

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF AT&T WIRELESS PCS,)
INC., BY AND THROUGH ITS AGENT, WIRELESS)
PCS, INC., FOR THE ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND) CASE NO. 96-284
NECESSITY TO PROVIDE INTRASTATE)
SERVICES TO CONSUMERS LOCATED WITHIN)
KENTUCKY)

ORDER

On June 18, 1996, AT&T Wireless PCS, Inc., ("AT&T Wireless") by and through its agent, Wireless PCS, Inc., filed an application for a Certificate of Public Convenience and Necessity ("CPCN") to provide Personal Communications Services ("PCS") within Kentucky. AT&T Wireless is a Delaware corporation wholly owned by AT&T Corporation ("AT&T"). AT&T Wireless' headquarters are located in Kirkland, Washington. Wireless PCS, Inc. is a wholly owned subsidiary of AT&T Wireless Services, Inc., which in turn is a wholly owned subsidiary of AT&T, and is the management company retained by AT&T Wireless. According to the application, Wireless PCS, Inc., is the agent of AT&T Wireless. Consequently, Wireless PCS, Inc. is represented as having the authority to bind its principal, AT&T Wireless, to representations made on behalf of AT&T Wireless before this Commission.

AT&T Wireless is a Federal Communications Commission PCS licensee and holds the rights to provide PCS service in various markets throughout the nation. AT&T Wireless

has selected the Greater Cincinnati/Northern Kentucky market to be one of the first areas in which to construct and develop a PCS network. AT&T Wireless will construct and develop PCS networks throughout the majority of Kentucky at a later date. AT&T Wireless' services will compete with existing cellular companies and other PCS licensees in Kentucky. As AT&T Wireless identifies sites for PCS facilities in Kentucky, it will file with the Commission separate applications for CPCNs to construct its facilities.

A complete filing for all new antenna towers should be submitted to the Commission. However, for antennae placed upon existing structures, AT&T Wireless should request an opinion from the Commission as to the necessity for a CPCN, prior to their placement.

AT&T Wireless will be regulated in the same manner as cellular companies operating in Kentucky. The regulatory requirements pertaining to construction of facilities are contained in Appendix A, attached hereto and incorporated herein.

The information provided by AT&T Wireless demonstrates its financial, managerial, and technical capability to provide PCS within Kentucky. AT&T Wireless should provide a service tariff with the Commission prior to service commencement.

The Commission, having considered the application, the information provided by AT&T Wireless, and being otherwise sufficiently advised, HEREBY ORDERS that:

1. AT&T Wireless is granted authority to operate a PCS network within the Commonwealth of Kentucky on and after the date of this Order.
2. AT&T Wireless shall file an application with the Commission for the construction of all towers within Kentucky.

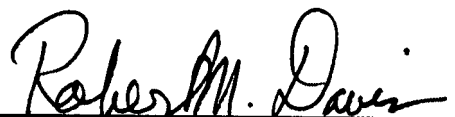
3. At least 60 days prior to commencement of service, AT&T Wireless shall file its service tariff sheets in accordance with Administrative Case No. 344.¹

Done at Frankfort, Kentucky, this 28th day of August, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

¹ Administrative Case No. 344, Inquiry Into the Provision and Regulation of Cellular Mobile Telephone Service in Kentucky.

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 96-284 DATED AUGUST 28, 1996



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

May 2, 1995

RECEIVED

MAY 03 1995

GENERAL COUNSEL

Lou Ann McElvain
President, Secretary & Treasurer
Litchfield County Cellular, Inc.
1715 W. Schwartz Boulevard
Lady Lake, Florida 32159-6125

Dear Ms. McElvain:

Enclosed please find a comprehensive list of documents and information to be filed with an application for public convenience and necessity to construct a cellular communications facility. Also enclosed are two sample letters of notification: Exhibit 1 should be sent to persons who own property or reside within 500 feet of the proposed construction; Exhibit 2 should be sent to the local planning and zoning commission.

Please review the enclosed list and sample letters at your earliest convenience. If you have questions, please call.

Sincerely,

A handwritten signature in cursive script that reads "Don Mills".

Don Mills
Executive Director

DM:lb
Enclosure

Applications for Certificate of
Public Convenience and Necessity to Construct
Cellular Telecommunication Towers

Required filing: Per 807 KAR 5:001

Section 8, Items (1) - (3); Section 9, Items 2(a) - 2(g).
(Copies of applicable regulations are attached)

Additional information necessary for a CPCN to be processed:

1. Copies of Federal Communications Commission, Kentucky Airport Zoning Commission, and Federal Aviation Administration applications and approvals. If the approvals have not yet been granted, any Final Order granting the CPCN will require their submittal as soon as they are granted.

2. Copies of a geotechnical investigation report that includes boring logs, any foundation design recommendations, and specific information describing the tower site's proximity to flood hazard areas.

3. Copies of the tower and foundation design information and:

a. Identity of personnel directly responsible for the design and construction of the proposed tower and their qualifications.

b. Any information that supports the structural integrity and safety of the proposed tower (e.g., the steps taken to ensure the structure could survive a natural disaster such as a tornado or earthquake, and any information available that reports the survivability of similar structures during past natural disasters).

c. A site development plan or survey (the plan or survey should accurately indicate the location of the tower site on the property and show all easements and existing structures).

d. A vertical profile sketch of the tower, clearly indicating the tower's height and the placement of all antennas.

e. The tower and foundation design plans as well as a description of the standard by which the tower was designed.¹

4. A vicinity map that accurately identifies every structure and every owner of real estate with 500 feet of the proposed tower site. The scale of this map should be no less than 1 inch equals 200 feet.

¹ Documents 3c, 3d, and 3e must be signed and sealed by a Professional Engineer registered in Kentucky.

5. A statement that every person who owns property or resides within 500 feet of the proposed tower has been notified of the proposed construction and informed of his right to intervene. Include a list of the property owners and residents notified as well as a copy of the correspondence. (Sample notification is attached as Exhibit 1.)

6. A statement that the local planning unit has been notified of the proposed construction and informed that it has the same period of time during which the Commission must be notified of any protest or intervention request as set forth in Exhibit 1. If the county has no planning unit, notify the County Judge/Executive. Include a copy of the correspondence. (Sample notification is attached as Exhibit 2.)

7. Clear directions to the site.

8. A copy of the sale or lease agreement for the proposed tower site property.

9. A statement that an appropriate notice, at least 12" x 18", has been posted in a visible location on the proposed site and shall remain so posted for at least two weeks following the date of application. The notice must state as follows:

 (Name of Utility) proposes to construct a cellular communications (tower/monopole) on this site. If you have any questions, please contact:

Utility
Name & Address

or

Executive Director
The Public Service Commission
730 Schenkel Lane
P. O. Box 615
Frankfort, Kentucky 40602

Reference Case No. .

The word "tower" or "monopole" shall be printed in letters at least 3" high.

EXHIBIT 1

(date)

(addressee)

Re: Public Notice - Public Service Commission of Kentucky,
Case No. _____

Dear _____:

_____ [co. name] _____ has applied to the Public Service Commission of Kentucky for a Certificate of Public Convenience and Necessity to construct and operate a new facility to provide cellular radio telecommunication service. The facility will include a ____ foot _____ [tower/monopole] _____, with attached antennas extending upwards for a total height of ____ feet, and an equipment shelter to be located at _____, _____, _____ County, Kentucky. A map showing the location of the proposed new facility is enclosed. This notice is being sent to you because you own property or reside within a 500' radius of the proposed _____ [tower/monopole] _____.

The Commission invites your comments regarding the proposed construction. You also have the right to intervene in this matter. Your initial communication to the Commission must be received by the Commission within 20 days of the date of this letter as shown above.

Your comments and request for intervention should be addressed to: Executive Director's Office, Public Service Commission of Kentucky, Post Office Box 615, Frankfort, Kentucky 40602. Please refer to Case No. _____ in your correspondence.

Sincerely,

EXHIBIT 2

(date)

(Local Planning & Zoning Commission)

Re: Public Notice - Public Service Commission of Kentucky,
Case No. _____

Dear _____:

_____ [co. name] _____ has applied to the Public Service Commission of Kentucky for a Certificate of Public Convenience and Necessity to construct and operate a new facility to provide cellular radio telecommunication service. The facility will include a _____ foot _____ [tower/monopole] _____, with attached antennas extending upwards for a total height of _____ feet, and an equipment shelter to be located at _____, _____, _____ County, Kentucky. A map showing the location of the proposed new facility is enclosed. This notice is being sent pursuant to KRS 100.324.

The Commission invites your comments regarding the proposed construction. You also have the right to intervene in this matter. Your initial communication to the Commission must be received by the Commission within 20 days of the date of this letter as shown above.

Your comments and request for intervention should be addressed to: Executive Director's Office, Public Service Commission of Kentucky, Post Office Box 615, Frankfort, Kentucky 40602. Please refer to Case No. _____ in your correspondence.

Sincerely,

considered to be publicly available and shall not be placed in the public record.

(c) The material shall not be placed in the public record for twenty (20) days following any order finding that the material no longer qualifies for confidential treatment to allow the petitioner to seek any remedy afforded by law.

Section 8. Applications. (1) Contents of application. All applications must be by petition in writing. The petition must set forth the full name and post office address of the applicant, and must contain fully the facts on which the application is based, with a request for the order, authorization, permission or certificate desired and a reference to the particular provision of law requiring or providing for same.

(2) Number of copies. At the time the original application is filed, ten (10) additional copies must also be filed, and where parties interested in the subject matter of the application are named therein, there shall be filed an additional copy for each named party and such other additional copies as may be required by the secretary.

(3) Articles of incorporation. If the applicant is a corporation, a certified copy of its articles of incorporation, and all amendments thereto, if any, shall be annexed to the application. If applicant's articles of incorporation and amendments thereto, if any, have already been filed with the commission in some prior proceeding, it will be sufficient if this fact is stated

in the application and reference is made to the style and case number of the prior proceeding.

Section 9. Applications for Certificates of Public Convenience and Necessity. (1) Application to bid on a franchise pursuant to KRS 278.020(3). Upon application to the commission by the utility for a certificate of convenience and necessity authorizing applicant to bid on a franchise, license or permit offered by any governmental agency, the applicant shall submit with its application, the following:

(a) A copy of its articles of incorporation (see Section 8(3) of this regulation).

(b) The name of the governmental agency offering the franchise.

(c) The type of franchise offered.

(d) A statement showing the need and demand for service. Should the applicant be successful in acquiring said franchise, license or permit, it shall file a copy thereof with the commission.

(2) New construction or extension. When application is made by the utility, person, firm, or corporation for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property or facility, the applicant, in addition to complying with Section 8 of this regulation, shall submit the following data, either in the application or as exhibits attached thereto:

(a) The facts relied upon to show that the proposed new construction is or will be required by public convenience or necessity.

(b) Copies of franchises or permits, if any, from the proper public authority for the proposed new construction or extension, if not previously filed with the commission.

(c) A full description of the proposed location, route, or routes of the new construction or extension, including a description of the manner in which same will be constructed, and also the names of all public utilities, corporations, or persons with whom the proposed new construction or extension is likely to compete.

(d) Three (3) maps to suitable scale (preferably not more than two (2) miles per inch) showing the location or route of the proposed new construction or extension, as well as the location to scale of any like facilities owned by others located anywhere within the map area with adequate identification as to the ownership of such other facilities.

(e) The manner in detail in which it is proposed to finance the new construction or extension.

(f) An estimated cost of operation after the proposed facilities are completed.

(g) All other information necessary to afford the commission a complete understanding of the situation.

(3) Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required

for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

(4) Renewal applications. Insofar as procedure is concerned, applications for a renewal of a certificate of convenience and necessity will be treated as an original application.

Section 10. Applications for General Adjustments in Existing Rates. (1) All applications requesting a general adjustment in existing rates shall be supported by:

(a) A twelve (12) month historical test period which may include adjustments for known and measurable changes; or

(b) A fully forecasted test period and shall include:

1. A statement of the reason the adjustment is required;

2. A statement that the utility's annual reports, including the annual report for the most recent calendar year, are on file with the commission in accordance with 807 KAR 5:006, Section 3(1);

3. If the utility is incorporated, a certified copy of the utility's articles of incorporation and all amendments thereto or out of state documents of similar import. If the utility's articles of incorporation and amendments have already been filed with the commission in a prior proceeding, the application may