

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NEW CINGULAR WIRELESS)	
PCS, LLC FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	
CONSTRUCT A WIRELESS COMMUNICATIONS)	CASE NO.
FACILITY AT 654 HAMBURG ROAD, KEVIL,)	2009-00495
BALLARD COUNTY, KENTUCKY 42053)	
)	
SITE NAME: LOVELACEVILLE (339G0160))	

O R D E R

On January 11, 2010, New Cingular Wireless PCS, LLC, a Delaware limited liability company ("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 monopole antenna tower not to exceed 199 feet in height, with attached antenna, to be located at 654 Hamburg Road, Kevil, Ballard County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 58' 35.99" by West Longitude 88° 50' 18.63".

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 did not file an application with either the Federal Aviation Administration (“FAA”) or the Kentucky Airport Zoning Commission (“KAZC”) seeking approval for the construction and operation of the proposed facility. According to the Applicant, the proposed construction does not require approval by the FAA pursuant to 14 CFR 77.¹ The Applicant was notified by the KAZC that the proposed construction did not require its approval.

The Applicant has filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited comments and informed the recipients of their right to request intervention. On January 27, 2010, the Commission received a letter of concern regarding the placement of the proposed tower from Roy T. Campbell. The Commission issued a response to Mr. Campbell on February 9, 2010. The Applicant responded to Mr. Campbell’s letter on February 16, 2010. The Commission has received no further comments from Mr. Campbell regarding his concern about the proposed construction.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated that 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, that the

¹ The height of the proposed construction (below 200 feet above ground level) and its proximity to navigable airspace is deemed not to be an obstruction to air traffic.

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, that 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 monopole antenna tower not to exceed 199 feet in height, with attached antenna, and is to be located at 654 Hamburg Road, Kevil, Ballard County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 58' 35.99" by West Longitude 88° 50' 18.63".
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 three months in the manner authorized by this Order.
3. Any documents filed in the future pursuant to ordering paragraph 2 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED *ew*
APR - 1 2010
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2009-00495

Honorable Todd Briggs
Attorney at Law
Briggs Law Office, PSC
1301 Clear Springs Trace, Suite 205
Louisville, KY 40223

Tony A Taylor
New Cingular Wireless PCS, LLC dba AT&T
601 W. Chestnut Street
4th Floor East
Louisville, KY 40203