

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) CASE NO. 96-184
CELL SITE IN LEXINGTON, 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 2, 1996, Lexington MSA Limited Partnership ("Lexington MSA Partnership") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in the Lexington Metropolitan Statistical Area ("the Lexington MSA"). The proposed cell site consists of a monopole antenna tower not to exceed 160 feet in height, with attached antennas, to be located at 243-235 Gold Rush Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 0' 5.28" by West Longitude 84° 31' 41.78".

Lexington MSA Partnership has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed cell site. Based upon the application, 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.

Pursuant to KRS 100.324(1), the proposed cell site's construction is exempt from local zoning ordinances. However, Lexington MSA Partnership has notified the Lexington-Fayette Urban County Planning Commission ("Planning Commission") of the proposed construction. Lexington MSA Partnership 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 proposed cell site. The KAZC application has been approved and the FAA decision is pending.

Lexington MSA Partnership has filed notices verifying that each person who owns property or resides within 500 feet of the proposed 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. In addition, Lexington MSA Partnership has posted notice of the proposed construction in a visible location for at least two weeks after filing its application. On May 16, 1996, the Commission granted intervention to William R. Miller, an owner of property located near the proposed site. On June 10, 1996, the Commission granted intervention to the Planning Commission. By Order dated July 30, 1996, the Commission scheduled a hearing on this matter, however; the Order instructed that if the Commission did not receive, within 10 days of the date of the Order, any statements expressing a party's intent to appear in opposition to the proposed cell site, the hearing would be canceled and the matter submitted to the Commission for a decision on the record. On August 8, 1996, the Planning Commission filed a letter stating that its concerns had been sufficiently addressed and that it did not intend to appear at the hearing. No further statements were filed and the Commission ordered the hearing canceled and the matter submitted based on the existing evidence of record.

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, Lexington MSA Partnership 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 Lexington MSA Partnership.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Lexington MSA Partnership should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the Lexington MSA under its currently approved tariff.

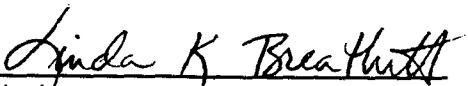
IT IS THEREFORE ORDERED that:

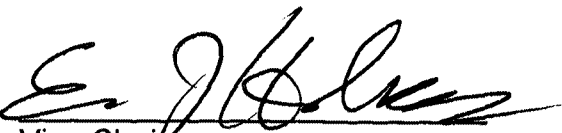
1. Lexington MSA Partnership is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole antenna tower not to exceed 160 feet in height, with attached antennas, to be located at 243-235 Gold Rush Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 0' 5.28" by West Longitude 84° 31' 41.78".
2. Lexington MSA Partnership shall file a copy of the final decision regarding its pending FAA application for the proposed construction within 10 days of receiving the decision.

3. Lexington MSA Partnership 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 3rd day of September, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director