

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 ADDITIONAL)	CASE NO. 95-388
CELL FACILITY IN THE LEXINGTON, KENTUCKY)	
METROPOLITAN STATISTICAL AREA)	
(GEORGETOWN II/TOYOTA CELL FACILITY))	

O R D E R

On September 8, 1995, Contel Cellular of Kentucky, Inc. d/b/a Cellular One ("Contel Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in the Lexington Metropolitan Statistical Area ("the Lexington MSA"). The proposed cell site consists of a self-supporting antenna tower not to exceed 299 feet in height, with attached antennas, to be located at 1526 Old U.S. 62 (Kentucky Highway 3519), Georgetown, Scott County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 14' 5.27" by West Longitude 84° 31' 59.79".

Contel Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed 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 proposed cell site's construction is exempt from local zoning ordinances. However, Contel Cellular has notified the Georgetown and Scott County Planning Commission ("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 proposed cell site. The FAA application has been approved and the KAZC decision is pending.

Contel Cellular has filed notices verifying that each person who owns property or resides within 500 feet of the proposed cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. In addition, Contel Cellular has posted notice of the proposed construction in a visible location for at least two weeks after filing its application. The Commission received a letter from the Planning Commission opposing the proposed construction. The Commission ordered Contel Cellular to respond to the Planning Commission's concerns. The Commission also notified the Planning Commission that ". . . if after reviewing Contel Cellular's response . . . you wish to actually participate in the proceeding, you must file a letter requesting full intervention with the Commission within 10 days of receiving Contel Cellular's response." On October 18, 1995, the Planning Commission filed a letter declining to intervene.

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 proposed cell site in the Lexington MSA 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 a self-supporting antenna tower not to exceed 299 feet in height, with attached antennas, to be located at 1526 Old U.S. 62 (Kentucky Highway 3519), Georgetown, Scott County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 14' 5.27" by West Longitude 84° 31' 59.79".

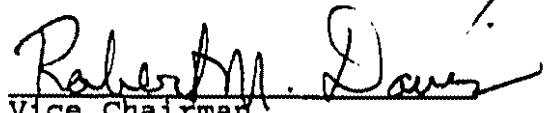
2. Contel Cellular shall file a copy of the final decision regarding its pending KAZC application for the proposed construction within 10 days of receiving this decision.

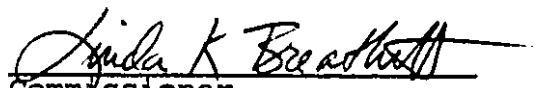
3. Contel Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 20th day of November, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director