

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF UNITED STATES CELLULAR OPERATING)
COMPANY (FORMERLY KNOWN AS KENTUCKY RSA #3, INC.))
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND) CASE NO.
NECESSITY TO CONSTRUCT A CELL SITE ON COUNTY ROAD) 97-189
1743, EAST OF HARDINSBURG-TULES CREEK-AXTEL ROAD)
(HIGHWAY 1740), THREE MILES SOUTHEAST OF KIRK, IN)
BRECKINRIDGE COUNTY, KENTUCKY (ROUGH RIVER SITE))

O R D E R

On May 9, 1997, United States Cellular Operating Company ("United States Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for Rural Service Area No. 3 ("RSA No. 3"). RSA No. 3 includes Allen, Breckinridge, Butler, Edmonson, Grayson, Hancock, Logan, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd, and Warren counties. United States Cellular has requested authorization to construct a cell site in Breckinridge County. United States Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 3 in Case No. 96-599.¹

¹ Case No. 96-599, Joint Application of Kentucky RSA #1, Inc., Kentucky RSA #2, Inc., Kentucky RSA #3, Inc., Kentucky RSA #9-10, Inc., Kentucky RSA #11, Inc. and United States Cellular Operating Company for a Determination that no Approval is Required for the Merger of Kentucky RSA #1, Inc., Kentucky RSA #2, Inc., Kentucky RSA #3, Inc., Kentucky RSA #9-10, Inc., Kentucky RSA #11, Inc. into United States Cellular Operating Company with United States Cellular Operating Company Being the Surviving Corporation, or, Alternatively, for Approval of the Merger.

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located approximately 1,000 feet southeast of the intersection of County Road 1743 and the Hardinsburg-Tules Creek-Axtel Road (Highway 1740), and 3 miles southeast of Kirk, in southern Breckinridge County, Kentucky ("the Rough River cell site"). The coordinates for the Rough River cell site are North Latitude 37° 40' 25" by West Longitude 86° 27' 32".

United States Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Rough River cell 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 Rough River cell site's construction is exempt from local zoning ordinances; however, United States Cellular notified the Breckinridge County Judge/Executive of the pending construction. United States Cellular 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 Rough River cell site. Both applications are pending.

United States Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Rough River cell 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 United States Cellular's application was filed. 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, United States Cellular should notify the Commission if it does not use this antenna tower to provide cellular 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 United States Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that United States Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Rough River cell site in RSA No. 3 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. United States Cellular is granted a Certificate of Public Convenience and Necessity to construct and operate the Rough River cell site.
2. United States Cellular shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.
3. United States Cellular 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 1st day of July, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

Ed. Hill
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director