

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF APPALACHIAN CELLULAR)	
GENERAL PARTNERSHIP FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO. 93-217
CONSTRUCT AND OPERATE CELLULAR TELEPHONE)	
FACILITIES TO SERVE RSA #9 IN KENTUCKY)	

O R D E R

On August 31, 1993, Appalachian Cellular Telephone General Partnership ("Appalachian Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build two and operate three cellular radio telecommunications sites for Rural Service Area No. 9 ("RSA No. 9"). RSA No. 9 includes Elliott, Floyd, Johnson, Lawrence, Magoffin, Martin, Morgan and Pike counties. Appalachian Cellular has requested authorization to construct two cell sites in Pike County and to locate cellular radio equipment on an existing tower in Martin County. Appalachian Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 9 in Case No. 91-073.¹

The first proposed cell site consists of a 250-foot or less self-supporting antenna tower to be located approximately 2000 feet west of U.S. 119 near the Canada Post Office on Brunty Fork of Big Creek, Pike County, Kentucky ("the Canada cell site"). The

¹ Case No. 91-073, The Application of Appalachian Cellular General Partnership for a Certificate of Public Convenience and Necessity to Construct and Operate Cellular Telephone Facilities to Serve RSA #9 in Kentucky.

coordinates for the Canada cell site are North Latitude 37° 37' 20.37" by West Longitude 82° 18' 57.51".

The second proposed cell site consists of a 180-foot or less self-supporting antenna tower to be located approximately 1 1/2 miles east of U.S. 119 near Dorton, Pike County, Kentucky ("the Flatwoods cell site"). The coordinates for the Flatwoods cell site are North Latitude 37° 17' 15" by West Longitude 82° 30' 03".

The final cell site is located in Inez, Martin County, Kentucky. Appalachian Cellular plans to attach cellular radio equipment on an existing tower, for which a Certificate of Public Convenience and Necessity is not required.

Appalachian Cellular has provided information regarding the structure of the towers, safety measures, and antenna design criteria for the Canada and Flatwoods cell sites. Based upon the application, the designs of the towers and foundations 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 Canada and Flatwoods cell site constructions are exempt from local zoning ordinances. For the Canada site, Appalachian Cellular has filed an application with and received approval from the Federal Aviation Administration ("FAA"), while an application with the Kentucky Airport Zoning Commission ("KAZC") is still pending. Approvals from the FAA and KAZC are not required for the Flatwoods cell site, as the height of the tower does not exceed 200 feet.

Alpha Cellular has filed notices verifying that each property owner or resident within 500 feet of the Canada and Flatwoods cell sites has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. On August 23, 1993, the Commission received an inquiry letter from Darren K. Porter concerning the Canada cell site. On August 27, 1993, Appalachian Cellular was ordered by the Commission to respond to Mr. Porter. The Commission concurrently notified Mr. Porter of his right to intervene. To date, no intervention requests have been received for either cell site.

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, Appalachian Cellular should notify the Commission if it does not use these antenna towers to provide cellular radio telecommunications service 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 the removal of the unused antenna tower, which should be observed by Appalachian Cellular.

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

Necessity to construct and operate the proposed cell sites in RSA No. 9 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Appalachian Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the proposed Canada cell site consisting of a 250-foot or less self-supporting antenna tower to be located approximately 2000 feet west of U.S. 119 near the Canada Post Office on Brunty Fork of Big Creek, Pike County, Kentucky. The coordinates for the proposed cell site are North Latitude 37° 37' 20.37" by West Longitude 82° 18' 57.51".

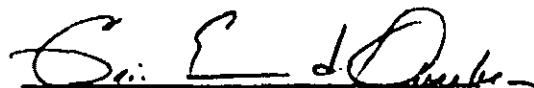
2. Appalachian Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the proposed Flatwoods cell site consisting of a 180-foot or less self-supporting antenna tower to be located 1 1/2 miles east of U.S. 119 near Dorton, Pike County, Kentucky. The coordinates for the Flatwoods cell site are North Latitude 37° 17' 15" by West Longitude 82° 30" 03".

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

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

Done at Frankfort, Kentucky, this 4th day of November, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director