

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #3 CELLULAR )  
GENERAL PARTNERSHIP FOR ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT A CELLULAR CELL ) CASE NO. 93-005  
SITE (CANEYVILLE) IN RURAL SERVICE )  
AREA #3 (GRAYSON) OF THE COMMONWEALTH )  
OF KENTUCKY )

O R D E R

On January 4, 1993, Kentucky RSA #3 Cellular General Partnership ("Kentucky RSA #3 Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications repeater tower in Rural Service Area No. 3 ("RSA No. 3"). RSA No. 3 includes Meade, Breckinridge, Hancock, Ohio, Grayson, Muhlenberg, Butler, Edmonson, Todd, Logan, Warren, Simpson, and Allen counties in Kentucky. Kentucky RSA #3 Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 3 in Case No. 90-307.<sup>1</sup>

The proposed repeater cell site consists of a guyed antenna tower, 400 feet or less, to be located at 1752 Windy Ridge Road, Caneyville, Kentucky ("the Caneyville site"). The coordinates for

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<sup>1</sup> Case No. 90-307, Application of Kentucky RSA #3 Cellular General Partnership for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Telecommunications Service to the Public in Rural Service Area #3 (Meade) of the Commonwealth of Kentucky.

the Caneyville site are North Latitude 37° 24' 41" by West Longitude 86° 32' 12".

Kentucky RSA #3 Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Caneyville site. Based on 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 Caneyville site's construction is exempt from local zoning ordinances. Kentucky RSA #3 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 construction and operation of the Caneyville site. Kentucky RSA #3 Cellular has received approval from the FCC and the FAA, while the KAZC approval is still pending.

Kentucky RSA #3 Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the Caneyville site has been notified of the pending construction. The notice solicited any comments and informed the property owner and/or resident of their right to intervene. To date, no intervention request has been received.

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 Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its 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 Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA #3 Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in RSA No. 3 under its previously approved tariff.

IT IS THEREFORE ORDERED THAT:

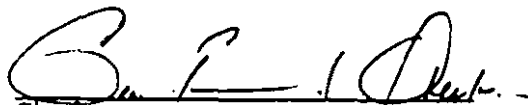
1. Kentucky RSA #3 Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a 400 foot or less guyed cellular radio telecommunications repeater tower in RSA No. 3 to be located at 1752 Windy Ridge Road, Caneyville, Kentucky. The coordinates of the Caneyville site are North Latitude 37° 24' 41" by West Longitude 86° 32' 12".

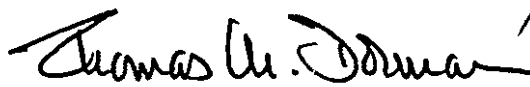
2. Kentucky RSA #3 Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

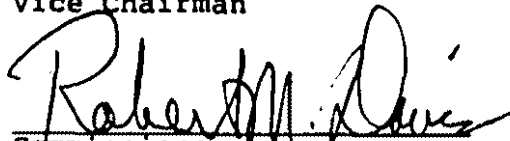
3. Kentucky RSA #3 Cellular shall file a copy of the final decision regarding its pending KAZC application for this cell site construction within 10 days of receiving this decision.

Done at Frankfort, Kentucky, this 24th day of February, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director