

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY CGSA, INC. FOR)
ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
AN ADDITIONAL CELL SITE IN LEXINGTON,)
KENTUCKY FOR THE PROVISION OF DOMESTIC) CASE NO. 97-253
PUBLIC CELLULAR RADIO)
TELECOMMUNICATIONS SERVICE TO THE)
PUBLIC IN FAYETTE COUNTY, KENTUCKY AND)
THE LEXINGTON MSA)

O R D E R

On May 22, 1997, Kentucky CGSA, Inc. d/b/a BellSouth Mobility, Inc. ("BellSouth Mobility") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications facility in the Lexington Metropolitan Statistical Area ("the Lexington MSA"). The proposed facility consists of a monopole antenna tower not to exceed 130 feet in height, with attached antennas, to be located at 333 Waller Avenue, Lexington, Fayette County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 1' 49.26" by West Longitude 84° 30' 56.91".

BellSouth Mobility 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, BellSouth Mobility has notified the Lexington-Fayette Urban County Planning Commission of the proposed construction. The Planning Commission filed comments with the Commission, and BellSouth Mobility responded in writing to the Planning Commission's concerns. Subsequent to discussions with the Planning Commission, BellSouth Mobility amended its application. To date, no further comments have been filed by the Planning Commission.

BellSouth Mobility 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. The KAZC application was returned because no permit was required, and the FAA decision is pending.

BellSouth Mobility 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, BellSouth Mobility has posted notice of the proposed construction in a visible location for at least two weeks after filing its application.

The Commission received several protests regarding the proposed construction. BellSouth Mobility responded in writing to the protestors' concerns. By separate letter, the Commission notified each protestor of the right to request intervention and a public hearing if BellSouth Mobility's response did not satisfy their concerns. One property owner requested and was granted intervention in this matter. Subsequent to discussions with interested parties, BellSouth Mobility amended its application on August 21, 1997. The amendment relocated the proposed construction approximately 45 feet south of the original

location. Upon its own motion, the Commission scheduled a hearing on this matter. The Order scheduling the hearing stated that if no party filed a statement of its intent to attend the hearing, the hearing would be canceled and the matter submitted to the Commission for a decision. No statements were filed with the Commission and the hearing, accordingly, was canceled. To date, no further comments have been filed.

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, BellSouth Mobility 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 BellSouth Mobility.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that BellSouth Mobility should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed facility in the Lexington MSA.

IT IS THEREFORE ORDERED that:


1. BellSouth Mobility is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole antenna tower not to exceed 130 feet in height, with attached antennas, to be located at 333 Waller Avenue, Lexington, Fayette County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 1' 49.26" by West Longitude 84° 30' 56.91".

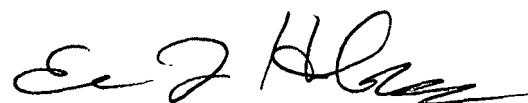
2. BellSouth Mobility shall file a copy of the final decision regarding its pending FAA application for the proposed construction within 10 days of receiving the decision.

3. BellSouth Mobility 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 26th day of November, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director