

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THIRD KENTUCKY CELLULAR)	
CORPORATION DBA WIRELESS 2000)	
TELEPHONE AND NORTHSTAR TECHNOLOGY,)	
LLC FOR ISSUANCE OF A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY TO)	2001-00297
CONSTRUCT A WIRELESS COMMUNICATIONS)	
FACILITY IN THE LOUISVILLE-LEXINGTON-)	
EVANSVILLE MAJOR TRADING AREA,)	
SOMERSET, PULASKI COUNTY, KENTUCKY)	
[EAST SOMERSET])	

O R D E R

Third Kentucky Cellular Corporation d/b/a Wireless 2000 Telephone and Northstar Technology LLC (Applicants) have filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility in Somerset, Pulaski County, Kentucky (East Somerset facility).

David Cothron has requested intervention in this matter. The Commission finds that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

The Commission, on its own motion, has scheduled a hearing in this matter for March 19, 2002, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission s offices at 211 Sower Boulevard, Frankfort, Kentucky.

If the intervenor wishes to appear at the hearing in opposition to the application and the proposed facility, he must, within 10 days of the date of this Order, so notify the Commission in writing with a copy to all parties of record. If no statement of intent to appear at the hearing and present evidence against the proposed facility is received by that date, the hearing will be cancelled and the matter will be submitted to the Commission for a decision based upon the written record without further Orders herein.

The intervenor is hereby notified that the hearing will be conducted pursuant to the evidentiary standards of KRS 278.650(4). All proposed alternative sites that the intervenor wishes to be considered must be specifically identified and submitted to the Commission in writing, within 10 days of the date of this Order, if they are to be considered by the Commission. The location of proposed alternative sites must be submitted to the Commission within 10 days of the date of this Order even if they have been previously identified by the intervenors or others. Issues presented at this hearing by testimony and evidence are those relating to KRS 278.650(4), alternative sites, if any, engineering, design, construction, and safety of the facility, and the public necessity for the construction and operation of the facility.

In this proceeding and hearing, the Federal Communications Commission (FCC) has exclusive jurisdiction over radio emissions, including radio frequency interference. The Commission will not consider the environmental effects of radio frequency emissions that comply with FCC standards. 47 U.S.C. § 332(c)(7).

Accordingly, IT IS THEREFORE ORDERED that:

1. A hearing on the proposed wireless telecommunications facility is scheduled for March 19, 2002, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices, at 211 Sower Boulevard, Frankfort, Kentucky.

2. The motion to intervene of David Cothron is granted.

3. Mr. Cothron shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

4. Should Mr. Cothron file documents of any kind with the Commission in the course of these proceedings, he shall also serve a copy of said documents on all other parties of record.

5. If any intervenor intends to appear at the hearing and present evidence against the construction of the tower, he shall file a statement of intent to appear in opposition to the proposed telecommunications facility within 10 days of the date of this Order. Such statement shall include any alternative locations which the intervenor wishes the Commission to consider. If no statement is filed within 10 days of the date of this Order, the hearing shall be cancelled and the matter shall be submitted to the Commission on the existing record without further Orders herein.

6. During this proceeding and public hearing, it is understood and ordered that the FCC has exclusive jurisdiction over issues regarding radio frequency, including radio frequency interference, pursuant to 47 U.S.C. § 332(c) and Southwest

BellWireless, Inc. v. Johnson County Board of Education, 1999 F. 3d 1185 (10th Cir. 1999).

7. Issues to be addressed at the hearing by testimony and evidence are those relating to KRS 278.650(4), alternative sites, if any, engineering, design, construction, and safety of the facility, and the public necessity for the construction and operation of the facility.

8. Unless the hearing is cancelled, Applicants shall appear at the hearing and shall be prepared to present testimony and evidence regarding the matters set out herein, including safety and public necessity issues.

9. Any interested person shall have the opportunity to present testimony or comment on the proposed facility.

10. A copy of this Order shall be served on the Pulaski County Judge/Executive.

Done at Frankfort, Kentucky, this 5th day of March, 2002.

By the Commission

ATTEST:

Deputy W. H. Fowler
Executive Director