

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CROWN COMMUNICATION)	
INC., NEXTEL WEST CORP., AND)	
POWERTEL/KENTUCKY, INC. FOR ISSUANCE OF)	
A CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO CONSTRUCT A WIRELESS)	
COMMUNICATIONS FACILITY AT 440 HARP INNIS)	CASE NO. 98-256
ROAD IN THE TRUNKED SMR LICENSE AREA &)	
BASIC TRADING AREA IN THE COMMONWEALTH)	
OF KENTUCKY IN THE COUNTY OF FAYETTE)	
SITE NAME: HUTCHINSON)	
SITE NUMBER: 001KYC)	

O R D E R

On July 14, 1998, Crown Communication Inc. (Crown), Nextel West Corporation and Powertel/Kentucky, Inc. (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 305 feet in height, with attached antennas, originally to be located at 440 Harp-Innis Road, Lexington, Fayette County, Kentucky but later amended to 5451 Paris Pike (180 Harp-Innis Road), Lexington, Fayette County, Kentucky. The coordinates for the proposed facility, as amended, are North Latitude 38° 8' 30.72" by West Longitude 84° 22' 13.8".

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 100.987(2)(a), the Applicants have notified the local planning unit of the proposed construction. The Lexington-Fayette Urban County Planning Commission filed comments in this proceeding but did not request intervention. 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 evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited any comments and informed the recipients of their right to request intervention. The Commission received numerous protests and requests for intervention. Several entities were granted intervention and a public hearing was scheduled. Subsequent to negotiations between the parties to this proceeding, the Applicants amended their application by relocating the proposed construction approximately 300 feet to adjacent property at 5451 Paris Pike (180 Harp-Innis Road), Lexington, Fayette County, Kentucky. The public hearing was later cancelled and this matter submitted to the Commission for a decision.

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 has demonstrated that a facility is necessary to provide adequate utility service and therefore 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 305 feet in height, with attached antennas, to be located at 5451 Paris Pike (180 Harp-Innis Road), Lexington, Fayette County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 8' 30.72" by West Longitude 84° 22' 13.8".

2. The Applicants shall file a copy of the final decisions regarding its 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.

ATTEST: Done at Frankfort, Kentucky, this 11th day of August, 1999.

Executive Director

By the Commission