

19-381

JOHN N. HUGHES
ATTORNEY AT LAW
PROFESSIONAL SERVICE CORPORATION
124 WEST TODD STREET
FRANKFORT, KENTUCKY 40601

TELEPHONE: (502) 227-7270

JNHUGHES@fewpb.net

TELEFAX (502) 875-7059

December 4, 2009

RECEIVED

DEC 04 2009

PUBLIC SERVICE
COMMISSION

Mr. Jeff R. Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, Kentucky 40601

RE: Denial of Confidential Treatment for Portions of NPCR, Inc.'s August 31,
2009 Annual Eligible Telecommunications Carrier Certification

Dear Mr. Derouen:

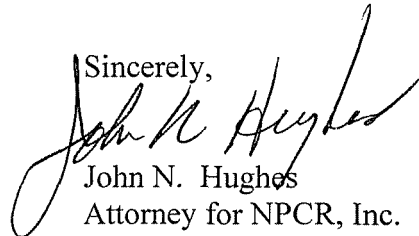
NPCR, Inc. has reviewed your November 16, 2009 letter denying confidential treatment of Attachment B to NPCR, Inc.'s above-captioned certification filing which consists of a map depicting the location of planned new cell sites and the planned expansion of RF coverage in Kentucky during 2009 and 2010. NPCR, Inc. disagrees with your conclusion that the map does not contain details or data warranting protection from public review. Details of future network plans for facilities and equipment not yet built may provide competitors an unfair advantage and certainly may be exempt from public inspection under Kentucky law in certain circumstances. NPCR, Inc. has decided not to file a Petition for Rehearing with respect to this specific denial of confidential protection, but reserves its right to seek protection for similar maps it files in the future.

Such maps constitute records that are exempted from inspection pursuant to Kentucky Revised Statutes ("KRS") Section 61.878. The maps show where new facilities will be constructed and therefore how and where coverage will be expanded during a defined period in the future. In the highly competitive market for wireless communications, such information on network planning and future coverage is generally recognized as confidential and permits an unfair competitive advantage to NPCR, Inc.'s competitors if disclosed. Therefore, the maps are records exempt from public inspection pursuant to KRS Section 61.878(c)(1). Further, similar maps are afforded confidential

Mr. Jeff R. Derouen
December 4, 2009
Page 2

protection by the Federal Communications Commission when filed in connection with certifications for states that do not administer their own eligible telecommunications carrier programs. KRS Section 61.878 (k) exempts from inspection records the disclosure of which is prohibited by federal law or regulation.

Therefore, although NPCR, Inc. is not seeking review of the denial of confidential treatment in this instance, it expressly reserves the right to do so with respect to future records of a similar nature. Please do not hesitate to contact me with any questions.

Sincerely,

John N. Hughes
Attorney for NPCR, Inc.

JNH/vhp

Douglas C. Nelson, Esq.
William R. Atkinson, Esq.