

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LEXINGTON MSA LIMITED)
PARTNERSHIP FOR ISSUANCE OF A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO)
CONSTRUCT AN ADDITIONAL CELL SITE IN) CASE NO. 93-158
BOYLE COUNTY, KENTUCKY FOR THE PROVISION)
OF DOMESTIC PUBLIC CELLULAR RADIO)
TELECOMMUNICATIONS SERVICE TO THE PUBLIC)
IN THE B2 PORTION OF RURAL SERVICE AREA)
NO. 6)

O R D E R

On November 5, 1993, Hershel McKinley ("Intervenor") filed a letter setting forth numerous issues in support of a request for reconsideration of the Commission's October 27, 1993 Order granting Lexington MSA Limited Partnership ("Lexington MSA") a Certificate of Public Convenience and Necessity to construct a cellular telecommunications tower at 211 Forest Avenue, Danville, Kentucky.

The first issue is that the October 27, 1993 Order erroneously described the tower site as abutting a railroad switching yard on the north side when that yard is actually on the west/southwest side. Other issues include claims that the evidence of record indicates possible socioeconomic discrimination based on Lexington MSA's site selection process; Lexington MSA did not prove that the tower is needed in the selected site; and that the hearing officer erred by sustaining an objection to the Intervenor's introduction of a letter from a surrounding property owner. Concerns were also raised regarding lightning hazards created by the tower.

Based on the request for rehearing and being otherwise sufficiently advised, the Commission finds that the request should be denied. While the railroad yard does lie to the west/southwest of the site, not the north, this point is of no consequence. Our erroneous description in the October 27, 1993 Order is the result of inadvertently rotating by 90 degrees the site map attached as Exhibit G to the application. The Commission was well aware of all physical properties surrounding the site and the Intervenor presents no challenge to the accuracy of any of the maps.

There is no merit in the challenge to Lexington MSA's site selection process. The October 27, 1993 Order contained extensive findings on the reasonableness of that process and the consideration of alternative sites. The request for rehearing fails to allege any evidence that was not previously fully considered.

The Commission further finds that the challenge to the hearing officer's ruling should be rejected. The Intervenor was attempting to introduce as evidence a letter written by another property owner who was not available at the hearing for cross-examination. This is dissimilar to Lexington MSA's introduction of a video tape of the site area. First, there was no objection to the video; and second, an individual who was present at the site when the video was made testified at the hearing. Finally, the potential for damage due to lightning strikes was also fully considered and addressed in the October 27, 1993 Order and no new evidence has been alleged.

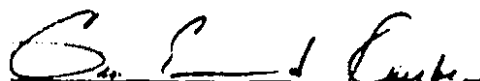
IT IS THEREFORE ORDERED that:

1. The Intervenor's request for reconsideration be and it hereby is denied.

2. The October 27, 1993 Order be and it hereby is modified by substituting "west/southwest" for "north" in the next to the last line on page 4 and affirmed in all other respects.

Done at Frankfort, Kentucky, this 23rd day of November, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director