

D.P.U. 96-13

Petition of Cellco Partnership d/b/a Bell Atlantic NYNEX Mobile for exemption of certain lands and structures to be used for transmission of telecommunication services from the operation of the zoning bylaw of the Town of Hanover.

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21 Custom House Street
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FOR: CELLCO PARTNERSHIP d/b/a BELL
ATLANTIC NYNEX MOBILE
Petitioner

ORDER OF DISMISSAL

I. INTRODUCTION

On January 5, 1996, Cellco Partnership d/b/a Bell Atlantic NYNEX Mobile ("Cellco" or "Company") filed with the Department of Public Utilities ("Department") a petition for exemption from the zoning bylaws of the Town of Hanover. The filing was made pursuant to the provisions of G.L. c. 40A, § 3, which authorizes the Department to exempt public service corporations from local zoning ordinances or bylaws if the Department finds that an exemption is required and the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.

On February 9, 1996, the Department issued an Order in Dispatch Communications of New England, Inc. d/b/a Nextel Communications, Inc., D.P.U. 95-59 (1996), which denied Nextel Communications, Inc.'s petition for exemption from the zoning bylaws of the Town of Sterling, Massachusetts on the grounds that Nextel Communication, Inc. and other Commercial Mobile Radio Service ("CMRS") providers do not qualify as public service corporations under G.L. c. 40A, § 3. The Department also held that its finding applied to all other petitions filed under G.L. c. 40A, § 3 by CMRS providers, regardless of whether they previously have been determined to be a public service corporation under this statute. Accordingly, Cellco's petition is hereby dismissed.

II. ORDER

Accordingly, after due consideration, it is hereby

ORDERED: That the Petition of Cellco Partnership d/b/a Bell Atlantic NYNEX Mobile for a zoning exemption is hereby denied on the grounds that it does not qualify as a public service corporation under G.L. c. 40A, § 3; and it is