

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF ALPHA CELLULAR TELEPHONE)
COMPANY, A FLORIDA GENERAL PARTNERSHIP, FOR)
THE ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY FOR THE OPERATION) CASE NO.
AND CONSTRUCTION OF A CELL SITE SO AS TO) 93-024
ENLARGE THE COVERAGE OF THE KENTUCKY RURAL)
SERVICE AREA WHICH INCLUDES ELLIOTT,)
LAWRENCE, MORGAN, MAGOFFIN, JOHNSON, MARTIN,)
FLOYD AND PIKE COUNTIES IN KENTUCKY)

O R D E R

On February 12, 1993, Alpha Cellular Telephone Company ("Alpha 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. 9 ("RSA No. 9"). RSA No. 9 includes Elliott, Floyd, Johnson, Lawrence, Magoffin, Martin, Morgan, and Pike counties. Alpha Cellular has requested authorization to construct a cell site in Magoffin County. Alpha Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 9 in Case No. 91-377.¹

¹ Case No. 91-377, Application of Alpha Cellular Telephone Company, a Florida General Partnership, 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 Elliott, Lawrence, Morgan, Magoffin, Johnson, Martin, Floyd and Pike Counties in Kentucky, for Approval of Financing, and for Establishment of Initial Rates.

The proposed cell site consists of a 250-foot or less self-supporting antenna tower to be located approximately .2 mile east of the intersection of Routes 7 and 114 off Scott Street, Salyersville, Magoffin County, Kentucky ("the Salyersville cell site"). The coordinates for the Salyersville cell site are North Latitude 37° 45' 30" by West Longitude 83° 03' 52".

During its review of Alpha Cellular's application, the Commission discovered evidence suggesting Alpha Cellular had begun construction of the Salyersville cell site. This violation was resolved in Case No. 93-170² by Commission Order dated June 8, 1993.

Alpha Cellular provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Salyersville cell site. Based upon the application, the tower and foundation design appears 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 Salyersville cell site construction is exempt from local zoning ordinances. Alpha Cellular has filed applications with and received approvals from the Federal Communications Commission and the Federal Aviation Administration, while the Kentucky Airport Zoning Commission ("KAZC") application seeking approval for the construction and operation of the Salyersville cell site is still pending.

² Case No. 93-170, Alpha Cellular Telephone Company, A Florida General Partnership---Alleged Violation of KRS 278.020.

Alpha Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the Salyersville cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and/or residents of their right to intervene. On February 5, 1993, the Commission received a protest letter from Ruth Howard, and on February 16, 1993, received a protest letter from Jesse L. Rudd. Alpha Cellular responded to these letters while the Commission concurrently notified the protestors of their right to intervene. To date, no intervention requests have 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, Alpha 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 Alpha Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Alpha Cellular should be granted a Certificate of Public Convenience and Necessity

to construct and operate the Salyersville cell site in RSA No. 9 under its approved tariff.

IT IS THEREFORE ORDERED that:

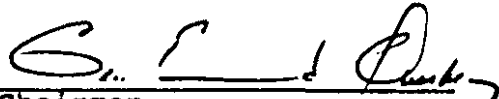
1. Alpha Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the 250-foot or less self-supporting antenna tower to be located approximately .2 mile east of the intersection of Routes 7 and 114 off Scott Street, Salyersville, Magoffin County, Kentucky. The coordinates for the proposed cell site are North Latitude 37° 45" 30" by West Longitude 83° 03' 52".

2. Alpha 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.

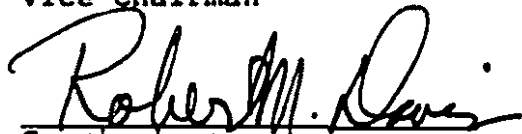
3. Alpha Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 2nd day of July, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director