

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. 94-230
CELL FACILITY IN THE LOUISVILLE,)
KENTUCKY METROPOLITAN STATISTICAL AREA)
(MT. WASHINGTON CELL FACILITY))

O R D E R

On June 10, 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 in the Louisville Metropolitan Statistical Area ("Louisville MSA"). The proposed cell site consists of a guyed antenna tower not to exceed 298 feet in height, with attached antennas, to be located on property along Evans Lane, Mt. Washington, Bullitt County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 03' 31" by West Longitude 85° 32' 24".

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 Bullitt 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 proposed cell site. Both decisions are pending.

Contel Cellular has filed notices verifying that each property owner and resident 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. As ordered, Contel Cellular responded to a letter from a nearby property owner concerning the proposed construction. The Commission also received a letter on August 31, 1994 from the City of Mt. Washington ("the City") expressing its objection to the proposed cell site's construction and requesting a meeting between the City, Commission staff, and Contel Cellular to discuss the development of adjacent property. Contel Cellular responded to the City's objection on September 1, 1994. The Commission finds that Contel Cellular notified the Bullitt County Planning Commission ("Planning Commission") of the proposed construction on June 10, 1994. The Planning Commission requested a copy of Contel Cellular's application but no request for intervention was filed. Therefore, the City's request to discuss development of property adjacent to the proposed cell site does not

appear to be relevant to this proceeding and should be denied. To date, no other comments have been received by the Commission.

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 Louisville 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 guyed antenna tower not to exceed 298 feet in height, with attached antennas, to be located on property along Evans Lane, Mt. Washington, Bullitt County, Kentucky. The coordinates for the

proposed cell site are North Latitude 38° 03' 31" by West Longitude 85° 32' 24".


2. Contel Cellular shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed 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.

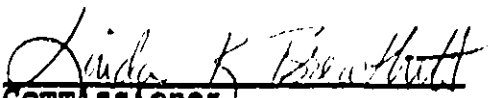
4. The City's request for a meeting is hereby denied.

Done at Frankfort, Kentucky, this 16th day of September, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director