

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 2551 REGENCY) CASE NO. 98-205
ROAD IN THE TRUNKED SMR LICENSE AREA OF)
THE COMMONWEALTH OF KENTUCKY IN THE)
COUNTY OF FAYETTE SITE NAME: BRIGADOON)
SITE NUMBER: 028KYA)

O R D E R

On August 10, 1998, Crown Communication, Inc. (Crown) and Nextel West Corporation (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 self-supporting antenna tower not to exceed 180 feet in height, with attached antennas, to be located at 2551 Regency Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 0' 5.7" by West Longitude 84° 31' 34". According to the application, Nextel intends to collocate its wireless facilities on the proposed structure and has demonstrated the need for a communications facility at the proposed site. In addition, Powertel/Kentucky, Inc. has filed in this proceeding a statement indicating it will also locate facilities on the proposed structure.

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 Lexington-Fayette Urban County Government's Division of Planning (Division of Planning) of the proposed construction. The Division of Planning filed comments, but no request for intervention has been filed. 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. Both decisions are 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 one area property owner but no request for intervention has 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 self-supporting antenna tower not to exceed 180 feet in height, with attached antennas, to be located at 2551 Regency Road, Lexington, Fayette County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 0' 5.7" by West Longitude 84° 31' 34".

2. The Applicants shall file a copy of the final decisions regarding their pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

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