

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WIRELESSCO, L.P. THROUGH ITS AGENT)
AND GENERAL PARTNER, SPRINT SPECTRUM, L.P. FOR)
ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO CONSTRUCT A PERSONAL) CASE NO.
COMMUNICATION SERVICES FACILITY IN THE LOUISVILLE) 96-227
MAJOR TRADING AREA [COVERED BRIDGE PCS FACILITY)
LV03XC0076])

O R D E R

On June 13, 1996, Sprint Spectrum, L.P. on behalf of WirelessCo, L.P. filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a personal communications system ("PCS") facility in the Louisville Major Trading Area, which encompasses the entire Commonwealth of Kentucky. On August 9, 1996, WirelessCo, L.P., through its agent and general partner Sprint Spectrum, L.P., amended the application, stating that the jurisdictional utility and applicant in this matter is WirelessCo, L.P. WirelessCo, L.P. has requested authorization to construct a PCS site in Oldham County. WirelessCo, L.P. was previously granted the authority to operate in Case No. 96-077.¹

The proposed PCS site consists of a 250-foot or less self-supporting antenna tower to be located at 11208 Covered Bridge Road, Prospect, Oldham County, Kentucky ("the

¹ Case No. 96-077, The Application of WirelessCo, L.P., d/b/a Sprint Telecommunications Venture for Operating Authority and Issuance of Certificate of Public Convenience and Necessity to Construct Commercial Mobile Radio Service Transmission Facilities in Kentucky.

Covered Bridge PCS site"). The coordinates for the Covered Bridge PCS site are North Latitude 38° 21' 23.2" by West Longitude 85° 33' 28.9".

WirelessCo, L.P. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Covered Bridge PCS 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 Covered Bridge PCS site's construction is exempt from local zoning ordinances; however, WirelessCo, L.P. notified the Oldham County Planning and Zoning Commission of the pending construction. WirelessCo, L.P. has filed applications with and received approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the construction and operation of the Covered Bridge PCS site.

WirelessCo, L.P. has verified that each person who owns property or who resides within 500 feet of the Covered Bridge PCS 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, notice was posted in a visible location on the proposed site for at least two weeks after WirelessCo, L.P.'s application was filed.

On July 2, 1996, intervenor status was granted to Charles R. Huff, Cathy T. Reagan, and Dr. Greg S. Steinbock. On July 17, 1996, intervenor status was granted to Kent A. Kalmey. On August 13, 1996, the Commission scheduled a hearing for September 19, 1996 to determine whether the public convenience and necessity require the construction of the Covered Bridge PCS site.

WirelessCo, L.P. states that, in an effort to build as few towers as possible and minimize the effect of the structures in its service area, it has aggressively pursued collocations. At the hearing, it claimed that 72 percent of its sites in Kentucky are collocations.² WirelessCo has five collocations in Oldham County.³ The record is commendable, and accords with Commission policy. Aggressive collocation policies do, however, result in situations like the one here, where a tower must be built in a specific area to fill gaps in coverage left by a system design based upon collocated sites.

At the hearing, the intervenors contended that construction of the tower at a different site would be more suitable. However, there is no evidence before the Commission that an available alternative site more suitable for utility construction exists. The site proposed is located on the back side of a bluff, in a thicket of mature trees, approximately 3/4 of a mile from Covered Bridge Road. The intervenors also argue that the PCS antennas could be placed on a nearby tower, obviating the need for new construction. However, WirelessCo, L.P. has presented evidence showing that, even if the present structure of the tower in question were sufficient to support additional facilities,⁴ WirelessCo, L.P.'s collocation on that tower would result in a loss of coverage needed to provide adequate

² WirelessCo, L.P., opening statement, at 15.

³ Testimony of Steve Kennedy, Radio Frequency Design Manager, Tr. 28.

⁴ WirelessCo, L.P. states it would have to rebuild the existing tower "and go taller" to collocate on it. WirelessCo, L.P. also states that the existing tower is "only about 1,200 feet off of Covered Bridge Road" and would be even more visible if it were taller. Testimony of Steve Kennedy, Tr. 18-19.

service to the area. Such loss of coverage would result in the need to construct in the vicinity an additional 150 to 180 foot tower with a repeater system to provide service.⁵

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, WirelessCo, L.P. should notify the Commission if it does not use this antenna tower to provide PCS 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 WirelessCo, L.P.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that WirelessCo, L.P. should be granted a Certificate of Public Convenience and Necessity to construct and operate the Covered Bridge PCS site under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. WirelessCo, L.P. is granted a Certificate of Public Convenience and Necessity to construct and operate the Covered Bridge PCS site.
2. WirelessCo, L.P. 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.

⁵ Affidavit of Steve Kennedy, Radio Frequency Design Manager, filed September 30, 1996.

Done at Frankfort, Kentucky, this 5th day of December, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

E. J. Hester
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director