

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NEW PAR, A DELAWARE)
PARTNERSHIP, D/B/A AIRTOUCH CELLULAR FOR)
A CERTIFICATE OF PUBLIC CONVENIENCE AND) CASE NO. 97-277
NECESSITY TO CONSTRUCT A CELLULAR)
TELECOMMUNICATIONS FACILITY IN BOONE)
COUNTY, KENTUCKY)

O R D E R

On July 10, 1997, New Par d/b/a AirTouch Cellular ("AirTouch Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications service facility in the Cincinnati Metropolitan Statistical Area ("Cincinnati MSA"). The proposed facility consists of a monopole antenna tower not to exceed 190 feet in height, with attached antennas, to be located at 1982 Florence Pike, Burlington, Boone County, Kentucky. The coordinates for the proposed facility are North Latitude 39° 1' 21" by West Longitude 84° 42' 0".

AirTouch Cellular 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, AirTouch Cellular has notified the Boone County

Planning Commission ("Planning Commission") of the proposed construction. The Planning Commission filed comments and ultimately intervened in this proceeding. AirTouch Cellular has filed applications with the Federal Aviation Administration and the Kentucky Airport Zoning Commission seeking approval for the construction and operation of the proposed facility. Both applications have been approved.

AirTouch Cellular 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, AirTouch Cellular 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 an adjacent property owner and the Planning Commission regarding the proposed construction and both parties were later granted intervention. A public hearing in this matter was held on November 19, 1997.

During the hearing both intervening parties objected to the proposed construction and advised the Commission of preferable alternative sites in the area. The Planning Commission complained that the proposed construction did not comply with local zoning restrictions and did not conform with the Boone County Comprehensive Plan. The Planning Commission would prefer locating the proposed facility on other property in the area. The adjacent property owner was concerned that the proposed construction would negatively affect the future development and value of his property.

According to testimony presented during the hearing, AirTouch Cellular has received numerous complaints from customers in the area regarding dropped calls and poor connections. AirTouch Cellular claims that the area, including the City of Burlington, is in

desperate need of adequate cellular service. AirTouch Cellular investigated collocating on various alternative sites, and combinations thereof, but determined that the alternatives resulted in less than adequate service as compared to the proposed location. AirTouch Cellular noted that the proposed tower would be constructed to support multiple carriers for future collocations of other wireless facilities. Finally, AirTouch presented evidence indicating that the proposed construction would not negatively impact property values.

The Commission finds that the proposed construction is necessary and that the location proposed by AirTouch Cellular will result in adequate utility service while minimizing any negative impact on surrounding property.

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, AirTouch Cellular 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 AirTouch Cellular.

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

IT IS THEREFORE ORDERED that:

1. AirTouch Cellular is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole antenna tower not to exceed 190 feet in

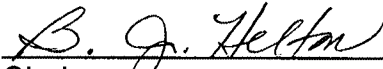
height, with attached antennas, to be located at 1982 Florence Pike, Burlington, Boone County, Kentucky. The coordinates for the proposed facility are North Latitude 39° 1' 21" by West Longitude 84° 42' 0".

2. AirTouch Cellular shall consider requests for collocations by other wireless carriers and make such collocations reasonably available when feasible.

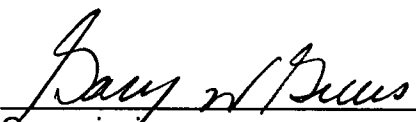
3. AirTouch Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 17th day of February, 1998.

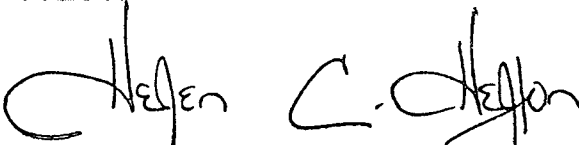
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director