

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF POWERTEL/MEMPHIS, INC. |) | |
| D/B/A T-MOBILE FOR ISSUANCE OF A |) | CASE NO. |
| CERTIFICATE OF PUBLIC CONVENIENCE |) | 2009-00006 |
| AND NECESSITY TO CONSTRUCT AN |) | |
| ADDITIONAL CELL FACILITY AT LEO BOWLDS |) | |
| ROAD, HARDINSBURG, BRECKINRIDGE |) | |
| COUNTY, KENTUCKY |) | |

O R D E R

On January 13, 2009, Powertel/Memphis, Inc. d/b/a T-Mobile ("T-Mobile") filed an application requesting issuance of a Certificate of Public Convenience and Necessity ("CPCN") to construct, maintain, and operate a wireless telecommunications facility ("Cell Facility") located at Leo Bowlds Road, Hardinsburg, Breckinridge County, Kentucky, in an area that T-Mobile states is unzoned and outside the jurisdiction of a local planning commission. By Commission Order dated March 17, 2009, James A. and Nancy Henning ("Intervenors") were granted full intervention, since their property is located near the tower and they may be able to assist in the development or presentation of facts or issues before the Commission.

On April 7, 2009, an informal conference was held to discuss the Intervenors' concerns about the Cell Facility. A memorandum has been filed in the case summarizing the events that took place during that conference.

All Intervenors are notified that they have a period of 20 days from the date of this Order to submit to the Commission and T-Mobile a list of specific potential and

suitable alternative locations where the proposed Cell Facility might be located, other than the proposed site named in the application. The Intervenors must provide enough detail about the location of each suitable alternative site so as to enable T-Mobile to readily pinpoint the area. The Intervenors may not introduce evidence during the hearing regarding any other alternative locations for the proposed tower except the specific locations provided to the Commission and to T-Mobile in accordance with this Order. With the list of suitable alternative sites, the Intervenors must also state whether they intend to appear at a formal hearing in this proceeding to present evidence against the construction of the proposed Cell Facility.

Responses by T-Mobile to the Intervenors' potentially suitable and acceptable alternative locations shall be filed with the Commission and the Intervenors within 15 days of the filing of the Intervenors' list of alternative locations. T-Mobile should include in its response a report of its view of each location, supported by information of a technical nature and evidence concerning the availability and technical feasibility of such location.

After receiving information from the Intervenors regarding potential alternative sites and T-Mobile's response thereto, the Commission shall review the pleadings and determine if a formal hearing shall be scheduled. The Commission's determination on scheduling of a hearing shall be addressed by separate Order.

The issues to be addressed at a hearing, if one is scheduled, include: (1) the public convenience and necessity for the construction and operation of the Cell Facility; (2) the design, engineering, and construction of the Cell Facility (jurisdictional safety issues); (3) the character of the general area concerned and the likely effects of the

installation of the proposed Cell Facility on nearby land uses and values; (4) any suitable and acceptable alternative or collocation site, other than the proposed site in the CPCN application as ordered herein, that has been properly and timely filed with T-Mobile and the Commission; and (5) any other issues that might arise during the course of the hearing.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. The Intervenors shall file with the Commission, within 20 days of the date of this Order, a list of specific suitable and acceptable alternative locations for construction or collocation, other than the proposed site, where the proposed Cell Facility might be located or constructed. The Intervenors shall not produce evidence regarding any suitable and acceptable alternative sites at the hearing except those locations of record properly identified in this paragraph.

2. With the list of alternative Cell Facility locations, the Intervenors shall also file with the Commission a statement of whether they intend to appear at a formal hearing, if scheduled, in this proceeding to present evidence against the construction of the proposed Cell Facility.

3. The Intervenors shall file with the Commission an original and five copies of all statements, pleadings, and evidence. Copies of those same statements, pleadings, and evidence shall also be served to T-Mobile, by and through T-Mobile's counsel of record in this proceeding.

4. T-Mobile shall have a period of 15 days from the date of the Intervenors' filing of the information described above to respond to the Intervenors' proposed alternative locations.

5. The Federal Communications Commission has exclusive jurisdiction over issues regarding radio frequency, interference, and radio frequency emissions. This Commission will not receive any evidence regarding this matter in a hearing, if so scheduled, because it is without authority to consider such evidence.

By the Commission

ENTERED *ew*
APR 22 2009
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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