

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) 96-311
MAJOR TRADING AREA [RIVERPORT PCS FACILITY)
LV03XC053B6])

O R D E R

On July 10, 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 ("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 Jefferson County. WirelessCo, L.P. was previously granted the authority to operate in Case No. 96-077.¹

The proposed PCS site consists of a 150-foot monopole antenna tower to be located at 7331 Intermodal Drive, Jefferson County, Kentucky ("the Riverport PCS site"). 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.

coordinates for the Riverport PCS site are North Latitude 38° 09' 33.7" by West Longitude 85° 53' 27.6".

WirelessCo, L.P. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Riverport 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 Riverport PCS site's construction is exempt from local zoning ordinances; however, WirelessCo, L.P. notified the Jefferson County Planning Commission of the pending construction. WirelessCo, L.P. states it was informed by the Airspace Safety Analysis Corporation that it is not required to file an application with the Federal Aviation Administration. WirelessCo, L.P. filed an application with the Kentucky Airport Zoning Commission and was notified that no permit was required.²

WirelessCo, L.P. has verified that each person who owns property or who resides within 500 feet of the Riverport PCS site has been notified of the pending construction. The notice solicited any comments and informed the property owners or 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 22, 1996, the Commission received an inquiry letter from Robert J. Aschbacher. On July 26, 1996, the Commission Ordered WirelessCo, L.P. to respond to Mr. Aschbacher's concerns and informed him of his right to intervene and request a hearing. On July 30, 1996, the

² See Exhibit F to Application.

Commission received an inquiry letter from Chuck Reynolds. On August 2, 1996, the Commission Ordered WirelessCo, L.P. to respond to Mr. Reynold's concerns and informed him of his right to intervene and request a hearing. On August 19, 1996, WirelessCo, L.P. filed copies of its responses to Mr. Reynolds and Mr. Aschbacher. To date, no intervention requests have been received.

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 Riverport 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 Riverport 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.

Done at Frankfort, Kentucky, this 7th day of October, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

Em J. Helton
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills

Executive Director