

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NEW CINGULAR WIRELESS)	
PCS, LLC FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	
CONSTRUCT A WIRELESS COMMUNICATIONS)	
FACILITY NEAR INTERSECTION OF STATE)	CASE NO.
ROUTE 840 AND U.S. 119, HARLAN, HARLAN)	2009-00256
COUNTY, KENTUCKY, 40831)	
)	
SITE NAME: TUCKER (252G0119))	

O R D E R

On July 30, 2009, New Cingular Wireless PCS, LLC, a Delaware limited liability company ("Applicant"), filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a monopole antenna tower not to exceed 199 feet in height, with attached antenna, to be located near the intersection of State Route 840 and U.S. 119, Harlan, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude 36° 51' 4.64" by West Longitude 83° 21' 38.07".

The Applicant has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Licensed Professional Engineer has certified the plans.

Pursuant to 807 KAR 5:063, the Applicant has notified the County Judge/Executive of the proposed construction. The Applicant has filed applications with the Federal Aviation Administration and the Kentucky Airport Zoning Commission seeking approval for the construction and operation of the proposed facility. Both applications have been approved.

The Applicant has filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited comments and informed the recipients of their right to request intervention. On August 13, 2009, the Commission received a letter from Mark Richards requesting information regarding the proposed construction. The Commission responded to Mr. Richards' request by letter on August 17, 2009. The Commission has received no further correspondence from Mr. Richards. Additionally, the Commission received a letter from the Kentucky Transportation Cabinet on August 17, 2009 stating that the Cabinet did not anticipate any impact or hazard to the roadway by the proposed construction.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated that a facility is necessary to provide adequate utility service and that, therefore, a Certificate of Public Convenience and Necessity to construct the proposed facility should be granted.

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, the Applicant should notify the Commission if it does not use this antenna tower to provide

service 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 the Applicant.

IT IS THEREFORE ORDERED that:

1. The Applicant is granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility consists of a monopole antenna tower not to exceed 199 feet in height, with attached antenna, and is to be located near the intersection of State Route 840 and U.S. 119, Harlan, Harlan County, Kentucky. The coordinates for the proposed facility are North Latitude $36^{\circ} 51' 4.64''$ by West Longitude $83^{\circ} 21' 38.07''$.

2. The Applicant 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 three months in the manner authorized by this Order.

3. The Applicant shall also notify the Commission in writing, within 20 days of completion, that it has finished construction of the tower and the date upon which said construction was complete.

By the Commission

ENTERED
SEP 25 2009 *M*
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2009-00256

Honorable Todd Briggs
Attorney at Law
17300 Polo Field Lane
Louisville, KY 40245