

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF POWERFONE, INC., A)
WHOLLY-OWNED SUBSIDIARY OF NEXTEL)
COMMUNICATIONS, INC. FOR OPERATING)
AUTHORITY AND ISSUANCE OF CERTIFICATE) CASE NO. 96-344
OF PUBLIC CONVENIENCE AND NECESSITY)
TO PROVIDE COMMERCIAL MOBILE RADIO)
SERVICES/SPECIALIZED MOBILE RADIO)
SERVICES)

ORDER

On July 12, 1996, PowerFone, Inc. ("PowerFone") filed an application for a Certificate of Public Convenience and Necessity ("CPCN") to provide Commercial Mobile Radio Services/Specialized Mobile Radio Services ("CMRS/SMRS") within Kentucky. PowerFone is a Delaware corporation wholly-owned by Nextel Communications, Inc. with its principal office in McLean, Virginia.

PowerFone is currently licensed by the Federal Communications Commission to provide traditional analog SMR services at various locations throughout Kentucky and plans to provide digital wide area, or enhanced, SMR ("ESMR") services on a commercial basis in the near future pursuant to the same licenses. ESMR employs a low-power, low-tower system configuration similar to other CMRS systems like cellular or Personal Communications Services with which it will compete.

Although PowerFone has no immediate plans for construction of antenna towers, a complete filing for all new antenna towers should be submitted to the Commission prior

to any such construction. However, for antenna placed upon existing structures, PowerFone should request an opinion from the Commission as to the necessity for a CPCN, prior to their placement.

PowerFone will be regulated in the same manner as cellular and PCS companies operating in Kentucky.¹ The regulatory requirements pertaining to construction of facilities are contained in Appendix A, attached hereto and incorporated herein.

The information provided by PowerFone demonstrates its financial, managerial, and technical capability to provide CMRS/SMRS and ESMR within Kentucky. On August 9, 1996, PowerFone filed its proposed tariff for SMR services in Kentucky. The Commission finds that the proposed tariff should be approved. Prior to providing ESMR services within Kentucky, PowerFone should revise its tariff to include the terms and conditions under which such service will be offered.

The Commission, having considered the application, the information provided by PowerFone, and being otherwise sufficiently advised, HEREBY ORDERS that:

1. PowerFone is granted authority to operate a CMRS/SMR and ESMR communications network within the Commonwealth of Kentucky.
2. PowerFone shall file an application with the Commission for the construction of all towers within Kentucky.
3. Within 30 days of the date of this Order, PowerFone shall file, pursuant to 807 KAR 5:011, its August 9, 1996 tariff sheets without modifications.

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

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

PUBLIC SERVICE COMMISSION

Aida K. Breathitt
Chairman

Eden J. Hines
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 96-344 DATED NOVEMBER 7, 1996

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

Required filings: 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 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 other 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

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

real estate within 500 feet of the proposed tower site. The scale of this map should be no less than 1 inch equals 200 feet.

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. Include a copy of the correspondence. (Sample notification is attached as Exhibit 2.)

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

8. A statement that an appropriate notice at least 12" x 18", has been posted in a visible location on the proposed site. 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

Please refer to Case No. _____.