

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CELLCO PARTNERSHIP)	
D/B/A VERIZON WIRELESS FOR ISSUANCE)	
OF A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY TO CONSTRUCT AN)	CASE NO. 2004-00508
ADDITIONAL CELL FACILITY ON BURDETTE)	
ROAD, RENFRO VALLEY, ROCKCASTLE)	
COUNTY, KENTUCKY (RENFRO II CELL FACILITY))	

O R D E R

On December 20, 2004, Cellco Partnership d/b/a Verizon Wireless ("Verizon") applied for a Certificate of Public Convenience and Necessity ("CPCN") to construct and operate a wireless telecommunications facility ("Cell Facility"), including a 325-foot-high tower in Rockcastle County, Kentucky.

By Order dated October 14, 2005, Loretta Stevens Rowe was granted full intervention herein and, by Order dated May 26, 2005, Jeffrey Stevens was also granted full intervention herein. On November 29, 2005, an informal conference was held at the Commission's offices, wherein it was agreed that the Intervenor would, within 60 days from the date of an Order memorializing the agreement, compile and submit a list of specific alternative sites to be filed with the Commission. The suitable alternative sites to be proposed by the Intervenor were to be supported by technical information which showed the feasibility of a particular site suggested as an alternative to the site proposed in the application. The Applicant would then have time to respond to each specific suggested alternative site. All parties had sufficient time to enter any objection to the minutes of the informal conference regarding this matter before this Order was issued. None were filed.

On February 1, 2006, the Commission issued an Order which ordered that the "Intervenors shall file with the Commission within 60 days of the date of this Order, a list, with supporting rationale, of specific potential suitable alternative locations or sites on which the Applicant's proposed wireless facility can be collocated or constructed." The Intervenors failed to follow that Order and did not request an extension of time to comply with said Order. The record contains no list with supporting evidence of any proposed suitable alternative sites.

A hearing in this matter shall be conducted on August 8, 2006 at 9:00 a.m., Eastern Daylight Time, in the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky. If an Intervenor wishes to appear at the hearing in opposition to the application and the proposed facility, he or she must, within 10 days of the date of this Order, so notify the Commission in writing. A copy of any such notice shall be delivered to all parties of record. If no statement of intent to appear at the hearing and present evidence against the proposed Cell 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 Order herein.

The issues to be addressed at the hearing include:

1. The public convenience and necessity for the construction and operation of the Cell Facility.
2. The design, engineering, and construction of the proposed Cell Facility.
3. The character of the general area concerned and the likely effects of the installation of the new Cell Facility on nearby land uses and values.
4. Any acceptable alternative or collocation sites, other than the site proposed in the CPCN application.

5. Any other issues that may arise in the course of the hearing.¹

Intervenors are hereby advised that they may not introduce evidence at the hearing regarding any other alternative location or site to collocate or construct an alternative cell tower collocation or construction site, unless they present such suitable alternative locations or sites that are supported by direct testimony of experts in the field of telecommunications that shall be additionally supported by written reports showing the technical feasibility of why a proposed alternative site is a better location than the site proposed in the application. This testimony with written supporting information may be received into evidence at the discretion of the Hearing Officer, pursuant to the prior Orders herein, and is subject to cross-examination by the Applicant.

IT IS THEREFORE ORDERED that:

1. The hearing in this matter shall be conducted on August 8, 2006 at 9:00 a.m., Eastern Daylight Time, in the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

2. If Intervenors intend to appear at the hearing and present evidence against the proposed construction of the Cell Facility as described in the application, they shall file a statement of intent to appear in opposition and present evidence within 10 days of the date of this Order. If no such statement is filed within 10 days of the date of this Order, the hearing shall be cancelled and the case shall be submitted to the Commission on the existing record without further Order herein.

¹ The Federal Communications Commission ("FCC") has exclusive jurisdiction over radio transmissions, including radio frequency interference. The Commission is not authorized to consider the "environmental effects of radio frequency emissions" (including health issues) that comply with FCC standards. See 47 U.S.C. § 332(c)(7). See also Southwest Bell Wireless, Inc. v. Johnson County Bd. of Education, 199 F.3d 1185 (10th Cir. 1999). Accordingly, this issue will not be considered at any hearing.

3. The Intervenor may not offer any proof regarding any proposed suitable alternative site or location for construction or collocation of the proposed Cell Facility except as outlined hereinabove in this Order.

4. On or before the 15th day prior to the date of the hearing, the parties shall file with the Commission a list of witnesses they propose to introduce to testify at the hearing together with a brief summary of an offer of proof for each witness. The Intervenor shall additionally file any documentary evidence they intend to file in accordance with the preceding paragraph of this Order.

5. Opening statements shall not be permitted at hearing in this matter.

6. Any interested persons shall have the opportunity to present testimony or comment on the proposed Cell Facility.

7. These proceedings have been delayed numerous times and no further extension of time shall be granted unless good cause is found upon affidavit.

Done at Frankfort, Kentucky, this 11th day of July, 2006.

By the Commission

ATTEST:


Executive Director