

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY CGSA, INC.)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
AN ADDITIONAL CELL SITE IN) CASE NO. 96-434
MIDDLETOWN, KENTUCKY FOR THE PROVISION)
OF DOMESTIC PUBLIC CELLULAR RADIO)
TELECOMMUNICATIONS SERVICE TO THE PUBLIC)
IN JEFFERSON COUNTY, KENTUCKY AND THE)
LOUISVILLE MSA)

O R D E R

On October 17, 1996, Rye & Shaughnessy Properties ("R&S") filed a motion requesting full intervention and a schedule for filing comments which takes into account the 60-day period provided by 1996 Kentucky General Assembly HB 20, Section 2(1). R&S owns property near the site of the proposed cellular facility. Accordingly, R&S has an interest in this proceeding which is not otherwise adequately represented, and its intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Consequently, the motion to intervene should be granted.

R&S also requests that its comments be filed subsequent to the 60-day period provided by HB 20 for the Jefferson County Planning and Zoning Commission to render its decision regarding the proposed construction. This motion also should be granted. HB 20 granted local planning units in counties containing cities of the first class the authority to review antenna tower proposals in light of local concerns. The issues

remaining within the jurisdiction of this Commission are restricted accordingly.¹ If the planning unit rejects the proposed construction and Kentucky CGSA, Inc. ("Kentucky CGSA") elects to request this Commission to override the planning unit's decision pursuant to HB 20, Section 2(2), the only issues the Commission will consider are [1] whether there is an acceptable alternative site, and [2] whether public convenience and necessity requires the construction. Id. Consequently, the issues to be addressed in this proceeding will not be clear until the planning unit has reached its decision or has failed to render a decision within the statutory 60-day period.

This Commission being sufficiently advised,

IT IS THEREFORE ORDERED that:

1. The motion of R&S for full intervention and a schedule for filing comments which takes into account the 60-day period provided for the planning unit to render a decision on the proposed facility is granted.

2. R&S shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

¹ See HB 20, Section 2 (4) ("If a utility proposes construction . . . to be located outside the area of a county containing a city of the first class, then the commission may also take into account in its deliberations the character of the general area concerned, and the likely effects of the installation on nearby land uses and values"). This facility is not proposed for an area outside a county containing a city of the first class.

3. Should R&S file documents of any kind with the Commission in the course of these proceedings, it shall also serve a copy of said documents on all other parties of record.

4. R&S may file comments on the proposed facility within 20 days of the date the planning unit has reached its decision on this proposal or, if the planning unit does not act within 60 days, within 20 days after the expiration of the statutory period, whichever is sooner.

Done at Frankfort, Kentucky, this 11th day of November, 1996.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director