

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF TELESPECTRUM INC. FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A CELL SITE AT) CASE NO.
405 COLLEGE HILL ROAD, IN GRAYSON, CARTER) 99-072
COUNTY, KENTUCKY (GRAYSON SITE))

O R D E R

On March 22, 1999, TeleSpectrum, Inc. ("TeleSpectrum") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for the Huntington-Ashland West Virginia/Kentucky/Ohio MSA ("the Huntington MSA"). The Huntington MSA includes Boyd, Carter, and Greenup counties in Kentucky. TeleSpectrum has requested authorization to construct a cell site in Carter County. TeleSpectrum was previously granted authority to operate a cellular radio telecommunications system in the Huntington MSA in Case No. 96-371.¹

The proposed cell site consists of a 251-foot or less self-supporting antenna tower to be located at 405 College Hill Road in Grayson, Carter County, Kentucky ("the Grayson

¹ The Joint Application of Telespectrum, Inc., a Kansas Corporation, CC Industries, Inc., a Delaware Corporation, James A. Dwyer, Jr., David Winstel, Independent Cellular Network Partners, an Illinois Partnership and Independent Cellular Network, Inc. for Approval of (1) the Transfer of all Outstanding and Issued Common and Preferred Shares of Independent Cellular Network, Inc. and the Merger of Independent Cellular Network, Inc. into Telespectrum, Inc. with Telespectrum, Inc. Being the Surviving Entity; and (2) the Approval of the Adoption by Telespectrum, Inc. of the Tariff of Independent Cellular Network, Inc. Simultaneously with the Consummation of the Merger.

cell site"). The coordinates for the Grayson cell site are North Latitude 38° 20' 11.5" by West Longitude 82° 57' 24.7".

TeleSpectrum has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Grayson 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 807 KAR 5:063, Section 1, TeleSpectrum notified the Carter County Judge/Executive of the pending construction. TeleSpectrum 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 Grayson cell site.

TeleSpectrum has filed notices verifying that each person who owns property within 500 feet of the Grayson 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, notices were published in a newspaper of general circulation in Grayson County and were posted in a visible location on the proposed site and on the nearest public road. The posted notices remained posted for at least two weeks after TeleSpectrum's application was filed.

On March 29, 1999, the Commission received correspondence from Robert Kay, counsel for Carol Malone Parker, requesting intervention for his client. Consequently, his client requested a hearing, which was initially scheduled for May 26, 1999 and then rescheduled for July 2, 1999. On May 29, 1999, the Commission was notified by Mr. Kay

that his client wished to withdraw her request for intervention and a hearing. The July 2, 1999 hearing was subsequently canceled.

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, TeleSpectrum 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 TeleSpectrum.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that TeleSpectrum should be granted a Certificate of Public Convenience and Necessity to construct and operate the Grayson cell site in the Huntington MSA under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. TeleSpectrum is granted a Certificate of Public Convenience and Necessity to construct and operate the Grayson cell site.
2. TeleSpectrum 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 28th day of July, 1999.

By the Commission

ATTEST:

Executive Director