

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF SPRINTCOM, INC.)
FOR ISSUANCE OF A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
TO CONSTRUCT A PERSONAL) CASE NO. 98-001
COMMUNICATIONS SERVICES FACILITY)
IN THE CINCINNATI MAJOR TRADING)
AREA [LODER CREEK FACILITY])

O R D E R

On September 1, 1999, the Commission entered an Order directing SprintCom, Inc. ("SprintCom") to produce certain documents and evidence concerning its application for the issuance of a certificate to construct a facility at its Loder Creek site. SprintCom was ordered to present certain documents and evidence as to its attempts to collocate the facility; its investigation of alternative locations for the Loder Creek site; and its determination as to whether the Cinergy towers are suitable for collocation. In addition, SprintCom was ordered to provide documentation, in conjunction with Cinergy's collocation division, regarding the structural integrity of the towers and powermount options available and suitable to Cinergy for collocation on its towers.

Arlinghaus Builders, Inc., Phil Duncan Builder, Inc., Phil Duncan, and Janet Duncan ("Intervenors") filed a motion on September 20, 1999 for reconsideration of the September 1, 1999 Order. Citing KRS 278.400, the Intervenors contend that SprintCom is offering additional proof it could not have offered, with due diligence, at the former hearing. The Intervenors have misplaced their reliance upon KRS 278.400, in that it

does not purport to prohibit the Commission itself from ordering an applicant to produce relevant information.

807 KAR 5:001, Section 4(3), states that the Commission may “obtain such evidence as it may consider necessary or desirable in any formal proceeding in addition to the evidence presented by the parties.” The Commission’s Order herein violates no law.

On October 1, 1999, SprintCom filed a motion to reconsider the Commission’s September 1, 1999 Order. However, the motion was filed more than 20 days from the date of service of the Commission’s Order and therefore the motion was not timely filed, pursuant to KRS 278.400.

IT IS THEREFORE ORDERED that:

1. The Intervenors' motion for reconsideration is denied.
2. The motion filed by SprintCom was not timely filed and is denied.
3. SprintCom shall comply with the requirements of the Order of September 1, 1999.

Done at Frankfort, Kentucky, this 11th day of October, 1999.

By the Commission

ATTEST:

Executive Director

does not purport to prohibit the Commission itself from ordering an applicant to produce relevant information.

807 KAR 5:001, Section 4(3), states that the Commission may “obtain such evidence as it may consider necessary or desirable in any formal proceeding in addition to the evidence presented by the parties.” The Commission’s Order herein violates no law.

On October 1, 1999, SprintCom filed a motion to reconsider the Commission’s September 1, 1999 Order. However, the motion was filed more than 20 days from the date of service of the Commission’s Order and therefore the motion was not timely filed, pursuant to KRS 278.400.

IT IS THEREFORE ORDERED that:

3. The Intervenors' motion for reconsideration is denied.
4. The motion filed by SprintCom was not timely filed and is denied.
3. SprintCom shall comply with the requirements of the Order of September 1, 1999.

Done at Frankfort, Kentucky, this 11th day of October, 1999.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Executive Director