

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) CASE NO. 95-031
NECESSITY TO CONSTRUCT AN ADDITIONAL CELL)
FACILITY IN THE LOUISVILLE, KENTUCKY)
METROPOLITAN STATISTICAL AREA (BROWNSBORO)
ROAD CELL FACILITY))

O R D E R

On February 3, 1995, Contel Cellular of Kentucky, Inc. ("Contel Cellular") filed an application to construct a cellular facility in the Louisville Metropolitan Statistical Area on the property known as the Brownsboro Office Park. In response to opposition to the proposed site, and after a hearing, the Commission issued an Order, entered November 7, 1995, directing Contel Cellular to amend its application to reflect that its cellular facility is proposed to be constructed approximately 200 feet south-southeast of the originally proposed site. Contel Cellular has not, as yet, filed its amendment. While Contel Cellular would prefer to locate the facility on its originally chosen site, it maintains that the alternative reflected in its amendment is technically superior to a site on the Brownsboro Inn property, which is approximately 500 feet farther south-southeast. This is the location preferred by several intervenors.

Some of those intervenors, Rudy Lane Inc. ("RLI"), the City of Winding Falls and its mayor, Robert Murphy, and the Louisville and Jefferson County Planning Commission ("Petitioners"), filed, on

November 29, 1995, a petition for rehearing. They argue, inter alia, that the Brownsboro Inn property is preferable to the newly proposed site. They also state they will withdraw their opposition to the application if Contel Cellular locates its facility on the site they recommend.

KRS 278.400 permits parties to a Commission proceeding to request rehearing when "a determination has been made." However, the only determination that has been made here is an extremely preliminary one. The November 7, 1995 Order by no means states the Commission's final decision in this matter. Nor does it state that a certificate will be granted for the new proposed location. It does not even state that the final outcome of this case, whatever it may be, will be one with which the Petitioners will disagree.

Consequently, the Commission finds that granting "rehearing" at this point is premature and inappropriate. However, after Contel Cellular has filed its amended application, after the required notice has been given to persons who were not notified pursuant to the original application, and after those persons have been accorded opportunity to state their concerns, if any, and to intervene, the Commission will entertain requests for hearing on the amended application. The Petitioners, as well as other parties, including those who may subsequently be joined as a result of the amendment, may raise their concerns at that time.

The Commission having been sufficiently advised, IT IS THEREFORE ORDERED that:

1. The Petition for Rehearing is denied.
2. Petitioners, as well as any other parties, may request a hearing on the amended application at such time as that application is before the Commission.

Done at Frankfort, Kentucky, this 15th day of December, 1995.

PUBLIC SERVICE COMMISSION

Quida K. Breathitt
Chairman

Vice Chairman

Robert M. Davis
Commissioner

ATTEST:

Don Mills
Executive Director