

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY RSA NO. 1)
PARTNERSHIP FOR ISSUANCE OF A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO) CASE NO.
CONSTRUCT AN ADDITIONAL CELL FACILITY IN) 94-089
KENTUCKY RURAL AREA NO. 1 (WICKLIFFE CELL)
FACILITY))

O R D E R

On March 3, 1994, Kentucky RSA No. 1 Partnership 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. 1 ("RSA No. 1"). RSA No. 1 includes Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall and McCracken counties. RSA No. 1 Partnership has requested authorization to construct a cell site in Carlisle County. RSA No. 1 Partnership was previously granted authority to operate a cellular radio telecommunications system in RSA No. 1 in Case No. 92-040.¹

The proposed cell site consists of a 385-foot or less guyed antenna tower to be located at Route 1, Box 58, Bardwell, Carlisle County, Wickliffe, Kentucky ("the Wickliffe cell site"). The coordinates for the Wickliffe cell site are North Latitude 36° 54' 34" by West Longitude 89° 04' 02".

¹ Case No. 92-040, Application of Kentucky RSA No. 1 Partnership for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications in Kentucky Rural Service Area No. 1.

RSA No. 1 Partnership has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Wickliffe 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 Wickliffe cell site's construction is exempt from local zoning ordinances. RSA No. 1 Partnership 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 Wickliffe cell site. These applications are still pending.

Kentucky RSA No. 1 Partnership has filed notices verifying that each property owner within 500 feet of the Wickliffe cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. On March 21, 1994, the Commission received a letter of protest from Mary and Edward Todd. The Todds informed the Commission that they were concerned that the tower was not going to be built on their property. On March 25, 1994, the Todds were informed that the Commission could not select the location where Kentucky RSA No. 1 Partnership must locate its 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, RSA No. 1 Partnership 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 RSA No. 1 Partnership.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that RSA No. 1 Partnership should be granted a Certificate of Public Convenience and Necessity to construct and operate the Wickliffe cell site in RSA No. 1 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

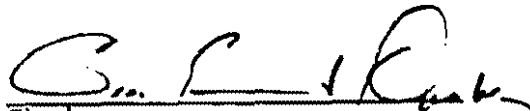
1. RSA No. 1 Partnership be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Wickliffe cell site.

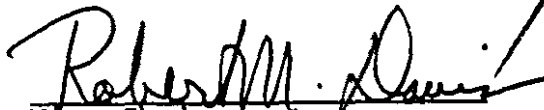
2. RSA No. 1 Partnership shall file a copy of the final decisions regarding its pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

3. RSA No. 1 Partnership 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 28th day of April, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director