

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF POWERTEL/)	
KENTUCKY, INC., A DELAWARE)	
CORPORATION, FOR ISSUANCE OF)	
A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY)	98-302
TO CONSTRUCT A PERSONAL)	
COMMUNICATIONS SERVICES)	
FACILITY IN B-263 BASIC TRADING)	
AREA (THE L-KY-093-068 FACILITY))	

O R D E R

This matter arising upon the motion of the Oldham County Planning and Zoning Commission ("Planning Commission"), filed June 22, 1998, for full intervention, and it appearing to the Commission that the Planning Commission has a special interest which is not otherwise adequately represented, and that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, and this Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that:

1. The motion of the Planning Commission to intervene is granted.
2. The Planning Commission shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

3. Should the Planning Commission file documents of any kind with the Commission in the course of these proceedings, it shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 29th day of June, 1998.

PUBLIC SERVICE COMMISSION

B. J. Helton
For the Commission

ATTEST:

Helen C. Helton
Executive Director



OLDHAM COUNTY PLANNING AND ZONING COMMISSION

110 WEST JEFFERSON STREET
LAGRANGE, KY 40031
(502) 222-1476
Fax (502) 222-3213

June 18, 1998

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JUN 22 1998
PUBLIC SERVICE
COMMISSION

Executive Director's Office
Public Service Commission of Kentucky
Post Office Box 615
Frankfort, Kentucky 40602

IN RE: Case No. 98-302

Dear Executive Director:

Oldham County Planning and Zoning Commission does hereby comment on the application before your Commission by Powertel/Kentucky, Inc. to place a cellular telephone tower in LaGrange, Kentucky. The Planning and Zoning Commission is concerned about the proliferation of such towers in our jurisdictional area. We have adopted regulations addressing those concerns. As part of our comment a copy of said regulations is attached hereto.

Our Commission requests that if approval is granted Powertel/Kentucky, Inc., said approval be subject to their compliance with Oldham County's regulations. The Commission, by this letter, is also exercising its right to intervene for the purpose of supporting the application of the aforesaid regulations as part of the approval procedure. Please advise Oldham County Planning and Zoning Commission of any further steps needed to facilitate this intervention.

Sincerely,

A handwritten signature in cursive script that reads "Jean D. Farley".

JEAN FARLEY
Chairman

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PUBLIC SERVICE
COMMISSION

30 feet from any property line.

2. One off-street parking space shall be provided for each 300 square feet of area used for facilities and grounds. Off-street parking areas and drives shall be treated and maintained to minimize dust.

3. Except in districts where signs are allowed, one non-flashing sign not to exceed 100 square feet in area may be erected at each principal entrance. In no case shall a flashing sign be allowed facing into a residential district.

Communication Towers and Equipment

1. The purposes of these minimum standards for construction and facilities siting are: to minimize adverse visual effects of towers through careful design, siting and vegetative screening; to avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; to maximize the use of any new or existing transmission tower to reduce the number of towers needed to serve the community; and to limit radiation emitted by telecommunications equipment so that it will not adversely affect human health.

2. A proposal for a new communication tower shall not be approved unless it can be documented by the applicant that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower due to one or more of the following reasons:

A. The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.

B. The planned equipment would cause RF interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost.

C. Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonably in parity with other similar equipment in place or approved.

D. Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers.

3. Any proposed tower shall be structurally designed so as to accommodate the maximum number of foreseeable shared users technically practicable. A television tower shall comply with these standards if it provides for at least two high-power television antennas, two FM

radio antennas, and at least one microwave transmitter or two-way radio antenna for every 20 feet of tower above 200 feet. A tower that is not for television antennas shall provide for at least one microwave transmitter or two-way radio antenna for every 20 feet of tower above 200 feet.

4. Transmitting and receiving equipment serving similar kinds of uses shall be placed on a shared-use tower in such a manner than any one of the users in a group can operate roughly equal to other users in the group with similar equipment.

5. Approval of a proposed antenna to share an existing or approved tower shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting the existing facilities to the proposed use, including but not limited to reasonable costs for reinforcing the tower or structure, for preventing RF interference, and other changes reasonably required to accommodate shared use. The fees and costs for shared use shall be determined to be unreasonable if, among other reasons, they exceed the cost of constructing a new tower providing equivalent use.

6. A source of non-ionizing electromagnetic radiation (NIER), when combined with existing sources of NIER, shall not expose the general public to ambient radiation exceeding an equivalent plane-wave power density of 0.2 milliwatts per square centimeter (mW/cm^2) at 30-300 megahertz (MHz) frequency range averaged over a 0.1 hour period; provided that, within 90 days after a federal or state NIER emission or measurement standard is adopted, the Planning Commission shall schedule a public hearing to consider whether the standard described herein should be changed.

7. Before establishing a new source of NIER or changing an existing NIER source in a way that increases the power, output or amount, or radiation pattern of NIER, the applicant shall provide the following information:

A. Horizontal and radial distance from the NIER source to the nearest point on the property line, the nearest residential structure, and the points on the property and off the property with the highest calculated NIER levels and their elevations above sea level.

B. Ambient NIER levels in the frequency range of the proposed source measured at the four points identified above.

C. Calculated NIER levels after establishment or change of the proposed source at the points identified above.

If a calculated NIER level at any of the four points listed above is more than one-fourth the maximum NIER level permitted under these regulations, the proposed NIER source can be approved only subject to the conditions that the applicant measure NIER levels at those points after the source is established or changed, and that such measurements show

that the use complies with the standards stated herein.

A commercial, intermittent, sole-source emitter with less than one kilowatt average output may be approved without calculating or measuring NIER if the antenna for the emitter has an effective radiated power of 1,000 watts or less, is at least six feet from a habitable structure located off the property, and the highest point of the antenna is at least 15 feet from that exterior surface.

8. Towers 100 feet or more in height shall be located on the lot so that the distance from the base of the tower to any adjoining property line or supporting structure of another tower is a minimum of 100 percent of the proposed tower height. No variance shall be granted from this minimum setback requirement.

Towers less than 100 feet in height that cannot satisfy this 100 percent setback requirement may be approved by the Board provided that the applicant presents a certification from a registered engineer stating that the tower will withstand winds of 100 miles per hour.

9. Any accessory buildings or structures shall be located a minimum of 50 feet from any adjoining property line. The accessory facilities may not include offices, long-term vehicle storage, other outdoor storage, or broadcast studios, except for emergency purposes, or other uses that are not needed to send or receive transmissions, and in no event may exceed 25 percent of the floor area used for transmission equipment and functions.

10. A new source of NIER may be attached to an existing tower approved for such use without a conditional use hearing or permit provided that the NIER source has an effective radiated power of one kilowatt or less, and that the applicant files with the Board of Adjustments a statement certifying that the proposed source complies with all federal and state regulations, that the tower has sufficient structural capacity to support the proposed antenna, and that the proposed antenna will satisfy all radiation standards contained in these regulations.

11. Towers over 200 feet in height shall be guyed unless the Board of Adjustments finds that a self-supporting structure would have a lesser negative visual effect.

12. Towers shall be the minimum height needed to comply with these regulations.

13. Existing on-site vegetation shall be preserved to the maximum extent practicable.

14. Where the site abuts residentially developed land, residential zoning districts, public land or streets, the site perimeter shall be landscaped with at least one row of deciduous trees, not less than 1-1/2 inches in diameter measured three feet above the grade, spaced not more than 20 feet apart and within 25 feet of the site boundary, as well as at least one row of evergreen trees or shrubs, at least four feet high when planted and spaced not more

than 15 feet apart and within 40 feet of the site boundary. Alternatives such as walls or fences may be permitted by the Board of Adjustments based on security or other reasons.

15. Security fencing shall be required around the base and guy anchors of any tower.

16. Towers shall not be artificially lighted unless required by the Federal Aviation Administration or other federal or state authority.

17. Towers over 200 feet in height shall be inspected annually by a qualified person, and any recommended repairs shall be made. At a minimum the inspection shall cover the following:

A. Tower Structure - including loose bolts, loose or damaged members, signs of unusual stress or vibration.

B. Tower Vertical Alignment.

C. Guy Wire Tension - both required tension and present tension.

D. Guy Wires and Fittings - check for secureness, rust and vibration.

E. Guy Anchors and Foundations - assess for cracks in concrete, signs of corrosion or movement, secure hardware, proper fencing.

F. Other items including antennas, transmission lines, lighting, painting, insulators, grounding and elevator.

A copy of the inspection report and listing of subsequent repairs made, if any, shall be filed with the Board of Adjustments.

18. Any tower that is no longer used for its original purpose for a period of one year or more shall be removed by the owner at his expense.

19. The application for approval of the Conditional Use shall include the following:

A. A site plan drawn to scale showing the property boundaries, tower, guy wire anchors, existing structures, proposed transmission buildings and/or other accessory uses, access, parking, fences, landscape plan, and existing land uses around the site.

B. A report from a professional engineer which describes the tower height and design including a cross-section of the structure; demonstrates the tower's compliance with applicable structural standards; and describes the tower's capacity, including the number and type of antennas that it can accommodate.

C. Written statements from the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations. Letters of comment shall also be requested from the Kentucky Natural Resources and Environmental Protection Cabinet, and the State Historic Preservation Office.

D. A letter of intent committing the tower owner and his or her successors to allow shared use of the tower if an applicant agrees in writing to pay any reasonable charge for shared use. Said letter of intent shall be filed in the office of the Oldham County Clerk prior to any building permit being issued.

E. An environmental impact statement fully describing the effects that the proposed tower and /or equipment will have on the environment and the surrounding area, including but not limited to, radiological impact on human health and agricultural operations, impact on historic structures, scenic views and air traffic.

F. Written authorization from the owner of the site to apply for the conditional use approval.

G. Information from the owners of all existing or approved towers with a top elevation like or higher than the proposed tower, indicating:

1. Tower height and existing and planned tower users.

2. Whether the existing tower could accommodate the antenna to be attached to the proposed tower without causing structural instability or electromagnetic interference.

3. If the antenna to be attached to the proposed tower cannot be accommodated on the existing tower, assess whether the existing tower could be structurally strengthened or whether the antennas, transmitters and related equipment could be protected from electromagnetic interference, and generally describe the means and projected cost of shared use of the existing tower.

20. The following uses are exempt from conditional use approval: portable, handheld and vehicular transmissions; industrial, scientific and medical equipment; marketed consumer products, such as microwave ovens, citizen band radios, and remote control toys; ham radios, dispatch systems and telecommunication devices that only receive radio frequency signals, when accessory to a permitted use.