

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CONTEL CELLULAR OF	)	
KENTUCKY, INC. FOR ISSUANCE	)	
OF A CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY TO CONSTRUCT AN	)	CASE NO. 93-155
ADDITIONAL CELL FACILITY IN THE	)	
LEXINGTON, KENTUCKY METROPOLITAN	)	
STATISTICAL AREA (NEW NICHOLASVILLE/	)	
VINEYARD CELL FACILITY)	)	

O R D E R

On April 29, 1993, Contel Cellular of Kentucky, Inc. ("Contel Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower to serve the Lexington Metropolitan Statistical Area ("Lexington MSA"). Contel Cellular supplemented its application on May 12, 1993 and all filing requirements were met. The Lexington MSA includes Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford counties in Kentucky. Contel Cellular has requested authorization to construct a cell site in Jessamine County, Kentucky. Contel Cellular was previously granted authority to operate a cellular radio telecommunications system in the Lexington MSA in Case No. 10169.<sup>1</sup>

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<sup>1</sup> Case No. 10169, The Application of Louisville Cellular Telephone Company, Bluegrass Cellular Telephone Partners and Central Kentucky Cellular Telephone Company for Approval of the Transfer of Ownership and Control of the Public Service Businesses of Louisville Cellular Telephone Company and Bluegrass Cellular Telephone Partners to Central Kentucky Cellular Telephone Company.

The proposed cell site consists of a guyed antenna tower with attached antennas, not to exceed 300 feet in height to be located at 1278 Hoover Pike, Nicholasville, Jessamine County, Kentucky (the "Vineyard cell site"). The coordinates for the Vineyard cell site are North Latitude 37° 50' 11" by West Longitude 84° 34' 49".

Contel Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Vineyard cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Vineyard cell site's construction is exempt from local zoning ordinances. However, Contel Cellular has notified the Jessamine County Planning Commission of the proposed construction. Contel Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Vineyard cell site. The FAA application has been approved, and the KAZC decision is pending. Application to the Federal Communications Commission is not required for the proposed cell site.

Contel Cellular notified all property owners and residents within 500 feet of the Vineyard cell site. The notice solicited comments and informed the property owners and residents of their right to intervene. David Russell Marshall and Russell Marshall,

Jr. requested and were granted intervention in this proceeding and a hearing was scheduled. On July 19, 1993, following discussions with Contel Cellular, the intervenors filed a letter and withdrew from this proceeding. The hearing was consequently canceled.

Pursuant to KRS 278.280, the Commission is required to determine the 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, Contel Cellular should notify the Commission if it does not use this antenna tower to provide cellular telecommunications services 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 Contel Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Contel Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Vineyard cell site under its currently approved tariff.

IT IS THEREFORE ORDERED that:

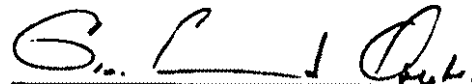
1. Contel Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Vineyard cell site.

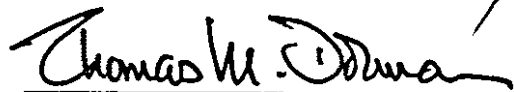
2. Contel Cellular shall file a copy of the final decision regarding its pending KAZC application for this cell site construction within 10 days of receiving this decision.

3. Contel Cellular 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.

Done at Frankfort, Kentucky, this 26th day of August, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director