

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 3686 N.)
CLEVELAND ROAD IN THE TRUNKED SMR)
LICENSE AREA AND BASIC TRADING AREA OF)
THE COMMONWEALTH OF KENTUCKY IN THE)
COUNTY OF FAYETTE)
SITE NAME: UTTINGERTOWN TOWER)
SITE NUMBER: 032KYB)

CASE NO. 98-331

O R D E R

On July 14, 1998, Crown Communication Inc., Nextel West Corp., 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 200 feet in height, with attached antennas, to be located at 3686 N. Cleveland Road, Lexington, Fayette County, Kentucky.

Subsequent to numerous protests including several requests for intervention which were granted, a public hearing regarding this matter was held December 9, 1998. During the hearing, a witness testified on behalf of the Applicants regarding the investigation of prospective property in the area. Among the properties reviewed for the proposed construction was a parcel jointly owned and controlled by Charles Eastin located south of and immediately adjacent to I-64 and within the search area prescribed

by the Applicants.¹ According to the Applicants, the Eastin property was their primary candidate that worked from the [radio frequency] standpoint² but a lease agreement could not be negotiated between the parties. Although the Applicants noted several issues with the Eastin property, no specific limitations were identified that conclusively prohibit the use of the Eastin property.³ During the hearing, Mr. Eastin testified that the lease negotiations were handled through his attorney and that his direct involvement had been limited. Mr. Eastin further testified that he was willing to reconsider locating the proposed wireless facility on his property. At least one of the intervenors owning property nearest to the instant site would not object to locating the proposed facility on the Eastin property.⁴

In addition, a witness for the Applicants discussed a power line easement that traverses the prescribed search area.⁵ It is unclear from the record as to why locating the proposed facility within the right-of-way of the power line easement would not be feasible.

The Commission finds that an alternative site on the Eastin property may preserve the desired level of service sought by the Applicants while minimizing any impact on surrounding property and that further consideration of the Eastin property is warranted. The Commission, further finds that the feasibility of locating the proposed wireless facility within the electric power line right-of-way should be discussed.

¹ Transcript of Evidence (Tr.) at 153.

² Tr. at 153.

³ Tr. at 188-192.

⁴ Tr. at 296.

⁵ Tr. at 153.

The Commission, having been sufficiently advised, HEREBY ORDERS that:

1. The Applicants shall file with the Commission, within 30 days of the date of this order, information regarding additional investigation into the feasibility of the Eastin property. The information so filed shall include information regarding whether a lease is reasonably available; a discussion of the feasibility of constructing a wireless facility on the Eastin property as opposed to the proposed site; and any other information relevant to the suitability of locating the site on the Eastin property.

2. The Applicants shall file information discussing the feasibility of locating the proposed wireless facility within the electric power line right-of-way that traverses the prescribed search area.

3. The intervenors may, within 10 days after Applicants filing, file comments on the additional evidence, at which time the matter will stand submitted.

Done at Frankfort, Kentucky, this 8th day of July, 1999.

By the Commission

ATTEST:

Executive Director