

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HORIZON CELLULAR TELEPHONE	)	)
COMPANY OF CENTRAL KENTUCKY, L.P., A DELAWARE	)	)
LIMITED PARTNERSHIP, FOR ISSUANCE OF A CERTIFICATE	)	)
OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT	)	CASE NO.
AN ADDITIONAL CELL FACILITY IN THE KENTUCKY RURAL	)	95-164
SERVICE AREA NO. 5 WHICH INCLUDES ADAIR, BARREN,	)	)
CLINTON, CUMBERLAND, HART, MCCREARY, METCALFE,	)	)
MONROE, RUSSELL, AND WAYNE COUNTIES IN KENTUCKY	)	)
(THE TOMPKINSVILLE CELL FACILITY)	)	)

O R D E R

On November 1, 1995, Horizon Cellular Telephone Company of Central Kentucky, L.P. ("Horizon Cellular") was granted a Certificate of Public Convenience and Necessity ("CPCN") to construct and operate a 180-foot or less guyed antenna tower to be located off Kentucky Highway 163, Edmonton Road, Tompkinsville, Monroe County, Kentucky ("the Tompkinsville cell site").

On June 7, 1996, Horizon Cellular filed a motion to reopen this case and to modify the authority granted by the Commission on November 1, 1995. In support of its motion, Horizon Cellular stated that it had discovered that it was necessary for the Commission to modify Horizon Cellular's CPCN before the height of the Tompkinsville tower could be increased to 280 feet. On June 28, 1996, the Commission reopened this case.

In response to the Order reopening this case, Horizon Cellular states that the current height of the Tompkinsville tower is 280 feet. Horizon Cellular offers to pay a fine of \$500<sup>1</sup>

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<sup>1</sup> June 25, 1996 letter from W. Brent Rice, counsel for Horizon Cellular.

to settle any and all actions that could be brought by the Commission as a result of Horizon Cellular's violation of the Commission's November 1, 1995 Order.

Horizon Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the modified Tompkinsville cell site. Based upon the information, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer. Horizon Cellular has provided approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the modified Tompkinsville cell site.

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, Horizon 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 Horizon Cellular.

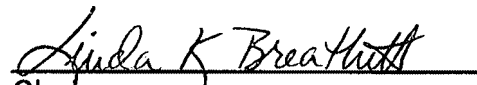
The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the settlement offered by Horizon Cellular is reasonable and should be accepted. The Commission further finds that Horizon Cellular's motion for modification should be granted.

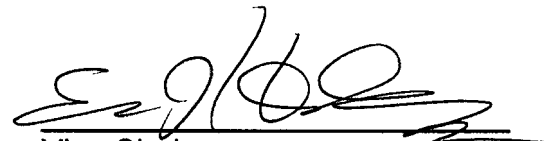
IT IS THEREFORE ORDERED that:

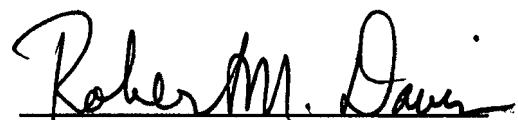
1. Horizon Cellular's settlement offer is hereby accepted.
2. Within 30 days from the date of this Order, Horizon Cellular shall pay \$500 in the form of a cashier's or certified check made payable to "Treasurer, Commonwealth of Kentucky." Said payment shall be mailed or delivered to: Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.
3. The Certificate of Public Convenience and Necessity granted to Horizon Cellular on November 1, 1995 is hereby modified to authorize the operation of the 280-foot tower at the Tompkinsville cell site.
4. Horizon Cellular shall immediately notify the Commission in writing, if the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 19th day of July, 1996.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director