

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WIRELESSCO, L.P., BY AND THROUGH ITS	)	
AGENT AND GENERAL PARTNER SPRINT SPECTRUM, L.P.,	)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY TO CONSTRUCT A	)	CASE NO.
PERSONAL COMMUNICATIONS SERVICE FACILITY IN THE	)	97-473
LOUISVILLE MAJOR TRADING AREA [ELKHORN FACILITY]	)	

O R D E R

On December 19, 1997, WirelessCo, L.P., by and through its general partner Sprint Spectrum, L.P. ("WirelessCo"), filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a personal communications system ("PCS") for the Louisville Major Trading Area, which encompasses the entire Commonwealth of Kentucky. WirelessCo has requested authorization to construct a PCS site in Jessamine County. WirelessCo was previously granted the authority to operate in Case No. 96-077.<sup>1</sup>

The proposed PCS site consists of a 230-foot or less self-supporting antenna tower to be located at 2215 South Elkhorn Road, Nicholasville, Jessamine County, Kentucky ("the Elkhorn PCS site"). The coordinates for the Elkhorn PCS site are North Latitude 37° 58' 44" by West Longitude 84° 36' 26".

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<sup>1</sup> Case No. 96-077, The Application of WirelessCo, L.P., d/b/a Sprint Telecommunications Venture for Operating Authority and Issuance of Certificate of Public Convenience and Necessity to Construct Commercial Mobile Radio Service Transmission Facilities in Kentucky.

WirelessCo has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Elkhorn PCS site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Registered Professional Engineer has certified the plans.

Pursuant to KRS 100.324(1), the Elkhorn PCS site's construction is exempt from local zoning ordinances; however, WirelessCo notified the Jessamine County Planning Commission of the pending construction. WirelessCo 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 Elkhorn PCS site. Both applications are pending.

WirelessCo has filed notices verifying that each person who owns property within 500 feet of the Elkhorn PCS site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after WirelessCo's application was filed.

On December 23, 1997, the Commission received an intervention request from Albert F. Polk, Jr. On February 2, 1998, the Commission granted Dr. Polk intervenor status and ordered WirelessCo to respond to his concerns. Concurrently, on January 29, 1998 WirelessCo filed a motion to set a hearing date, which the Commission, by Order dated March 27, 1998, scheduled for May 13, 1998. Pursuant to that Order, anyone wishing to appear in opposition to the proposed construction was to notify the Commission of his intent to appear within 10 days of the date of the Order or the

hearing would be cancelled. On April 9, 1998, Dr. Polk requested, and subsequently was granted, an extension of time until April 27, 1998, to respond to the Order. On May 11, 1998, the hearing was cancelled as no party had filed a statement of intent to appear in opposition to the proposed site. The record submitted to the Commission establishes that the public convenience and necessity require that the application herein be approved.

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, WirelessCo should notify the Commission if it does not use this antenna tower to provide PCS 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 WirelessCo.

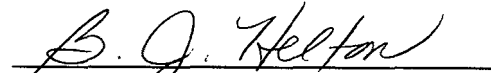
The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that WirelessCo should be granted a Certificate of Public Convenience and Necessity to construct and operate the Elkhorn PCS site under its previously approved tariff.

IT IS THEREFORE ORDERED that:

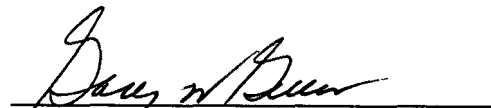
1. WirelessCo is granted a Certificate of Public Convenience and Necessity to construct and operate the Elkhorn PCS site.
2. WirelessCo shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this site within 10 days of receiving these decisions.
3. WirelessCo shall 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 10th day of June, 1998.

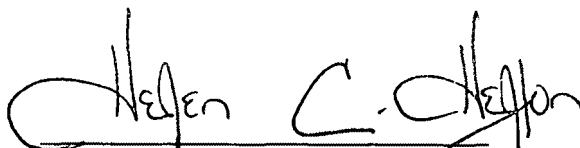
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director