COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NEW CINGULAR WIRELESS PCS LLC FOR	)	
ISSUANCE OF A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO	)	2009-00034
CONSTRUCT A WIRELESS	)	
COMMUNICATIONS FACILITY	)	

O R D E R

On February 4, 2009, New Cingular Wireless PCS, LLC ("New Cingular") filed an application for a Certificate of Public Convenience and Necessity ("CPCN") to construct a wireless communications tower in Henderson, Kentucky. The application proposes to build the tower at a location within the political boundary of a local planning commission that has adopted planning and zoning regulations in accordance with KRS Chapter 100.

The question of whether or not the Commission has jurisdiction over such an application is currently pending in the matter of *L. Glenn Shadoan, et al. v. Kentucky Public Service Commission, et al.*, Kentucky Supreme Court Case No. 2009-SC-000053-DR. The Commission's jurisdiction over New Cingular's application is largely dependent upon the Supreme Court's decision.
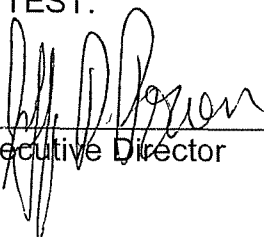
We find that, to ensure the most efficient and effective use of the resources of the Commission and the parties and to avoid unnecessary costs and proceedings, New Cingular's current application should be held in abeyance pending a decision by the Kentucky Supreme Court. If a decision has not been made within 60 days, New Cingular may file a motion to request that the Commission revisit this matter.

IT IS THEREFORE ORDERED that this matter shall be held in abeyance for a period of not less than 60 days commencing from the date of this Order and pending a final decision in Kentucky Supreme Court Case No. 2009-SC-000053-DR.

Done at Frankfort, Kentucky, this 17th day of March, 2009.

By the Commission

ATTEST:

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Executive Director

Case No. 2009-00034

Honorable Todd Briggs
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