

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ACC OF KENTUCKY LLC, A DELAWARE	)	
LIMITED LIABILITY COMPANY FOR ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY	)	
TO CONSTRUCT AN ADDITIONAL CELL FACILITY IN THE	)	
KENTUCKY RURAL SERVICE AREA NO. 4 WHICH INCLUDES	)	CASE NO.
SPENCER, ANDERSON, HARDIN, NELSON, WASHINGTON,	)	99-167-UAC
MERCER, MARION, LARUE, GREEN, AND TAYLOR COUNTIES	)	
IN KENTUCKY (THE COLESBURG CELL FACILITY)	)	

O R D E R

On April 23, 1999, ACC of Kentucky LLC ("ACC of Kentucky") 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. 4 ("RSA No. 4"). RSA No. 4 includes Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, and Washington counties.

ACC of Kentucky has requested authorization to construct a cell site in Hardin County. The proposed cell site consists of a tower to be located at 2946 Battle Training Road in Elizabethtown, Hardin County, Kentucky ("the Colesburg cell site"). The coordinates for the Colesburg cell site are North Latitude 37° 46' 43.2" by West Longitude 85° 51' 42.2".

ACC of Kentucky has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Colesburg 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 100.987, ACC of Kentucky submitted the uniform application to the Hardin County Planning and Zoning Commission ( Planning Commission ). The Planning Commission approved the uniform application on June 1, 1999. ACC of Kentucky has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Colesburg cell site. Both applications are pending.

ACC of Kentucky has filed notices verifying that each person who owns property within 500 feet of the Colesburg 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 Hardin County and were posted in a visible location on the proposed site and on the nearest public road. The notices remained posted for at least two weeks after ACC of Kentucky'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, ACC of Kentucky 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 ACC of Kentucky.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that ACC of Kentucky should be granted a Certificate of Public Convenience and Necessity to construct and operate the Colesburg cell site in RSA No. 4 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. ACC of Kentucky is granted a Certificate of Public Convenience and Necessity to construct and operate the Colesburg cell site.

2. ACC of Kentucky shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

3. ACC of Kentucky 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 15<sup>th</sup> day of July, 1999.

By the Commission

ATTEST:

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Executive Director