

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CROWN COMMUNICATION)	
INC. AND WESTEL-MILWAUKEE COMPANY,)	
LLC, D/B/A CINGULAR WIRELESS--OWENSBORO)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO CONSTRUCT)	
A WIRELESS COMMUNICATIONS FACILITY AT)	CASE NO. 2001-00391
HENRY PIGMAN ROAD, DIXON, KENTUCKY)	
42409 IN THE WIRELESS COMMUNICATIONS)	
LICENSE AREA IN THE COMMONWEALTH OF)	
KENTUCKY IN THE COUNTY OF WEBSTER)	
SITE NAME: DIXON)	

O R D E R

On December 10, 2001, Crown Communication Inc. and Westel-Milwaukee Company, LLC, d/b/a Cingular Wireless--Owensboro (Joint Applicants) filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to construct and operate a personal communications services facility at Henry Pigman Road, Dixon, Webster County, Kentucky.

On January 16, 2002, Jerry Brown filed a motion for full intervention in this proceeding. 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. Accordingly, the motion for full intervention should be granted.

The Commission finds that Webster County, Kentucky has not registered with the Commission for the right to regulate cell sites.

The Commission, on its own motion, has scheduled a hearing in this case on 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 Jerry Brown wishes to appear at the hearing in opposition to the proposed facility, he should so notify the Commission in writing within 10 days of the date of this Order, with a copy to all parties of record. If no statement from Mr. Brown of his intent to appear at the hearing and present evidence against the proposed facility is received within 10 days of the date of this Order, the hearing will be cancelled without further Order.

The issues to be addressed by the Commission at the hearing are engineering, design, and construction of the proposed facility, jurisdictional safety issues, and the public necessity for the construction and operation of the cellular tower.

IT IS THEREFORE ORDERED that:

1. The motion of Jerry Brown to fully intervene is granted.
2. Mr. Brown shall be entitled to the full rights of a party and shall be served with Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by the parties after the date of this Order.
3. Should Mr. Brown file documents of any kind with the Commission during the course of these proceedings, he shall also serve a copy of said documents on all parties of record.

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

5. Within 10 days of the date of this Order, Mr. Brown shall file a statement of intent to appear and present evidence in opposition to the proposed wireless telecommunications facility. The statement shall contain a brief summary of the evidence to be offered. If no notice of intent to appear and present evidence in opposition to the proposed wireless telecommunications facility is filed with the Commission within 10 days of this Order, the hearing shall be cancelled and the matter submitted to the Commission on the existing record without further Order herein.

6. In regard to this application, proceeding, and hearing, it is understood and ordered that the Federal Communications Commission has exclusive jurisdiction over issues regarding radio frequency emissions, including radio frequency interference. 47 U.S.C. § 332(c) and Southwestern Bell Wireless, Inc. v. Johnson County Bd. of Education Commissioners, 199 F.3d 1185 (10th Cir. 1999).

7. The Joint Applicants shall appear at the hearing and shall be prepared to present testimony on the engineering, design, and construction of the proposed facility, jurisdictional safety, and the public necessity for the facility.

8. Neither opening statements nor witnesses summaries of prefiled testimony shall be permitted at the hearing in this matter.

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

10. Prefiled testimony, if any, shall be filed within 20 days of the date of this Order.

Done at Frankfort, Kentucky, this 12th day of February, 2002.

By the Commission

ATTEST:

William Eversole for
Thomas M. Doonan
Executive Director