

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CUMBERLAND CELLULAR)
PARTNERSHIP FOR ISSUANCE OF A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO) CASE NO.
CONSTRUCT A CELL SITE (COLUMBIA) IN RURAL) 94-005
SERVICE AREA #5 (ADAIR) OF THE COMMONWEALTH)
OF KENTUCKY)

O R D E R

On January 3, 1994, Cumberland Cellular Partnership ("Cumberland Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 5 ("RSA No. 5"). RSA No. 5 includes Adair, Barren, Clinton, Cumberland, Hart, McCreary, Metcalf, Monroe, Russell and Wayne counties. Cumberland Cellular has requested authorization to construct a cell site in Adair County.

The proposed cell site consists of a 400-foot or less guyed antenna tower to be located at 556 C. Long Road, Adair County, Columbia, Kentucky ("the Columbia cell site"). The coordinates for the Columbia cell site are North Latitude 37° 07' 32" by West Longitude 85° 18' 48".

Cumberland Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Columbia cell site. Based upon the application, the design of the tower and foundation 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 Columbia cell site's construction is exempt from local zoning ordinances. Cumberland Cellular has filed an application with, and received an approval from, the Federal Aviation Administration for the construction and operation of the Columbia cell site. An application has been filed with the Kentucky Airport Zoning Commission ("KAZC"), which is still pending.

Public notice informing property owners of their right to intervene in the Columbia cell site case is not required, as the lessor is the sole owner of property located within 500 feet of the tower. 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, Cumberland 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 Cumberland Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cumberland Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Columbia cell site in RSA No. 5 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Cumberland Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Columbia cell site.

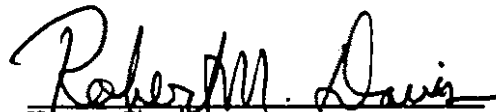
2. Cumberland Cellular shall file a copy of the final decision regarding its pending KAZC application for this cell site construction within 10 days of receiving this decision.

3. Cumberland 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 4th day of March, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director