

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SPRINT SPECTRUM, L.P. ON)
BEHALF OF WIRELESSCO, L.P. FOR ISSUANCE OF)
A CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A PERSONAL) CASE NO. 96-322
COMMUNICATION SERVICES FACILITY IN THE)
LOUISVILLE MAJOR TRADING AREA [PROSPECT)
PCS FACILITY LV03C075B2])

O R D E R

On July 17, 1996, WirelessCo, L.P. ("WirelessCo"), through its agent, Sprint Spectrum, L.P. filed an application requesting a certificate of public convenience and necessity to construct a personal communications services facility at 9213 Highway 42, Prospect, Oldham County, Kentucky, an area located entirely within the Louisville MTA. On December 12, 1996, WirelessCo filed a motion to amend its application to state that although the location of the proposed site has remained constant, the current address of the subject site is 13120 Highway 42, Prospect, Kentucky. WirelessCo states that the survey, tests, applications, property owner service list, and other supporting documents submitted with the application are true and correct. Since no material change to the application is mandated by the amendment, the Commission finds that the motion should be granted.

In addition, both WirelessCo and several intervenors, nearby residents who claim the proposed location is unsuitable, have requested that the Commission schedule a hearing.

The Commission finds that a hearing should be scheduled. However, one of the concerns raised by the intervenors is allegedly dangerous levels of radio frequency emissions. The parties hereto are hereby put on notice that the Commission will not consider this issue at the hearing as it has been preempted from doing so by the Telecommunications Act of 1996, Section 704 ("No State or local government ... may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communications] Commission's regulations concerning such emissions").

The Commission being sufficiently advised, IT IS HEREBY ORDERED that:

1. WirelessCo's motion to amend its application to clarify the current address of the proposed construction site is granted.
2. A hearing on the proposed facility is scheduled for January 22, 1997, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.
3. WirelessCo, L.P. shall appear at the hearing and be prepared to present testimony on the engineering design, location, and construction of the proposed facility, the safety issues relating to the facility, and all other issues raised by the intervenors with the exception of those the Telecommunications Act of 1996 prohibits the Commission from considering.
4. The parties shall file, no later than 20 days from the date of this Order, lists of the issues to be addressed at the hearing.

5. The parties shall file, no later than 30 days from the date of this Order, any prefiled testimony, together with lists of their witnesses who will present testimony at the hearing and a brief statement of those matters to which each witness will testify.

6. Any interested person shall have the opportunity to present testimony or comment on any aspect of the proposed cell site.

7. Pursuant to KRS 100.324, a copy of this Order is being sent to the Oldham County Planning Commission for the purpose of notification that the above-scheduled hearing may affect locations or relocations of service facilities within the planning unit's jurisdiction.

Done at Frankfort, Kentucky, this 16th day of December, 1996.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director