

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)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT AN)	95-327
ADDITIONAL CELL FACILITY IN THE LEXINGTON,)	
KENTUCKY METROPOLITAN STATISTICAL AREA (THE)	
BLUEGRASS PARKWAY CELL FACILITY))	

O R D E R

On July 31, 1995, Contel Cellular of Kentucky, Inc. ("Contel Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for the Lexington Metropolitan Statistical Area ("the Lexington MSA"). The Lexington MSA includes Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford counties. Contel Cellular has requested authorization to construct a cell site in Woodford County. Contel Cellular was previously granted authority to operate a cellular radio telecommunications system in the Lexington MSA in Case No. 10169.¹

The proposed cell site consists of a 285-foot or less guyed antenna tower to be located at 2196 Scotts Ferry Road, Woodford County, Kentucky ("the Bluegrass Parkway cell site"). The

¹ 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.

coordinates for the Bluegrass Parkway cell site are North Latitude 38° 00' 22" by West Longitude 84° 47' 54".

Contel Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Bluegrass Parkway 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 Bluegrass Parkway cell site's construction is exempt from local zoning ordinances; however, Contel Cellular notified the Woodford County Planning and Zoning Commission of the pending 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 Bluegrass Parkway cell site. Both applications are pending.

Contel Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Bluegrass Parkway cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Contel Cellular's application was filed. On August 14, 1995, the Commission received a letter from Dudley Gaines, Jr., Magistrate for Mortonsville-Nonesuch, stating that he believed a

hearing should be held to allow concerned citizens in the area to express their views. On September 5, 1995, the Commission notified Magistrate Gaines of his right to intervene and ordered Contel Cellular to respond to Magistrate Gaines's inquiries. Contel Cellular responded to Magistrate Gaines by letter dated September 6, 1995. To date, no intervention requests or additional statements expressing concern have been received, nor has Magistrate Gaines reiterated his statement that a hearing should take place.

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, Contel Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio 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 Bluegrass Parkway cell site in the Lexington MSA under its previously 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 Bluegrass Parkway cell site.

2. Contel Cellular shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

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 19th day of October, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director