

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LITCHFIELD COUNTY CELLULAR, INC.)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC) CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT ADDITIONAL) 94-422
CELL FACILITIES IN KENTUCKY RURAL SERVICE AREA)
NO. 11 (SOUTH CORBIN CELL SITE))

O R D E R

On November 7, 1994, Litchfield County Cellular, Inc. ("Litchfield County Cellular") submitted an application seeking a Certificate of Public Convenience and Necessity to build a cellular radio telecommunications tower. The application was deficient, and Litchfield County Cellular was ordered to file additional information. On February 2, 1995, the Commission received the supplementary information, and the application to construct a tower in Rural Service Area Number 11 ("RSA No. 11") was filed. RSA No. 11 includes Bell, Clay, Harlan, Leslie, Knox, and Whitley counties. Litchfield County Cellular has requested authorization to construct a cell site in Whitley County. Litchfield County Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 11 in Case No. 94-006.¹

The proposed cell site consists of a 209-foot or less self-supporting antenna tower to be located approximately five miles

¹ Case No. 94-006, The Joint Application of Contel Cellular of Kentucky B, Inc. and Litchfield County Cellular, Inc. for Approval to Transfer and Acquire Control of the Cellular Telephone Utility in Kentucky Rural Service Area No. 11.

south of Corbin on a ridge crest approximately 1.42 miles south of the intersection of U. S. Highway 25W and Interstate 75 in Corbin, Whitley County, Kentucky ("the Corbin cell site"). The coordinates for the Corbin cell site are North Latitude 36° 53' 50.31" by West Longitude 84° 07' 52.76".

Litchfield County Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Corbin 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 Corbin cell site's construction is exempt from local zoning ordinances. Litchfield County Cellular 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 Corbin cell site. Litchfield County Cellular has received approval from the FAA, while the KAZC application is still pending.

Litchfield County Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Corbin 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. 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, Litchfield County 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 Litchfield County Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Litchfield County Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Corbin cell site in RSA No. 11 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

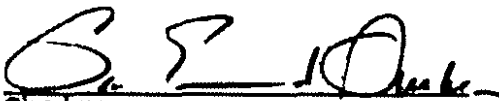
1. Litchfield County Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Corbin cell site.

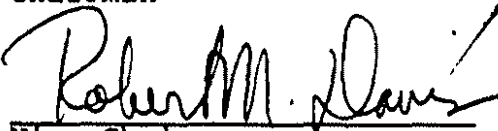
2. Litchfield County Cellular shall file a copy of the final decision regarding its pending KAZC application for this cell site construction within 10 days of receiving this decision.

3. Litchfield County 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 three months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 3rd day of March, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director