

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CELLULAR INFORMATION SYSTEMS OF)
FLORENCE, INC., AN ALABAMA CORPORATION, FOR)
ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO CONSTRUCT AN ADDITIONAL CELL)
FACILITY IN THE KENTUCKY RURAL SERVICE AREA NO. 5) CASE NO.
WHICH INCLUDES ADAIR, BARREN, CLINTON, CUMBERLAND,) 97-487
HART, MCCREARY, METCALFE, MONROE, RUSSELL, AND)
WAYNE COUNTIES IN KENTUCKY (THE MILL SPRINGS-)
CONLEY BOTTOM RESORT CELL FACILITY))

O R D E R

On December 5, 1997, Cellular Information Systems of Florence, Inc. ("Cellular Information Systems") 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. 5 ("RSA No. 5"). RSA No. 5 includes Adair, Barren, Clinton, Cumberland, Hart, McCreary, Metcalfe, Monroe, Russell, and Wayne counties. Cellular Information Systems has requested authorization to construct a cell site in Wayne County. Cellular Information Systems was previously granted authority to operate a cellular radio telecommunications system in RSA No. 5 in Case No. 96-491.¹

¹ Case No. 96-491, The Joint Application of PriCellular Corporation, a Delaware Corporation, Cellular Information Systems of Florence, Inc., an Alabama Corporation and Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership for the Approval of the Acquisition of the Assets of Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership and for Acceptance of Adoption of Tariff.

The proposed cell site consists of a 280-foot or less guyed antenna tower to be located at Conley Bottom Resort, Inc., Route 5, Monticello, in Wayne County, Kentucky ("the Mill Springs-Conley Bottom Resort cell site"). The coordinates for the Mill Springs-Conley Bottom Resort cell site are North Latitude 36° 57' 06" by West Longitude 84° 49' 14".

Cellular Information Systems has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Mill Springs-Conley Bottom Resort cell 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 Mill Springs-Conley Bottom Resort cell site's construction is exempt from local zoning ordinances; however, Cellular Information Systems notified the Wayne County Judge/Executive of the pending construction. Cellular Information Systems 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 Mill Springs-Conley Bottom Resort cell site. Both applications are pending.

Cellular Information Systems has filed notices verifying that each person who owns property within 500 feet of the Mill Springs-Conley Bottom Resort cell 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 Cellular Information Systems' application was filed.

On January 7, 1998, the Commission received a protest letter from Mr. and Mrs. Dale Kenworthy. Cellular Information Systems was ordered to respond to the Kenworthys and they were informed of their right to intervene. On February 11, 1998, the Commission granted the Kenworthys intervenor status, and an informal conference was held on April 14, 1998. On July 23, 1998, the Commission offered to schedule a hearing if the Kenworthys requested one within 10 days. Moreover, on July 30, 1998, the Kenworthys, by counsel, filed a letter stating that they wished to withdraw their opposition to the proposed construction.

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, Cellular Information Systems 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 Cellular Information Systems.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cellular Information Systems should be granted a Certificate of Public Convenience and Necessity to construct and operate the Mill Springs-Conley Bottom Resort cell site in RSA No. 5 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Cellular Information Systems is granted a Certificate of Public Convenience and Necessity to construct and operate the Mill Springs-Conley Bottom Resort cell site.

2. Cellular Information Systems 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.

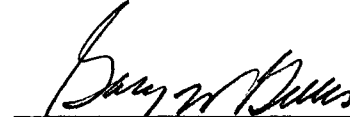
3. Cellular Information Systems shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 1st day of September, 1998.

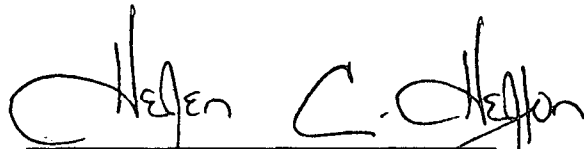
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director