

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BELLSOUTH	)	
MOBILITY, LLC, D/B/A CINGULAR	)	
WIRELESS - KENTUCKY FOR ISSUANCE	)	
OF A CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY TO CONSTRUCT A	)	CASE NO.
WIRELESS COMMUNICATIONS FACILITY AT	)	2004-00053
630 SUGGS ROAD, CARLISLE, KENTUCKY	)	
IN THE WIRELESS COMMUNICATIONS LICENSE AREA	)	
IN THE COMMONWEALTH OF KENTUCKY	)	
IN THE COUNTY OF NICHOLAS	)	
SITE NAME: BLUE LICKS	)	

O R D E R

On March 25, 2004, the Commission granted a Certificate of Public Convenience and Necessity (“CPCN”) to BellSouth Mobility, LLC, d/b/a Cingular Wireless – Kentucky (“Applicant”) to construct and operate a wireless telecommunications facility (“cell tower facility”) at 630 Suggs Road, Carlisle, Nicholas County, Kentucky. The facility is referred to as Blue Licks. KRS 278.020(1) requires Applicant to exercise the authority granted by the CPCN by commencing or beginning construction of the facility within 1 year of the issuance of the CPCN.

On March 7, 2005, Applicant moved for an extension of the statutory period to begin construction of the proposed facility. In support of its motion, Applicant states that the Federal Communications Commission’s (“FCC”) consent is required before construction may begin and that the FCC has yet to issue its consent. Until such

consent is granted, Applicant cannot begin construction of its cell tower facility as authorized by the CPCN issued on March 25, 2004.

Having considered Applicant's motion and being otherwise sufficiently advised, the Commission finds that the motion should be denied as moot. KRS 278.020(1) provides that construction authorized by a CPCN must commence within 1 year from the date of the issuance of the CPCN. It further provides an exclusive exception to the 1-year rule and allows an extension of the time period in which construction must commence "for delay due to ... failure to obtain any necessary grant or consent." The delay that Applicant is experiencing due to its efforts to obtain FCC consent for the proposed cell tower facility is squarely within the meaning of the exception in the statute. The statutory time period will not begin to run until the FCC takes final action on Applicant's request for FCC consent.

IT IS THEREFORE ORDERED that:

1. Applicant's motion is denied.
2. Sixty days from the date of this Order and then every 60 days thereafter, Applicant shall file with the Commission a written status report on its pending application before the FCC.
3. Within 30 days of receiving final FCC approval, Applicant shall notify the Commission in writing of the approximate date that construction is to begin.
4. Within 10 days of the commencement of construction, Applicant shall advise the Commission in writing of the date on which construction began.

Done at Frankfort, Kentucky, this 26<sup>th</sup> day of April, 2005.

By the Commission

Commissioner W. Gregory Coker did not participate in the deliberations or decision concerning this case.

ATTEST:

  
Executive Director