

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. 94-504
CELL FACILITY IN THE LOUISVILLE,)
KENTUCKY METROPOLITAN STATISTICAL AREA)
(I-65/I-265 CELL FACILITY))

O R D E R

On December 14, 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"). As discussed below, the application was amended on May 3, 1995. The proposed cell site consists of a monopole not to exceed 198 feet in height, with attached antennas, to be located at 9403-U Blue Lick Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 06' 44" by West Longitude 85° 41' 16".

Contel Cellular has provided information regarding the structure of the monopole, safety measures, and antenna design criteria for the proposed cell site. Based upon the application, the design of the monopole 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 Louisville and Jefferson 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 applications are 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. The Commission received approximately 60 form letters from persons ("Petitioners") requesting intervention in this proceeding which were submitted in one package mailed by J. F. Riggs, Jr. The motions to intervene were granted and the Commission designated Mr. Riggs as the spokesperson for the Petitioners. As a result of discussions with Mr. Riggs, Contel Cellular filed an agreement to amend its application to reflect that its proposed facility would be a monopole rather than a tower. The agreement was signed by Mr. Riggs and indicated that the proposed amendment satisfactorily addressed, and resolved, his concerns regarding the proposed cell site. By Order dated April 13, 1995, the Commission notified all

Petitioners of the proposed agreement and ordered that unless a Petitioner filed a request for a hearing and a statement of intention to pursue this matter on his own behalf within 10 days, Contel would file the agreed-upon amendment to its application and this matter would stand submitted to the Commission. No responses were filed and Contel Cellular filed an amendment to its application on May 3, 1995.

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 monopole 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 monopole, 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 monopole not to exceed 198 feet in height, with attached antennas, to be located at 9403-U Blue Lick Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 06' 44" by West Longitude 85° 41' 16".

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 monopole is built and utility service is commenced, the monopole is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 25th day of May, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director