

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA NO. 1 PARTNERSHIP)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT AN)
ADDITIONAL CELL FACILITY IN THE KENTUCKY RURAL)
SERVICE AREA NO. 1 WHICH INCLUDES FULTON,) CASE NO. 98-537
HICKMAN, CARLISLE, BALLARD, MCCRACKEN,)
GRAVES, MARSHALL, AND CALLOWAY COUNTIES IN)
KENTUCKY (THE BREWERS CELL FACILITY))

O R D E R

On October 23, 1998, Kentucky RSA No. 1 Partnership filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 1 ("RSA No. 1"). RSA No. 1 includes Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken counties. Kentucky RSA No. 1 Partnership has requested authorization to construct a cell site in Marshall County. Kentucky RSA No. 1 Partnership was previously granted authority to operate a cellular radio telecommunications system in RSA No. 1 in Case No. 92-107.¹

The proposed cell site consists of a 286-foot or less guyed antenna tower to be located on the south side of S.R. 80, northeast of the Duncan Creek Road and S.R. 80 Interchange, Brewers, in Marshall County, Kentucky ("the Brewers cell site"). The

¹ Case No. 92-107, Application of Kentucky RSA No. 1 Partnership for Issuance of a Certificate of Public Convenience and Necessity to Construct an Additional Cell Facility in Kentucky Rural Service Area No. 1 (Draffenville Cell Facility).

coordinates for the Brewers cell site are North Latitude 36° 46' 27.9" by West Longitude 88° 26' 30.8".

Kentucky RSA No. 1 Partnership has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Brewers cell 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 Brewers cell site's construction is exempt from local zoning ordinances; however, Kentucky RSA No. 1 Partnership notified the Marshall County Judge/Executive of the pending construction. Kentucky RSA No. 1 Partnership has filed applications with and received approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the construction and operation of the Brewers cell site.

Kentucky RSA No. 1 Partnership has filed notices verifying that each person who owns property within 500 feet of the Brewers cell 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 Kentucky RSA No. 1 Partnership'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, Kentucky RSA No. 1

Partnership 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 Kentucky RSA No. 1 Partnership.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA No. 1 Partnership should be granted a Certificate of Public Convenience and Necessity to construct and operate the Brewers cell site in RSA No. 1 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Kentucky RSA No. 1 Partnership is granted a Certificate of Public Convenience and Necessity to construct and operate the Brewers cell site.
2. Kentucky RSA No. 1 Partnership 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