

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) CASE NO. 95-215
MIDWAY, WOODFORD COUNTY, 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 ("Lexington MSA") filed its application requesting authorization to construct a 280' self-supporting cellular tower on Spring Station Pike, Midway, Woodford County, Kentucky. On June 29, 1995, Nuckols Farm, Inc. filed a motion to intervene and requested a hearing.

By Order dated July 21, 1995, the Commission granted Nuckols Farm, Inc.'s motion to intervene, set a hearing for August 31, 1995, and specified dates for the filing of issues and witness lists. On August 2, 1995, Nuckols Farm, Inc. requested an extension of time to file its list of issues. The Commission granted the request by Order dated August 4, 1995. On August 28, 1995, Nuckols Farm, Inc. requested an extension of time to file its list of witnesses. This extension was also granted, even though the motion was filed over a week after the witness list was due.

Nuckols Farm, Inc. has now moved for continuance of the hearing itself via facsimile dated August 28, 1995. Nuckols Farm, Inc. states that it "has now determined that it will not be able to

complete preparations for a hearing scheduled for August 31, 1995" [Motion for One Week Continuance at 1]. Nuckols Farm, Inc. does not, however, apprise the Commission of any particular difficulty it has encountered in preparing its case. On August 29, 1995, Lexington MSA Partnership filed its Objection to Motion for Continuance ["Objection"], explaining that the proposed continuance would cause considerable inconvenience to it and to its witnesses, some of whom have made plane reservations to fly in from other states. In addition, Lexington MSA Partnership reiterates its need to expedite this matter, since it must construct a cellular facility in the area to serve its customers.

Nuckols Farm, Inc. also claims that "the public, generally" needs additional time to prepare [Motion for One Week Continuance at 2]. However, many of the residents who have expressed concern about the placement of the proposed facility have been informed that the hearing will take place August 31, 1995. None of them have stated that they are unable to participate on that date. Furthermore, rescheduling the hearing at this time is more likely to inconvenience the public than otherwise. In addition, although Nuckols Farm, Inc. has requested only a brief continuance, granting its motion would result in many weeks of delay due to scheduling conflicts of the Commissioners.

Nuckols Farm, Inc. has known since July 21, 1995 that the hearing date is August 31, 1995. It has had ample time to determine whether its case could be prepared in the time allotted and to notify the Commission of any problems. To grant an eleventh

hour motion to continue the hearing would be unfair to those whose preparations have been completed and to witnesses who have made arrangements to attend the hearing on the scheduled date. Furthermore, it would constitute a disservice to those members of the public who have been told that the hearing would take place at a specific time and who have planned accordingly.

The Commission, having considered the motion and the Objection, and being otherwise sufficiently advised, HEREBY ORDERS that Nuckols Farm, Inc.'s motion is denied and that the hearing in this matter will take place as scheduled.

Done at Frankfort, Kentucky, this 29th day of August, 1995.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:



Executive Director