

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HORIZON PERSONAL COMMUNICATIONS,)
INC. FOR THE ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT A) CASE NO.
TELECOMMUNICATIONS ANTENNA TOWER AT THE FAIRVIEW) 98-
525)
SITE IN BOYD COUNTY, KENTUCKY)

O R D E R

On October 21, 1998, Horizon Personal Communications, Inc. ("Horizon") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for the Basic Trading Area No. B197 ("BTA No. B197"). BTA No. B197 includes Boyd and Greenup counties. Horizon has requested authorization to construct a cell site in Boyd County. Horizon was previously granted authority to operate a cellular radio telecommunications system in BTA No. B197 in Case No. 97-524.¹

The proposed cell site consists of a 195-foot or less self-supporting antenna tower to be located at 120 Russell Road, Ashland, Boyd County, Kentucky ("the Fairview PCS site"). The coordinates for the Fairview PCS site are North Latitude 38° 29' 27.4" by West Longitude 82° 39' 48.5".

¹ Case No. 97-524, The Application of Horizon Personal Communications, Inc., for the Issuance of a Certificate of Public Convenience and Necessity to Provide Intrastate Personal Communications Services to Consumers Located Within Kentucky.

Horizon has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Fairview PCS site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Registered Professional Engineer has certified the plans.

Pursuant to KRS 100.324(1), the Fairview PCS site's construction is exempt from local zoning ordinances; however, Horizon notified the Boyd County Judge/Executive of the pending construction. The Airspace Safety Analysis Corporation concluded Horizon was not required to file applications with the Federal Aviation Association and the Kentucky Airport Zoning Commission.

Horizon has filed notices verifying that each person who owns property within 500 feet of the Fairview PCS site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Horizon's application was filed. To date, no intervention requests have been received.

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, Horizon should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services 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 Horizon.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Horizon should be granted a Certificate of Public Convenience and Necessity to construct and operate the Fairview PCS site in BTA No. B197 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Horizon is granted a Certificate of Public Convenience and Necessity to construct and operate the Fairview PCS site.
2. Horizon 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