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February 10, 2005

**VIA HAND DELIVERY**

Kentucky Public Service Commission  
Attn: Mr. Jeff Cline  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, KY 40602-0615

RECEIVED

FEB 10 2005

PUBLIC SERVICE  
COMMISSION

RE: PSC Case No. 2004-00413  
Application to Construct Wireless Communications Facility  
Location: Rough and Tough Rd., Prestonsburg, KY 41653  
Applicant: BellSouth Mobility LLC, d/b/a Cingular Wireless-Kentucky  
Site Name: Brainard

Dear Mr. Cline:

On behalf of my client New Cingular Wireless PCS, LLC, successor in interest to BellSouth Mobility LLC, I am submitting the enclosed original and five (5) copies of *Motion To Hold Application And All Pending Motions In Temporary Abeyance and Proposed Order*. I have also enclosed two (2) additional copies of this cover letter. Thank you for your assistance and do not hesitate to contact me if you have any comments or questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Pike'.

David A. Pike

Attorney for New Cingular Wireless PCS, LLC

Enclosures

Cc: Dale Wright  
Eric Bowman  
Kyle Willard  
John E. Selent

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED

FEB 10 2005

PUBLIC SERVICE  
COMMISSION

In the Matter of:

THE APPLICATION OF )  
BELLSOUTH MOBILITY, LLC, )  
D/B/A CINGULAR WIRELESS - KENTUCKY )  
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO CONSTRUCT )  
A WIRELESS COMMUNICATIONS FACILITY AT )  
ROUGH AND TOUGH ROAD )  
PRESTONSBURG, KENTUCKY 41653 OR, IN THE )  
ALTERNATIVE, AN ORDER REQUIRING CO-LOCATION )  
ON REASONABLE TERMS AND CONDITIONS )  
IN THE WIRELESS COMMUNICATIONS )  
LICENSE AREA IN THE COMMONWEALTH OF )  
KENTUCKY IN THE COUNTY OF FLOYD )

CASE NO.: 2004-00413

SITE NAME: BRAINARD

\* \* \* \* \*

**MOTION TO HOLD APPLICATION  
AND ALL PENDING MOTIONS IN TEMPORARY ABEYANCE**

Comes now New Cingular Wireless PCS, LLC, successor in interest to BellSouth Mobility, LLC, d/b/a Cingular Wireless – Kentucky ( “Cingular”), by counsel, and in light of the admissions contained in the Response filed in the above referenced matter by East Kentucky Network Limited Liability Company (“East Kentucky Network”) does hereby move the Commission to hold the above styled matter in temporary abeyance for forty-five (45) days to provide an opportunity for Cingular and East Kentucky Network to engage in direct negotiations on the collocation of Cingular’s antennas and equipment at East Kentucky Network’s facilities.

In support hereof Cingular does state that based upon the statements contained within the recent pleadings filed by East Kentucky Network in this action it appears it is now willing to entertain Cingular's requests to collocate its antennas and equipment at its facilities and East Kentucky Network will negotiate the terms of collocation in good faith.

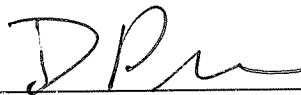
While Cingular welcomes East Kentucky Network's newfound openness to engage in good faith negotiations as expressed in its recent pleadings filed before the Commission, Cingular disputes the factual claims therein. Cingular also disputes East Kentucky Network's claim that a certain number of inquiries are necessary before it is required to respond to Cingular's attempts to initiate collocation discussions. Cingular reserves the right to reply to the issues raised by East Kentucky Network in its recent filings before the Commission.

Nevertheless, Cingular welcomes the Response filed by East Kentucky Network for several reasons. Initially, it is welcomed simply because it *is* a response. It should be noted that while a copy of the application was served upon East Kentucky Network on or about October 22, 2004, no response was received regarding Cingular's request that the Commission order East Kentucky Network to engage in good faith negotiations regarding collocation until February 4, 2005. East Kentucky Network's engagement in this PSC proceeding, however reluctant, is a major step forward. Secondly, Cingular also welcomes the Response because it acknowledges that collocation is an obligation under law. Finally, East Kentucky Network acknowledges in its Response that it has an obligation under the law to engage in good-faith negotiations with Cingular regarding

the collocation of Cingular's antennas and equipment at its facilities.

In order to take advantage of East Kentucky Network's current willingness to negotiate in good faith, Cingular respectfully requests that the Commission hold the application and all pending motions in temporary abeyance for a period of forty-five (45) days so that the parties may immediately engage in direct negotiations regarding the collocation of Cingular's antennas and equipment at facilities owned by East Kentucky Network. At the conclusion of that period, Cingular will file a status report detailing the progress of those negotiations.

Respectfully submitted,



\_\_\_\_\_  
David A. Pike  
Pike Legal Group, PLLC  
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Shepherdsville, KY 40165-0369  
Telephone: (502) 955-4400  
Telefax: (502) 543-4410  
Attorney for New Cingular Wireless PCS, LLC

#### CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing was mailed this 10 day of February, 2005, to the Hon. John E. Selent, Holly C. Wallace, Dinsmore & Shohl, LLP, 1400 PNC Plaza, 500 West Jefferson Street, Louisville, Kentucky 40402 attorney for East Kentucky Network.



\_\_\_\_\_  
David A. Pike

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

THE APPLICATION OF )  
BELLSOUTH MOBILITY, LLC, )  
D/B/A CINGULAR WIRELESS - KENTUCKY )  
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC ) CASE NO.: 2004-00413  
CONVENIENCE AND NECESSITY TO CONSTRUCT )  
A WIRELESS COMMUNICATIONS FACILITY AT )  
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PRESTONSBURG, KENTUCKY 41653 OR, IN THE )  
ALTERNATIVE, AN ORDER REQUIRING CO-LOCATION )  
ON REASONABLE TERMS AND CONDITIONS )  
IN THE WIRELESS COMMUNICATIONS )  
LICENSE AREA IN THE COMMONWEALTH OF )  
KENTUCKY IN THE COUNTY OF FLOYD )

SITE NAME: BRAINARD

\* \* \* \* \*

**ORDER**

Motion having been made by New Cingular Wireless PCS, LLC, successor in interest to BellSouth Mobility, LLC, d/b/a Cingular Wireless – Kentucky (hereinafter, “Cingular”) to hold the above styled matter in temporary abeyance for forty-five (45) days to provide an opportunity for Cingular and East Kentucky Network to engage in direct negotiations on the collocation of Cingular’s antennas and equipment at East Kentucky Network’s facilities and the Commission having been otherwise sufficiently advised,

IT IS THEREFORE ORDERED that the application and all pending motions are hereby held in temporary abeyance for a period of forty-five (45) days so that the parties may immediately engage in direct negotiations regarding the collocation of antennas and equipment at facilities owned by East Kentucky Network. At the conclusion of that

period, Cingular will file a status report detailing the progress of those negotiations.

Done at Frankfort, Kentucky this \_\_\_\_ day of February, 2005

By the Commission

Tendered by:

David A. Pike  
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