

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 19-3511-PET

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Petition of New Cingular Wireless PCS, LLC requesting a certificate of public good, pursuant to 30 V.S.A. §248a, authorizing the installation of wireless telecommunications equipment in Derby, Vermont	
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Order entered: 02/06/2020

**ORDER GRANTING MOTION TO DISMISS AND CLOSING CASE**

**I. INTRODUCTION**

In this Order, the Vermont Public Utility Commission (“Commission”) grants the motion for dismissal filed by New Cingular Wireless PCS, LLC (the “Petitioner”).

**II. PROCEDURAL HISTORY**

On September 12, 2019, the Petitioner filed a petition requesting a certificate of public good for the installation of a wireless telecommunications facility in Derby, Vermont.

On October 30, 2019, the Commission issued an order granting permissive intervention and extending the comment period in this proceeding.

On January 3, 2020, the Commission issued a notice of a scheduling conference in this matter.

On January 15, 2020, the Petitioner filed a motion to dismiss its petition without prejudice.

On January 29, 2020, the Department of Public Service filed a response to the motion stating that it does not object to the motion.

**III. DISCUSSION AND CONCLUSION**

In support of its motion, the Petitioner states that, due to opposition to the project, it is no longer pursuing the project. The Petitioner states that it has identified an alternative location for its project in the same general area and will be filing a new petition for that new project in the future. Therefore, the Petitioner requests that the instant petition be dismissed without prejudice.

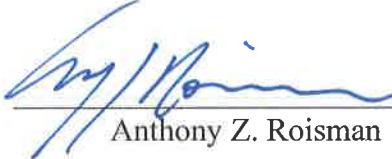
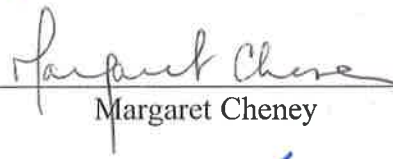

Rule 41(a)(2) of the Vermont Rules of Civil Procedure permits dismissal of an action at the plaintiff's request by an order of the court upon such terms and conditions as deemed proper by the court. Unless otherwise specified in the dismissal order, the dismissal is without prejudice.<sup>1</sup> In this case, the Petitioner has stated that it is no longer seeking approval of its petition. Accordingly, we conclude that dismissal of the petition is warranted. Further, because it appears that the only prejudice arising from dismissal of this petition would be to the Petitioner and it is the Petitioner that is now requesting the dismissal, we also conclude that the petition may be dismissed without prejudice and this docket may be closed.

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<sup>1</sup> V.R.C.P. 41(a)(2).

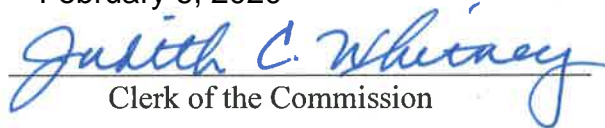
**SO ORDERED.**

Dated at Montpelier, Vermont, this 6th day of February, 2020.

	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: February 6, 2020

Attest:   
Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov))*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.*

PUC Case No. 19-3511-PET - SERVICE LIST

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