

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF GTE MOBILNET OF KENTUCKY)
INCORPORATED (FORMERLY NAMED CONTEL)
CELLULAR OF KENTUCKY, INC.) FOR ISSUANCE)
OF A CERTIFICATE OF PUBLIC CONVENIENCE) CASE NO. 95-225
AND NECESSITY TO CONSTRUCT AN)
ADDITIONAL CELL FACILITY IN THE LOUISVILLE)
KENTUCKY METROPOLITAN STATISTICAL AREA)
(BELLE MEADE CELL FACILITY))

O R D E R

On May 19, 1995, GTE Mobilnet of Kentucky Incorporated d/b/a Cellular One ("GTE Mobilnet") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radiotelecommunications antenna tower in the Louisville Metropolitan Statistical Area ("the Louisville MSA"). The application was later amended as discussed herein. The proposed cell site, as amended, consists of a monopole antenna tower not to exceed 139 feet in height, with attached antennas, to be located at 8126 New LaGrange Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 15' 31" by West Longitude 85° 36' 7".

GTE Mobilnet 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 conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to **KRS 100.324(1)**, the proposed cell site's construction is exempt from local zoning ordinances. However, **GTE Mobilnet** has notified the Louisville and Jefferson County Planning Commission of the proposed construction. **GTE Mobilnet** has filed applications with the Federal Aviation Administration and the Kentucky Airport Zoning Commission seeking approval for the construction and operation of the proposed cell site. Both applications have been approved.

GTE Mobilnet filed notices verifying that each person who owns property or resides within 500 feet of the originally 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. In addition, **GTE Mobilnet** posted notice of the proposed construction in a visible location for at least two weeks after filing its application. The Commission received numerous protests regarding the originally proposed construction and the City of Lyndon and the Lyndon Fire Protection District ("Intervenors") ultimately intervened and requested a hearing in the matter.

Pursuant to the Commission's July 28, **1995** Order, a hearing in this proceeding was held in abeyance pending the outcome of negotiations between **GTE Mobilnet** and the Intervenors. On April 26, **1996**, as a result of those negotiations, **GTE Mobilnet** filed several amendments to its May **19, 1996** application, the most significant of which was the relocation of the proposed cellular facility approximately 700 feet northeast of the original site to property owned by the Lyndon Fire Protection District, one of the Intervenors in this matter. An existing tower on the property, currently used by the lessor for its communications, will be removed and replaced by the proposed monopole antenna tower. **GTE Mobilnet** notified all persons who reside or own property within 500 feet of the

construction proposed in the amended application. The Commission received one letter protesting the construction. As ordered, GTE Mobilnet responded to the protestor's concerns and under separate letter from the Commission he was notified of **his** right to intervene and request a hearing if GTE Mobilnet's response did not satisfy his concerns. To date, no further comments have been filed with 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, GTE Mobilnet 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 GTE Mobilnet.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that GTE Mobilnet should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site, as amended, in the Louisville MSA under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. GTE Mobilnet be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole antenna tower not to exceed 139 feet in height, with attached antennas, to be located at 8126 New LaGrange Road, Louisville,

Jefferson County, Kentucky. **The** coordinates for the proposed cell site are North Latitude 38° 15 31" by West Longitude 85° 36 7".

2. GTE Mobilnet 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.

Done at Frankfort, Kentucky, this 10th day of July, 1996.

By the Commission

ATTEST:



Executive Director