

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 AND)
CONSTRUCTION OF THE CELL SITE SO AS TO)
ENLARGE THE COVERAGE OF THE KENTUCKY)
RURAL SERVICE AREA WHICH INCLUDES)
ELLIOTT, LAWRENCE, MORGAN, MAGOFFIN,)
JOHNSON, MARTIN, FLOYD AND PIKE COUNTIES)
IN KENTUCKY)

CASE NO.
93-025

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 Lawrence 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 200-foot or less self-supporting antenna tower to be located off U.S. Route 23 South, approximately six miles south of the city limits of Louisa, Kentucky ("the Louisa cell site"). The coordinates for the Louisa cell site are North Latitude 38° 03' 06" by West Longitude 82° 38' 06".

Alpha Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Louisa 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 Louisa cell site construction is exempt from local zoning ordinances. Alpha Cellular has filed an application with and received approval from the Federal Communications Commission. Approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the construction and operation of the Louisa cell site are not required as the tower height will not exceed 200 feet.

Alpha Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the Louisa 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. The Commission received protest letters from Margaret DeChant on February 10, 1993, from George D. Lewis on

February 16, 1993, and from Dawn Wolfe on March 1, 1993. Alpha Cellular was ordered by the Commission to respond to these letters.

On March 5, 1993, Ms. DeChant requested formal intervention in the case and for the Commission to schedule a formal hearing for her to present evidence supporting her claim that this tower location was inappropriate. A hearing was scheduled for April 21, 1993. Prior to the hearing, a compromise was reached between both parties, and the hearing was canceled. To date, no further 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 Louisa cell site in RSA No. 9 under its previously approved tariff.

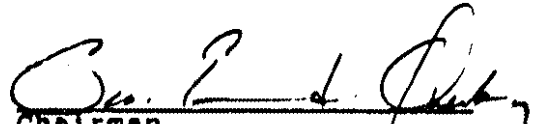
IT IS THEREFORE ORDERED that:

1. Alpha Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site consisting of a 200-foot or less self-supporting antenna tower to be located off U.S. Route 23 South, approximately six miles south of the city limits of Louisa, Lawrence County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 03' 06" by West Longitude 82° 38' 06".

2. 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 7th day of June, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director