

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LEXINGTON MSA LIMITED)
PARTNERSHIP FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT AN ADDITIONAL)
CELL SITE IN MIDWAY, WOODFORD COUNTY,) CASE NO. 95-215
KENTUCKY FOR THE PROVISION OF DOMESTIC)
PUBLIC CELLULAR RADIO)
TELECOMMUNICATIONS SERVICE TO THE)
PUBLIC IN THE LEXINGTON MSA)

O R D E R

On May 11, 1995, Lexington MSA Limited Partnership filed its application for a certificate of public convenience and necessity to construct a cellular facility on Spring Station Pike, Midway, Woodford County, Kentucky. On June 29, 1995, Nuckols Farm Inc. filed a motion to intervene and requested a formal hearing. As support for its motion, Nuckols Farm Inc. states that it is located approximately 750 feet from the proposed site, that it received no notice of the application, and that it has not observed any notice posted in a visible location sufficient to provide notice to the public. In addition, Nuckols Farm Inc. states that the proposed construction will adversely affect the surrounding rural area and that it believes Lexington MSA Limited Partnership has failed adequately to investigate less objectionable alternatives to the proposed site.

On July 5, 1995, Lexington MSA Limited Partnership filed its response, requesting that the motion to intervene be denied or, in

the alternative, that an oral argument and hearing be set on Nuckols Farm Inc.'s motion to intervene. However, Lexington MSA Limited Partnership fails to demonstrate that Nuckols Farm Inc. lacks a special interest in this proceeding which is not otherwise represented. 807 KAR 5:001, §3(8). Nor does it appear that Lexington MSA Limited Partnership could so demonstrate at a hearing and oral argument on the motion to intervene.

The Commission finds that Nuckols Farm Inc. has a special interest which is not otherwise adequately represented and that the requested intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Nuckols Farm Inc. should be permitted a full opportunity to present its arguments and testimony to the Commission in formal hearing. However, the Commission is aware that Lexington MSA Limited Partnership requires a decision in this matter as expeditiously as possible. Accordingly, the motion of Nuckols Farm Inc. to intervene and to set a hearing should be granted, and that the hearing should therefore be set as soon as possible.

IT IS THEREFORE ORDERED that:

1. The motion of Nuckols Farm Inc. to intervene is granted.
2. The request of Lexington MSA Limited Partnership for an oral argument and hearing on Nuckols Farm Inc.'s motion to intervene is denied.
3. Nuckols Farm Inc. shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with

filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

4. Should Nuckols Farm Inc. file documents of any kind with the Commission in the course of these proceedings, it shall also serve a copy of said documents on all other parties of record.

5. A hearing on the proposed cell site is scheduled for August 31, 1995, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

6. Lexington MSA Limited Partnership shall appear at the hearing and shall be prepared to present testimony on the engineering design, location, and construction of the proposed cell site, the health and safety issues relating to the operation of the cell site, and all other issues raised by the intervenor.

7. The parties shall file, no later than 10 days from the date of this Order, lists of the issues to be addressed at the hearing.

8. The parties shall file, no later than 30 days from the date of this Order, any prefiled testimony, together with lists of their witnesses who will present testimony at the hearing and a brief statement of those matters to which each witness will testify.

9. Any interested person shall have the opportunity to present testimony or comment on any aspect of the proposed cell site.

