell site. Based upon the application, the tower and foundation design appear to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code, with reference to earthquakes, winds and tornadoes.

Pursuant to KRS 100.324(1), the McKee cell site's construction is exempt from local zoning ordinances. Mountaineer Cellular has filed applications with the Federal Communications Commission ("FCC"), the Federal Aviation Association ("FAA"), and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the McKee cell site. Mountaineer Cellular has received approval from the FCC and FAA, while the KAZC has yet to make a final decision.

Mountaineer Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the McKee cell site has been notified of the pending construction. The notices solicited any comments and informed the property owner and/or resident of their right to intervene. To date, no intervention requests have been received.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Mountaineer Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the McKee cell site in RSA No. 10 under its previously approved tariff.

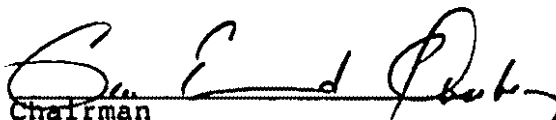
IT IS THEREFORE ORDERED that:

1. Mountaineer Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a 300 foot or less guyed cellular radio telecommunications antenna tower in RSA No. 10 to be located 0.25 miles north of the intersection of State Route 587 and Jacks Ridge Road, Jackson County, McKee, Kentucky. The coordinates for the McKee cell site are North Latitude 37° 25' 39" by West Longitude 82° 56' 22".

2. Mountaineer Cellular shall file a copy of the final decision regarding its pending KAZC application for this cell site construction, within 10 days of receiving this decision.

Done at Frankfort, Kentucky, this 2nd day of December, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director