

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF WEST VIRGINIA PCS)	
ALLIANCE, L.C. D/B/A NTELOS FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO CONSTRUCT A 195 FOOT)	CASE NO.
COMMUNICATIONS TOWER OFF DONTA ROAD,)	2007-00124
(KY 766) IN BOYD COUNTY (LAWHORN HOLLOW)	
SITE))	

O R D E R

On April 11, 2007, West Virginia PCS Alliance, LC d/b/a NTELOS (“Applicant”) filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 199 feet in height, with attached antenna, to be located off Donta Road (KY 766), Ashland, Boyd County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 27’ 15.97” by West Longitude 82° 42’ 19.31”.

The Applicant has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Licensed Professional Engineer has certified the plans.

Pursuant to 807 KAR 5:063, the Applicant has notified the County Judge/Executive of the proposed construction. The Applicant has filed an application with the Federal Aviation Administration (“FAA”) seeking approval for the construction

and operation of the proposed facility. The FAA application has been approved. Pursuant to 602 KAR 50:030, no application was filed with the Kentucky Airport Zoning Commission since the proposed tower does not exceed 200 feet in height above ground level.

The Applicant has filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited any comments and informed the recipients of their right to request intervention. Judith Ferguson moved to intervene in this matter. The Commission granted her motion on May 9, 2007. The Commission issued a procedural schedule on August 2, 2007, which set a hearing date of September 26, 2007. Additionally, the Commission directed the intervening parties to submit notice of their intent to attend the scheduled hearing in this matter within 10 days of the date of the procedural schedule. To date, the Commission has not received notice from any intervening party of his or her intent to attend the scheduled hearing. On August 28, 2007, the Commission ordered that the scheduled hearing be cancelled.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated a facility is necessary to provide adequate utility service and that, therefore, a Certificate of Public Convenience and Necessity to construct the proposed facility should be granted.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, the Applicant should notify the Commission if it does not use this antenna tower to provide

service in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by the Applicant.

IT IS THEREFORE ORDERED that:

1. The Applicant is granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 199 feet in height, with attached antenna, and is to be located off Donta Road (KY 766), Ashland, Boyd County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 27' 15.97" by West Longitude 82° 42' 19.31".

2. The Applicant shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

3. The Applicant shall also notify the Commission in writing, within 20 days of completion, that it has finished construction of the tower and the date upon which said construction was complete.

Done at Frankfort, Kentucky, this 7th day of September, 2007.

By the Commission

ATTEST:


Executive Director