

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CROWN COMMUNICATION)
INC. AND NEXTEL WEST CORP. FOR ISSUANCE)
OF A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO CONSTRUCT A WIRELESS)
COMMUNICATIONS FACILITY AT UPTON IN THE)
TRUNKED SMR LICENSE AREA IN THE) CASE NO. 98-029
COMMONWEALTH OF KENTUCKY IN THE)
COUNTY OF HARDIN)
SITE NAME: KNIGHT (JOHNNIE D. AND ANN)
KNIGHT))
SITE NO. K-5004-C)

O R D E R

On January 23, 1998, Crown Communication Inc. (Crown) and Nextel West Corp. ("Nextel") (collectively, the Applicants) filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a guyed antenna tower not to exceed 315 feet in height, with attached antennas, to be located at 15385 South Dixie Highway (U.S. 31W), Upton, Hardin County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 28' 43" by West Longitude 85° 53' 55.77". According to the application, Nextel intends to place its wireless communications facilities on the proposed structure. Nextel investigated collocation opportunities on existing structures in the immediate vicinity but determined that collocation would not be feasible.

Crown 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, the Applicants have notified the Hardin County Planning and Development Commission (Planning Commission) of the proposed construction and the Planning Commission approved the proposal. The Applicants have 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 FAA approved the proposed construction and the KAZC decision is pending.

The Applicants have filed notices verifying that each person who owns property within 500 feet of the proposed facility has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to request intervention. In addition, notice of the proposed construction has been posted in a visible location for at least two weeks after filing the application. The Commission received comments from two property owners but no requests for intervention 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, Crown 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 Crown.

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

IT IS THEREFORE ORDERED that:

1. Crown is granted a Certificate of Public Convenience and Necessity to construct a guyed antenna tower not to exceed 315 feet in height, with attached antennas, to be located at 15385 South Dixie Highway (U.S. 31W), Upton, Hardin County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 28' 43" by West Longitude 85° 53' 55.77".

2. The Applicants shall file a copy of the final decision regarding the pending KAZC application for the proposed construction within 10 days of receiving the decision.

3. Crown 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 5th day of January, 1999.

By the Commission

ATTEST:

Executive Director