

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. 95-225  
CELL FACILITY IN THE LOUISVILLE, )  
KENTUCKY METROPOLITAN STATISTICAL )  
AREA (BELLE MEADE CELL FACILITY) )

O R D E R

On June 8, 1995, the Commission received the attached letters from John K. Doll, on behalf of his client Doll's Market #2; and from James G. Hodge, Sr., on behalf of his clients, the Lyndon Fire Protection District and the city of Lyndon (hereinafter referred to collectively as "Petitioners"), regarding the proposed cellular telecommunications facility to be located at 512-R Lyndon Lane, Louisville, Jefferson County, Kentucky.

IT IS THEREFORE ORDERED that:

1. Contel Cellular of Kentucky, Inc. ("Contel Cellular") shall respond to Petitioners' concerns by certified letter, within 10 days of the date of this Order.

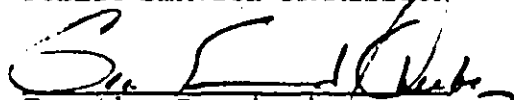
2. Contel Cellular shall file a copy of the certified letters and dated receipts, within 7 days of the date on the receipt.

Done at Frankfort, Kentucky, this 29th day of June, 1995.

ATTEST:

  
Executive Director

PUBLIC SERVICE COMMISSION

  
For the Commission

LYNCH, COX, GILMAN & MAHAN P.S.C.

500 MEIDINGER TOWER  
LOUISVILLE, KENTUCKY 40202

(502) 589-4315

Fax (502) 589-4994

S. ARNOLD LYNCH  
DONALD L. COX<sup>1</sup>  
SPENCER G. GILMAN<sup>2,4</sup>  
ARMER H. MAHAN JR.  
S. OTT D. SPIEGEL  
S. R. COX<sup>3</sup>  
M. JANET LINTNER  
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LEAM E. SMITH  
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DEBRA K. GOFF STAMPER<sup>5</sup>  
PETERSEN S. THOMAS<sup>3</sup>  
MYRA L. HOPKINS  
CYNTHIA S. BUTTORFF  
ROBERT R. GREGORY

COUNSEL

FREDERIC J. COWAN

<sup>1</sup>ALSO ADMITTED U.S. PATENT OFFICE

<sup>2</sup>ALSO ADMITTED FLORIDA

<sup>3</sup>ALSO ADMITTED CALIFORNIA

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<sup>5</sup>ALSO ADMITTED WEST VIRGINIA

INDIANA OFFICE  
521 E. 7TH STREET  
JEFFERSONVILLE, INDIANA 47130  
TELEPHONE  
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On Counsel  
BUNDLES 199:  
ROBERT A. MARSHALL<sup>3</sup>  
DAVID B. MARSHALL  
JOHN K. DOLL  
JAMES B. WAGENSELLER<sup>3</sup>  
BARBARA M. YOUNG<sup>4</sup>  
ROBERT K. SALYERS

June 7, 1995

Executive Directors' Office  
Public Service Commission of Kentucky  
P.O. Box 615  
Frankfort, Kentucky 40602

RE: Contel Cellular of Kentucky, Inc.  
Case No.: 95-225

Dear Sir or Madam:

This letter is submitted on behalf of Doll's Market #2, 514 Lyndon Lane, Louisville, Kentucky 40222 regarding the application of Contel Cellular for a certificate of public convenience and necessity to construct a new cell facility including a mono-pole with antennas. The cell facility will be located on property very near the rear of Doll's Market's building.

Doll's Market does not oppose the construction of the facility so long as certain conditions are met. First, Doll's Market requests assurance that the facility will not obstruct Doll's Market's access to the rear of the store. The rear of the store is used primarily for receiving deliveries of groceries and supplies. Suppliers often use tractor-trailer which need room to maneuver. Doll's Market needs to be assured that there will be no guy wires or other obstructions which would limit or hinder access to the rear of the store for deliveries.

Second, the facility must be covered by ample insurance in case any damage results to Doll's Market or others because of the facility. Doll's Market also needs to determine that the proximity of the tower will not increase Doll's Market's insurance.

**LYNCH, COX, GILMAN & MAHAN P.S.C.**

Executive Director's Office

June 7, 1995

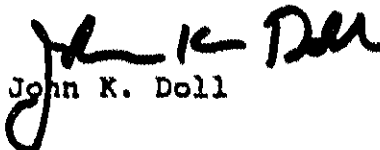
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Third, Contel Cellular should be required to construct the facility with due regard for aesthetics. Some cellular antenna facilities are eyesores, such as the one located near the Kroger store on Hubbards Lane in Jefferson County. However, Contel certainly has the ability, and has in other instances, constructed more attractive facilities. Doll's Market asks that the Commission require Contel Cellular to spend sufficient funds to construct a more attractive, less obtrusive, tower facility.

Thank you for your consideration of Doll's Market's concerns. Please call if you have any questions or need any further information.

Very truly yours,

LYNCH, COX, GILMAN & MAHAN, P.S.C.

  
John K. Doll

JKD/rsb

c:\jkd\letters.jkd\doll07.065

RECEIVED

JUN 08 1995

LAW OFFICES OF  
**HODGE & KELLEY**

309 LEGAL ARTS BUILDING  
800 NORTH SEVENTH STREET  
LOUISVILLE, KENTUCKY 40202

(502) 587-8901  
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317 MAIN STREET  
TAYLORVILLE, KENTUCKY 40071

(502) 477-4134  
FAX (502) 477-9030

WILLIAM C. HODGE  
COMMISSIONER  
WILLIAM C. HODGE  
(1894-1968)  
WALTER R. KING  
(1910-1981)

JAMES G. HODGE, SR.  
THOMAS R. KELLEY, JR.  
ROBERTA H. TRAVIS  
JAMES G. HODGE, JR.  
JULIE P. MIX

\*ALSO ADMITTED IN PA\*

June 5, 1995

Mr. Don Mills  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602  
(502) 564-3940

**VIA FAX [(502) 564-7279] Attn: Debbie Everole  
AND OVERNIGHT MAIL**

Re: PSC Case No. 95-225  
Contel Cellular of Kentucky, Inc.  
Lyndon Fire Protection District  
Our file no. 457

Dear Mr. Mills:

On behalf of the Lyndon Fire Protection District, a duly-organized municipal corporation within Jefferson County, Kentucky, please accept this letter as the District's initial communication in response to the Certificate of Public Convenience and Necessity filed by Contel Cellular of Kentucky, Inc. to construct a new cell tower at 512-R Lyndon Lane, within the District's jurisdiction.

Please be advised that the Lyndon Fire Protection District is strongly opposed to the placement and construction of said tower at the suggested location for many reasons, including but not limited to, the following:

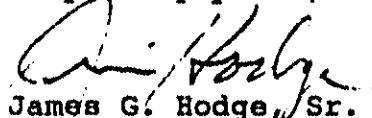
1. The proposed location of the tower near to the Main Fire Station of the Lyndon Fire Protection District poses a severe hazard to the flight of helicopter flight patterns in emergency operations.
2. The proposed location of the tower poses a severe hazard to the landing of helicopters at the Main Fire Station's helipad given its proximity.

3. The proposed tower presents the potential for emergency operations which the District with its existing equipment is not capable of sufficiently handling.
4. The proposed tower would be a safety hazard to persons and property in the area given its close proximity to existing highly populated residential and commercial areas and various power and phone lines.
5. There exists the potential for interference of the signals generated by the tower with emergency fire equipment and radio communications.
6. Any additional reasons and/or objections of a factual or legal nature which the District may become aware as this matter progresses.

In consideration of these reasons, the Lyndon Fire Protection District expresses its strong opposition to the construction of said tower, and asks that it be allowed to intervene in the proceedings before the Public Service Commission. The District also requests that it be notified of all matters and proceedings before the Commission related to this case.

Please let me know if you have any questions or comments about this matter. On behalf of the Lyndon Fire Protection District, I remain

Very truly yours,



James G. Hodge, Sr.  
LFRD Counsel

cc: Chief James Baker (w/copy to all Board members by  
distribution)  
W. Brent Rice, Counsel for Contel Cellular of Ky, Inc.

LAW OFFICES OF  
**HODGE & KELLEY**  
308 LEGAL ARTS BUILDING  
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G. WILLIAM CLEMENTS  
(1924-1969)  
WALTER R. KING  
(1910-1981)

JAMES G. HODGE, MR.  
THOMAS R. KELLEY, JR.  
ROBERTA H. TRAVIS  
JAMES G. HODGE, JR.  
JULIE P. MIX

\*ALSO ADMITTED IN MO\*

317 MAIN STREET  
TAYLORSVILLE, KENTUCKY 40071  
(502) 477-8138  
FAX (502) 477-9020

June 5, 1995

Mr. Don Mills  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602  
(502) 564-3940

RECEIVED

JUN 08 1995

PUBLIC SERVICE  
COMMISSION

VIA FAX [(502) 564-7279] Attn: Debbie Everosle  
AND OVERNIGHT MAIL

Re: PSC Case No. 95-225  
Contel Cellular of Kentucky, Inc.  
City of Lyndon  
Our file no. 1537

Dear Mr. Mills:

On behalf of the City of Lyndon, a duly-organized fourth-class city within Jefferson County, Kentucky, please accept this letter as the City's initial communication in response to the **Certificate of Public Convenience and Necessity** filed by Contel Cellular of Kentucky, Inc. to construct a new cell tower at 512-R Lyndon Lane, within the City's jurisdiction.

Please be advised that the City of Lyndon is strongly opposed to the placement and construction of said tower at the suggested location for multiple reasons, including but not limited to, the following:

1. The City of Lyndon has previously passed Ordinance No. 920.12, Series 1994 on January 17, 1995 (copy enclosed). This ordinance strictly prohibits the construction of this tower at the proposed location.
2. The proposed location is not suitable for the construction of the tower given engineering requirements for support of the facility.

3. The tower poses an extreme safety hazard given its close proximity to existing highly populated residential and commercial areas.
4. City residents living in the immediate area are strongly opposed to the project, as expressed through a written petition circulated and signed by such residents (copy enclosed).
5. The construction of the tower would be aesthetically unpleasing given the existing low-height commercial and residential buildings surrounding the site, and otherwise not in conformity with the character of the area.
6. There has been no adequate study of the possible injurious effects of cellular phone waves to the health of residents living near the structure, and as a result, such should not be constructed until such studies have been performed.
7. Any additional reasons and/or objections of a factual or legal nature which the City may become aware as this matter progresses.

In consideration of these reasons, the City of Lyndon expresses its strong opposition to the construction of said tower, and asks that it be allowed to intervene in the proceedings before the Public Service Commission. The City also requests that it be notified of all matters and proceedings before the Commission related to this case.

Please let me know if you have any questions or comments about this matter. On behalf of the City of Lyndon, I remain

Very truly yours,

  
James G. Hodge, Sr.  
City Counsel

Enclosures- as stated

cc: Mayor Susan Barto (w/copy to all Council members' mail boxes)  
Nancy R. Duncan, 8022 Roland Avenue, Lyndon, KY 40222  
W. Brent Rice, Counsel for Contel Cellular of Ky, Inc.

(Revised February 7, 1995)

**CITY OF LYNDON, KENTUCKY  
ORDINANCE NO# 920.12  
SERIES 1994**

**AN ORDINANCE ESTABLISHING CITY-WIDE HEIGHT RESTRICTION FOR  
BUILDINGS AND OTHER STRUCTURES WITHIN THE CITY OF LYNDON**

**WHEREAS**, the City of Lyndon desires to preserve its existing residential qualities for the betterment of its citizens; and

**WHEREAS**, the City of Lyndon has determined that a city-wide height restriction on buildings and other structures, other than those previously erected or planned to be erected (as evidenced through actual written plans dated prior to the enactment of this ordinance and submitted to the appropriate development agency or City Council), will help to further this desire;

**BE IT ORDAINED BY THE CITY OF LYNDON, KENTUCKY:**

**Section 1.** Notwithstanding any other provisions as contained in the Louisville-Jefferson County Planning Commission Regulations or other binding law or regulations, no building or structure, other than those previously erected or planned to be erected (as evidenced through actual written plans dated prior to the enactment of this ordinance and submitted to the City Council) shall exceed the height of three (3) stories or forty-five (45) feet in any zoning district (except Planned Research/Office Development "PRO") within the City of Lyndon, Kentucky.

**Section 2.** The height requirement as prescribed herein applies to main buildings and accessory buildings, as well as any and all man-made structures not hereinafter specifically excluded.

**Section 3.** The height requirement as prescribed herein shall not apply to chimneys, church spires, electrical transmission lines, elevator bulkheads when part of a building, fire towers, flag poles, and ornamental towers or spires on buildings.

**Section 4.** Any person, firm, or corporation violating any of the terms of this ordinance or failing to obey an order of the Architectural Review Board or the City Council shall be deemed guilty of a violation, and be fined not less than one-hundred (\$ 100.00) dollars and not more than five-hundred (\$ 500.00) dollars.

Where such violation is of a continuing nature, each day in violation shall be deemed a separate offense, subject to the same fines mentioned above. The City by imposing any fines does not hereby waive any rights it may have to require the termination, removal, or destruction of the building or structure in violation through a court of competent jurisdiction.

**Section 5.** If any section, sentence, or clause of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section 6.** This ordinance shall take effect upon its adoption by the City Council and publication pursuant to law.



We, the undersigned, do formally protest the proposed cell facility 125' monopole and equipment shelter at 512-R Lyndon Lane; and petition Lyndon City Hall to prevent such 139' structure from being erected anywhere in our city:

NAME	ADDRESS	Phone
1) Nancy R Duncan	8022 Roland Ave.	425-4046
2) <i>[Signature]</i>	417 Wisteria Ave	423-7049
3) Chris Nickerson	8024 Roland Ave	425-9069
4) Charlotte Jones	8026 Roland Ave	339-9762
5) Michael + Joanne Faith	8029 Roland	425-4307
6) Cady + Rusty Alger	428 Wisteria 40222	425-5784
7) Kristin + Scott Kelly	423 Wisteria Ave 40222	426-9500
8) Grace + Steve Halls	421 Wisteria Ave 40222	426-7205
9) Jose + Nancy Zabuneh	419 Wisteria Ave 40222	426-9785
10) Etienne Loy	426 Wisteria Ave 40222	423-9924
11) <i>[Signature]</i> + Jan Gunnar	409 Wisteria Ave. 40222	426-3302
12) Willis + Sue Ferguson	403 Wisteria Ave. 40222	429-6344
13) Wayne + Kelly Trues	407 Wisteria Ave 40222	426-9222

Petition cont for prevention of 139' cell monopole  
Page two

NAME

ADDRESS

Phone

- (14) DAVID GRAVES 408 WISTERIA AVE 426-5622
- (15) ALONZO WIGGINS 412 WISTERIA AVE 339-1277
- (16) CYNTHIA WIGGINS 412 WISTERIA AVE 339-1277
- (17) Mr. & Mrs. C. Stock 411 Wisteria Ave. - 327-9048
- (18) Louise A. Grier 413 Wisteria Ave 429-5228
- (19) Frank F. Bodart 424 WISTERIA AVE 327-7173
- (20) Martha E Eddy 8027 Roland Ave 429-5242
- (21) Milton Cundiff 412 Lyndon Ave 425-9261
- (22) Susan Clater 8025 Roland Ave. 426-7979
- (23) Sherree L Beard 8101 Roland Ave. 426-3687
- (24) Evelyn Marcus 8103 Roland Ave 426-8124
- (25) Pat Davidson 505 Wood Rd. 425-7841
- (26) Florence C. Pierce 507 Wood Rd 425-9265
- (27) Elizabeth H. Kinman 501 Wood 425-7782