

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BLUEGRASS WIRELESS,)	
LLC FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO. 2007-00501
CONSTRUCT A CELL SITE (PRICETOWN) IN)	
RURAL SERVICE AREA #6 (CASEY) OF THE)	
COMMONWEALTH OF KENTUCKY)	

O R D E R

On February 5, 2008, Bluegrass Wireless, LLC (“Bluegrass”) filed an application requesting the issuance of a Certificate of Public Convenience and Necessity (“CPCN”) to construct, maintain, and operate a wireless telecommunications facility (“Cell Facility”) located at 269 Walnut Hill Road, Liberty, Kentucky, 42539, near Pricetown, Kentucky, in an area that is unzoned and outside the jurisdiction of a planning commission. By Commission Order dated March 14, 2008, Terry Wilson, Mariea Jo Wilson, and Carl Wilson were granted full intervention, since their residences and properties are located near the tower and they might be able to assist in the development of issues before the Commission.

On July 9, 2008, the Commission established a procedural schedule and scheduled a public hearing. The procedural schedule provided, inter alia, that:

Any Intervenor who intends to appear at the hearing and present evidence against construction of the proposed Cell Facility shall file, within 10 days of the date of this Order, a statement of intent to appear in opposition. If no statement is filed within 10 days of the date of this Order, the hearing shall be canceled and the matter shall be submitted to the Commission on the existing record.¹

¹ July 9, 2008 Order at 3.

On July 21, 2008, the Commission received a letter from Mariea Jo Wilson and Carl Wilson in which they stated their continued opposition to the construction of the proposed tower and suggested that the tower could be built on the adjacent property. The Commission also received a letter from Terry Wilson stating his continued opposition to the tower and suggesting that the tower could be built on the adjacent property. Neither of the letters contained a statement of intent to appear at the hearing.

The Commission's July 9, 2008 Order provided that an Intervenor must notify the Commission of his or her intention to appear at the hearing. Such notification was due to be filed with the Commission no later than July 22, 2008. As of the date of this Order, no such statement has been filed.

Based on the lack of a statement indicating attendance at the hearing, Bluegrass has moved the Commission, pursuant to the July 9, 2008 Order, to cancel the hearing and submit the application to the Commission for a decision on the record. However, finding that the Intervenors should be allowed an additional opportunity to state their intentions to appear at the hearing, the Commission, on August 19, 2008, ordered the Intervenors to notify the Commission of their intent to attend the hearing. The August 19, 2008 Order also provided that the Commission would cancel the hearing if no statement to attend the hearing was filed by August 24, 2008. On August 25, 2008, the Commission received two letters from the Intervenors. In both letters, the Intervenors stated their continuing objection to the proposed construction site, but also stated that they would not attend the hearing. As the Intervenors did not signal their intention to attend the hearing, the Commission finds that the hearing should be cancelled and the case should be decided based upon the evidence of record.

IT IS THEREFORE ORDERED that:

1. The hearing scheduled for August 27, 2008 is cancelled.
2. This case shall be decided based upon the evidence of record.

Done at Frankfort, Kentucky, this 26th day of August, 2008.

By the Commission

ATTEST:



Stephanie Gumbo
Executive Director