

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY CGSA, INC. FOR )  
ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY TO CONSTRUCT AN ADDITIONAL CELL ) CASE NO.  
SITE IN FLEMING COUNTY, KENTUCKY FOR THE ) 94-064  
PROVISION OF DOMESTIC PUBLIC CELLULAR RADIO )  
TELECOMMUNICATIONS SERVICE TO THE PUBLIC IN )  
KENTUCKY RURAL SERVICE NO. 8 - MASON (B-1) )

O R D E R

On February 16, 1994, Kentucky CGSA, Inc. ("Kentucky CGSA") 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. 8 ("RSA No. 8"). RSA No. 8 includes Bath, Bracken, Fleming, Lewis, Mason, Menifee, Montgomery, Nicholas, Robertson and Rowan counties. Horizon Cellular has requested authorization to construct a cell site in Fleming County. Kentucky CGSA was previously granted authority to operate a cellular radio telecommunications system in RSA No. 8 in Case No. 92-038.<sup>1</sup>

The proposed cell site consists of a 400-foot or less guyed antenna tower to be located approximately 1.5 miles East Southeast of the intersection of State Routes 559 and 170, Fleming County,

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<sup>1</sup> Case No. 92-038, Application of Kentucky CGSA, Inc., a Georgia Corporation, for a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications to the Public a Portion of Kentucky Rural Service Area No. 8 Which Includes Bracken, Mason, Robertson, Lewis, Fleming, Nicholas, Bath, Rowan, Montgomery and Menifee Counties in Kentucky.

Flemingsburg, Kentucky ("the Flemingsburg cell site"). The coordinates for the Flemingsburg cell site are North Latitude 38° 26' 24" by West Longitude 83° 47' 03".

Kentucky CGSA has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Flemingsburg 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 Flemingsburg cell site's construction is exempt from local zoning ordinances. Kentucky CGSA has filed applications with the Federal Aviation Administration ("FAA"), and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Flemingsburg cell site. These applications are still pending.

The only property owner within 500 feet of the Flemingsburg cell site is the owner from whom Kentucky CGSA leases the property. Therefore, Kentucky CGSA is not required to file notices verifying that each property owner or resident within 500 feet of the cell site has been notified of the pending construction. 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, Kentucky CGSA 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 Kentucky CGSA.

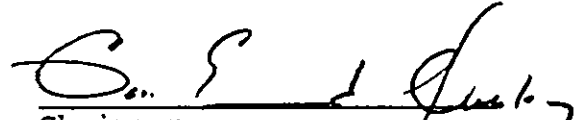
The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky CGSA should be granted a Certificate of Public Convenience and Necessity to construct and operate the Flemingsburg cell site in RSA No. 8 under its previously approved tariff.


IT IS THEREFORE ORDERED that:

1. Kentucky CGSA be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Flemingsburg cell site.
2. Kentucky CGSA shall file a copy of the final decisions regarding its pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.
3. Kentucky CGSA 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 8th day of April, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director