

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LEXINGTON MSA LIMITED )  
PARTNERSHIP FOR ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT AN ADDITIONAL )  
CELL SITE IN RICHMOND, MADISON COUNTY, ) CASE NO. 96-460  
KENTUCKY FOR THE PROVISION OF DOMESTIC )  
PUBLIC CELLULAR RADIO )  
TELECOMMUNICATIONS SERVICE TO THE )  
PUBLIC IN THE B2 PORTION OF KENTUCKY )  
RURAL SERVICE AREA NO. 6 )

O R D E R

On September 24, 1996, Lexington MSA Limited Partnership d/b/a BellSouth Mobility, Inc. ("Lexington MSA Partnership") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications facility in the B2 portion of Rural Service Area No. 6 ("B2 portion of RSA No. 6"). The proposed facility consists of a self-supporting antenna tower not to exceed 295 feet in height, with attached antennas, to be located at 100 Industrial Drive, Richmond, Madison County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 46' 27.99" by West Longitude 84° 19' 28.77".

Lexington MSA Partnership has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. 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 proposed facility's construction is exempt from local zoning ordinances. However, Lexington MSA Partnership has notified the City of Richmond of the proposed construction. To date, no comments have been filed by the City. Lexington MSA Partnership has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. Both decisions are pending.

Lexington MSA Partnership has filed notices verifying that each person who owns property or resides within 500 feet of the proposed facility has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. In addition, Lexington MSA Partnership has posted notice of the proposed construction in a visible location for at least two weeks after filing its application. The Commission received comments from one property owner regarding the proposed construction. As ordered by the Commission, Lexington MSA Partnership responded in writing to the property owner. Under separate letter, the Commission notified the property owner of the right to request intervention or a hearing if Lexington MSA Partnership's response did not satisfy their concerns. To date, no further comments have been filed with the Commission.

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, Lexington MSA Partnership should notify the Commission if it does not use this antenna tower to provide service 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 Lexington MSA Partnership.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Lexington MSA Partnership should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed facility in the B2 portion of RSA No. 6 under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. Lexington MSA Partnership is granted a Certificate of Public Convenience and Necessity to construct and operate a self-supporting antenna tower not to exceed 295 feet in height, with attached antennas, to be located at 100 Industrial Drive, Richmond, Madison County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 46' 27.99" by West Longitude 84° 19' 28.77".
2. Lexington MSA Partnership shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.
3. Lexington MSA Partnership 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 16th day of December, 1996.

PUBLIC SERVICE COMMISSION

Linda K Breathitt  
Chairman

E. J. Helton  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director