

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 12010 CHANDLER) CASE NO. 98-268
DR. IN THE TRUNKED SMR LICENSE AREA IN THE)
COMMONWEALTH OF KENTUCKY IN THE COUNTY)
OF BOONE SITE NAME: WALTON)
SITE NUMBER: 200KYA)

O R D E R

On June 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 375 feet in height, with attached antennas, to be located at 12010 Chandler Drive, Walton, Boone County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 52' 14.12" by West Longitude 84° 38' 1.74". 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. On July 30, 1998, the application was amended to reflect that AT&T Wireless PCS, Inc. also intends to collocate its facilities on the proposed structure. The Applicants moved the Commission on

October 21, 1998 to amend the application to reflect the correct address of 12010 Chandler Drive.

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 Boone County Planning Commission (Planning Commission) of the proposed construction. The Planning Commission filed comments in this proceeding but ultimately determined that it did not oppose the construction. However, the Planning Commission noted certain commitments reportedly made by the Applicants that it recommended be included as conditions of approval for the proposed construction. These commitments are to: (1) provide additional screening around the facility; (2) blacktop a portion of the access drive; and (3) make the facility available for collocation of emergency and/or police antennae or equipment. The Commission finds that the commitments reportedly made by the Applicants appear reasonable and should be observed.

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 application has been approved 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 Applicants later filed revised notices containing the correct street address for the proposed 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. To date, no comments from property owners have been filed with the Commission.

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. The Motion to amend the application of October 21, 1998 is granted.
2. Crown is granted a Certificate of Public Convenience and Necessity to construct a self-supporting antenna tower not to exceed 375 feet in height, with attached antennas, to be located at 12010 Chandler Drive, Walton, Boone County, Kentucky. The

coordinates for the proposed facility are North Latitude 38° 52' 14.12" by West Longitude 84° 38' 1.74".

3. 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.

4. The Applicants shall observe the commitments made to the Planning Commission regarding the construction of the facility.

5. 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