

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. 94-362  
ADDITIONAL CELL FACILITY IN THE )  
LEXINGTON, KENTUCKY METROPOLITAN )  
STATISTICAL AREA (BRYAN STATION CELL )  
FACILITY) )

O R D E R

On October 11, 1994, 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"). 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 Fayette 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 self-supporting antenna tower, not to exceed 185 feet in height, to be located at 1440 Hume Road, Lexington, Fayette County, Kentucky (the "Hume Road cell site"). The coordinates for the Hume Road cell site are North Latitude 38° 03' 34" by West Longitude 84° 26' 02".

Contel Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Hume Road 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 Hume Road cell site's construction is exempt from local zoning ordinances. However, Contel Cellular has notified the Lexington-Fayette Urban County Government Planning Commission of the proposed construction. The only property owner within a 500-foot radius of the proposed tower's construction is the owner from whom Contel Cellular leases the property. Applications with the Federal Aviation Administration and the Kentucky Airport Zoning Commission seeking approval for the construction and operation of the Hume Road cell site are not required, as the tower is under 200 feet in height.

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 Hume Road 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 Hume Road cell site.

2. 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 12th day of December, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director