

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|   |   |                 |
|---|---|-----------------|
| THE JOINT APPLICATION OF MCCAW CELLULAR   | ) |                 |
| COMMUNICATIONS, INC., CELLULAR FUND, INC. | ) |                 |
| MCCAW CELLULAR FUNDING, INC., CENTRAL     | ) |                 |
| KENTUCKY CELLULAR TELEPHONE COMPANY,      | ) |                 |
| CUMBERLAND CELLULAR TELEPHONE COMPANY,    | ) | CASE NO. 89-303 |
| INC., CONTEL CORPORATION, AND CONTEL      | ) |                 |
| CELLULAR, INC. RESPECTING THE TRANSFER    | ) |                 |
| AND ACQUISITION OF CONTROL OF CENTRAL     | ) |                 |
| KENTUCKY CELLULAR TELEPHONE COMPANY AND   | ) |                 |
| CUMBERLAND CELLULAR TELEPHONE COMPANY,    | ) |                 |
| INC., AND RELATED REORGANIZATION          | ) |                 |

O R D E R

On October 20, 1989, McCaw Cellular Communications, Inc. ("McCaw"), Cellular Fund, Inc. ("Cellular Fund"), McCaw Cellular Funding, Inc. ("MCF"), Central Kentucky Cellular Telephone Company, Inc. ("Central Cellular"), Cumberland Cellular Telephone Company, Inc. ("Cumberland Cellular"), Contel Corporation ("Contel"), and Contel Cellular, Inc. ("CCI") filed a joint application for Commission approval of the related reorganization and transfer of MCF, Central Cellular, and Cumberland Cellular (all subsidiaries of McCaw and Cellular Fund) to CCI (a subsidiary of Contel). On October 26, 1989, the applicants filed an amended application supplementing the original application. After consideration of the application and amended application, the Commission approves the reorganization and transfer ("the Proposed Transaction").

McCaw owns cellular properties throughout the United States but does not provide cellular telephone services in Kentucky. Cellular Fund, a Delaware corporation, is a subsidiary of McCaw and in turn owns MCF, a Washington corporation. Neither Cellular Fund nor MCF operates as a utility within the meaning of KRS 278.010. Central Cellular<sup>1</sup> and Cumberland Cellular<sup>2</sup> provide cellular telephone service in Kentucky. They are owned by McCaw through other subsidiaries.

Contel provides telecommunications services, although not in Kentucky other than through a subsidiary. Contel is the majority shareholder and controls CCI, a Delaware corporation which provides mobile and portable cellular service in Kentucky through a subsidiary.

The applicants have requested within their application permission to deviate from the regulations as to information submitted in connection with the application. The Commission grants that motion inasmuch as the information supplied in this

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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.

<sup>2</sup> Case No. 10291, The Application of Cumberland Cellular Telephone Company, Inc. For Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Radio Telecommunications Service to the Public in the Kentucky Portion of the Clarksville, TN-Hopkinsville, KY Metropolitan Statistical Area, Including Parts of Christian County in KY and For Establishment of Initial Rates.

matter provides the Commission with a reasonable understanding of the Proposed Transaction.

#### PROPOSED TRANSACTION

The first step of the Proposed Transaction is the acquisition of Central Cellular and Cumberland Cellular by MCF from McCaw by the transfer to MCF of McCaw's subsidiaries which own Central Cellular and Cumberland Cellular.<sup>3</sup> In the second step, McCaw and Cellular Fund will transfer MCF, Central Cellular, and Cumberland Cellular to CCI. As majority shareholder in CCI, Contel also will control MCF, Central Cellular, and Cumberland Cellular. In all transfers described above, the purchaser will get 100 percent of the outstanding shares in the company being transferred. Central Cellular and Cumberland Cellular will continue to operate under their current names.

#### APPLICABLE LAW

Under KRS 278.020(5) the applicants must obtain Commission approval of the transfer of MCF, Central Cellular, and Cumberland Cellular to CCI and Contel. The reorganization effected by MCF's acquisitions is exempt,<sup>4</sup> but the acquisition of control of MCF and the cellular telephone utilities by CCI and Contel is not. The

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<sup>3</sup> The transfer by McCaw of its subsidiaries, which own Central Cellular and Cumberland Cellular, to MCF does not need Commission approval as KRS 278.020(4) does not apply because neither the transferrer nor the purchaser is under the Commission's jurisdiction. KRS 278.020(5) does not apply by the terms of KRS 278.020(6)(b).

<sup>4</sup> Pursuant to KRS 278.020(6)(b).

Commission must determine that the acquisition is in accordance with law, for a proper purpose, and consistent with the public interest. The Commission finds that CCI and Contel have the financial resources and management and technical abilities to continue adequate cellular telephone service to the customers of Central Cellular and Cumberland Cellular. The Proposed Transaction will not result in an increase in the charges to those customers and the management of Central Cellular and Cumberland Cellular will not change. Accordingly, the Commission finds that the Proposed Transaction is consistent with the public interest.

IT IS THEREFORE ORDERED that:

1. The transfer by McCaw and Cellular Fund of MCF, Central Cellular, and Cumberland Cellular to CCI, and the concomitant acquisition of control of MCF, Central Cellular, and Cumberland Cellular by Contel, shall be and hereby are approved.

2. The applicants' motion for deviation from the rules shall be and hereby is granted.

Done at Frankfort, Kentucky, this 12th day of December, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

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Commissioner

ATTEST:

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Executive Director, Acting