

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #2, INC. FOR)
A CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A CELL SITE OFF) CASE NO. 94-164
RICKETTS ROAD SOUTHWEST OF MORGANFIELD IN)
UNION COUNTY, KENTUCKY)

O R D E R

On May 13, 1994, the Commission received a letter from James D. Shreve, Sr., regarding the proposed tower construction in the Burgess subdivision by Kentucky RSA #2, Inc. Mr. Shreve has been granted intervention in this proceeding by Order dated May 13, 1994.

Mr. Shreve's objection to the tower construction relates to covenant restrictions on his land use which he contends will be enforced through the Union County Court System if necessary. The restrictions can be found in Deed Book 264, at page 659 in the Union County Courthouse, according to Mr. Shreve. His interest is in protecting covenant restrictions.

The protection of covenant restrictions is not within the scope of the Commission's jurisdiction. Property rights are issues which may properly be raised in the Kentucky Court of Justice, not in this agency.

Having considered the letter and being otherwise sufficiently advised, IT IS THEREFORE ORDERED that:

1. Mr. Shreve's interest in enforcing covenant restrictions on his property and the property on which the tower is to be constructed is not within the scope of this Commission's jurisdiction.

2. Mr. Shreve, as an intervenor, has 20 days from the date of this Order to file a request for a public hearing. The request shall list issues to be addressed at the public hearing, but shall not include matters pertaining to the covenant restrictions on the land use.

Done at Frankfort, Kentucky, this 1st day of July, 1994.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director