

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF APPALACHIAN CELLULAR )	
GENERAL PARTNERSHIP FOR A CERTIFICATE )	CASE NO.
OF PUBLIC CONVENIENCE AND NECESSITY TO )	94-342
CONSTRUCT AND OPERATE A CELLULAR CELL )	
SITE AT ADELE, MORGAN COUNTY, KENTUCKY )	

O R D E R

On October 31, 1994, Appalachian Cellular General Partnership ("Appalachian Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower to serve 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 a cell site near Adele, in Morgan County, Kentucky. Appalachian Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 9 in Case No. 91-073.<sup>1</sup>

The proposed cell site consists of a 180-foot or less self-supporting antenna tower to be located approximately 1/2 mile west of exit 60 on the Mountain Parkway at State Road Fork, Morgan County, Kentucky ("the Adele cell site"). The coordinates for the

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<sup>1</sup> 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.

Adele cell site are North Latitude 37° 44' 35.3" by West Longitude 83° 17' 16.6".

Appalachian Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Adele 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 Adele cell site's construction is exempt from local zoning ordinances. Concurrently, approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission are not required for a tower which is less than 200 feet in height.

Appalachian Cellular has filed notices verifying that each person who owns property or resides within 500 feet of the Adele cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. 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, Appalachian Cellular should notify the

Commission if it does not use this antenna tower 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 site in RSA No. 9 under its previously approved tariff.

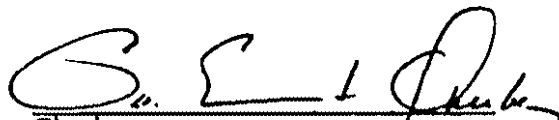
IT IS THEREFORE ORDERED that:


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

2. Appalachian 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 20th day of December, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:



Executive Director