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October 7, 2010

VIA OVERNIGHT MAIL

Mr. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

RECEIVED

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**PUBLIC SERVICE
COMMISSION**


Re: Petition of Windstream Kentucky East, LLC, for Arbitration of an
Interconnection Agreement With New Cingular Wireless PCS, d/b/a AT&T
Mobility
KPSC 2009-00246

Dear Mr. Derouen:

Enclosed for filing in the above-referenced case are the original and ten (10)
copies of AT&T Mobility's Response to Windstream's Motion to Compel.

Should you have any questions, please let me know.

Sincerely,


Mary K. Keyer

Enclosures

cc: Parties of Record

857693

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

THE PETITION OF WINDSTREAM)	
KENTUCKY EAST, LLC FOR ARBITRATION)	CASE NO.
OF AN INTERCONNECTION AGREEMENT)	2009-00246
WITH NEW CINGULAR WIRELESS PCS, LLC)	
D/B/A/ AT&T MOBILITY PURSUANT TO)	
SECTION 252 OF THE TELECOMMUNICATIONS)	
ACT OF 1996)	

AT&T MOBILITY'S RESPONSE TO WINDSTREAM'S MOTION TO COMPEL

New Cingular Wireless PCS, LLC d/b/a AT&T Mobility and its wireless operating affiliates, (collectively, "AT&T Mobility") hereby submit their response to Windstream's Motion to Compel filed October 1, 2010. The Motion to Compel involves a traffic study performed by AT&T Mobility that attempts to identify Windstream-originated, locally-dialed calls terminating to AT&T Mobility subscribers in Major Trading Areas ("MTAs") outside the location of the originating Windstream wire center. AT&T Mobility performed this traffic study in an effort to resolve one of the issues in this arbitration proceeding and has already provided to Windstream the raw data involved in the study, a spreadsheet organizing the raw data in various categories and a description of each category. Windstream has requested the Commission to order AT&T Mobility to produce the following additional six items with regard to that study:

1. "A Copy of the Oracle-based Model"

Windstream argues that "AT&T Mobility's failure to provide the traffic study model is unresponsive" to Windstream's Supplemental Data Request No. 1.¹ Windstream also refers to the item requested as an "Oracle-based model constituting its traffic study."² There is, however, no "model" to produce.

The study was assembled as follows. Raw CDRs for the study period were loaded into Oracle software. AT&T personnel then wrote SQL queries (code) to extract data from several tables that contain relevant information. The basic procedure was: (1) identify all calls received from Windstream, based on numbers assigned to Windstream Kentucky East as shown in the Local Exchange Routing Guide ("LERG"), (2) identify all calls from Windstream dialed to local numbers as shown in the LERG, (3) identify state and county location of first cell site by use of internal ATT Mobility data, (4) identify MTA of state and county by use of FCC data, (5) identify all calls in which MTA of first cell site differs from MTA of Windstream wire center.

AT&T Mobility has already produced (1) the raw data examined for the study, (2) a spreadsheet showing the results of the study, and (3) identification of all column headings in the spreadsheet. In addition, AT&T Mobility has offered and will provide to Windstream under the Parties' nondisclosure agreement the SQL queries and all table definitions. The only thing involved in the study that AT&T Mobility has not produced is the Oracle software itself, and AT&T does not have the authority to do that.

¹ Windstream Motion to Compel, p. 2.

² *Id.*

Windstream, however, can obtain the software if it desires. Simply put, there is nothing else to produce.

2. Local Routing Number or Jurisdictional Information Parameter

Windstream objects that the raw data provided in response to Windstream's Supplemental Data Request No. 1 do not include the Local Routing Number ("LRN"). If AT&T Mobility cannot produce LRN, Windstream states that "AT&T Mobility may include the Jurisdictional Information Parameter ("JIP") associated with the Windstream switches."³ AT&T Mobility has already informed Windstream that it cannot identify "out ports," in part because the call detail records ("CDRs") comprising the raw data for the study do not include the LRN . Nor do the records include the JIP of the Windstream switches originating the calls. The JIP is part of SS7 protocol, not AMA data produced at the switch level. Again, there is nothing to produce.

AT&T Mobility understands that Windstream's concern is that the ATT Mobility study may contain calls from numbers ported out of the Windstream system and may not contain numbers ported into the system. AT&T Mobility has previously notified Windstream that the best way to solve this problem is for Windstream to provide to AT&T Mobility a table with all its subscribers' working telephone numbers for the study period. AT&T Mobility can then re-run the study, which it is more than willing to do, utilizing this table thereby avoiding the inclusion of any calls from numbers no longer assigned to Windstream subscribers. AT&T Mobility has used this procedure before and it works quite well.

³ *Id.* at 3.

3. Line Numbers

Windstream objects that AT&T Mobility has redacted line numbers in the raw CDR data produced to Windstream.⁴ As indicated in its response to Windstream's Supplemental Request for Admission No. 4, AT&T Mobility removed all line numbers out of a concern that production could constitute a violation of federal Customer Proprietary Network Information ("CPNI") rules. See 47 U.S.C. § 222. While subscribers' telephone numbers may not constitute CPNI as noted by Windstream in its Motion to Compel,⁵ telephone numbers called by those subscribers arguably would. See 47 U.S.C. §§ 222(f)(1) and (3). AT&T Mobility otherwise has no objection to producing the redacted line numbers subject to the Parties' nondisclosure agreement, if the Commission decides that such production will not violate federal law and orders AT&T Mobility to produce those line numbers.

4. Street Addresses of AT&T Mobility Cell Sites

Windstream seeks an order requiring AT&T Mobility to provide information sufficient for Windstream to identify the street address of all AT&T Mobility cell towers involved in the subject traffic study.⁶ Windstream claims to need this information to confirm the jurisdiction of the calls covered by AT&T Mobility's traffic study.⁷ AT&T Mobility strongly objects to this request on the grounds that the information in dispute is highly confidential and proprietary. Its release could cause AT&T Mobility significant competitive harm and potentially raise national security issues.

⁴ *Id.*

⁵ *Id.* at 5.

⁶ *Id.* at 3.

⁷ *Id.*

The traffic study was based on AT&T Mobility CDRs generated by AT&T Mobility's switches for every call on the network, that include for each call a data field identifying (in coded form) the AT&T Mobility cell tower at the beginning of the call. The study identified the state and county location of each originating cell tower by use of an internal AT&T Mobility table. Then the study determined the MTA location of each county by using a table compiled by the FCC.

Apparently unsatisfied with AT&T Mobility's work, Windstream now seeks the street address of every AT&T Mobility cell tower identified in the study. Such information is highly sensitive and confidential. AT&T Mobility zealously guards such information; its release would allow competitors to determine how AT&T Mobility has solved wireless coverage issues in various locales.

Although Windstream has executed a nondisclosure agreement in this proceeding, AT&T Mobility still has grave misgivings about production of the requested information. Would Windstream, for example, be willing to produce for AT&T Mobility the location, in multiple Windstream service territories, of all Windstream wire centers, entrance facilities, conduits, buried and underground cables, microwave sites and other sensitive network information for the sole purpose of reviewing a single traffic study in a single state? That is the equivalent of what Windstream is asking AT&T Mobility to produce. Since the traffic study was designed to identify Windstream-originated calls terminating outside the local MTA, the street addresses of the cell sites involved will necessarily be found outside the Windstream service territories in Kentucky, in many cases outside of the state. That Windstream has executed an NDA does not justify a request to, in effect, be handed the "keys" to AT&T Mobility's network.

There are also serious issues of national security involved. The information requested by Windstream could, if in the wrong hands, be used to cripple a significant portion of AT&T Mobility's network. AT&T Mobility is not suggesting that Windstream would make improper use of the requested information. But the mere fact that data identifying the location of a large number of AT&T Mobility cell towers is circulating outside the company creates at least the possibility that the information might be obtained by others with ill intent. Windstream claims that "[t]he location of cell sites for ANY wireless carrier are available through several means [emphasis in original]."⁸ Although data on the location of individual cell towers may be available in certain instances, there is no single, publicly available source giving the street addresses of AT&T Mobility's cell towers. If there were, Windstream would not need to seek the data from AT&T Mobility.

AT&T Mobility cannot emphasize too much how strongly it objects to this data request. This is a matter of extreme importance. At the same time, AT&T Mobility understands Windstream's need to verify the traffic study in question. AT&T Mobility therefore offers the following alternatives. As a first alternative, AT&T Mobility would provide, subject to the Parties' nondisclosure agreement, the city location of the cell towers identified in the traffic study, rather than specific street addresses. That would allow Windstream to confirm the jurisdiction of the calls subject to the study without disclosing the exact location of each tower.

As a second alternative, AT&T Mobility is agreeable to participating with the Commission Staff and Windstream in the placing of test calls from Windstream landline

⁸ *Id.*

phones to AT&T Mobility wireless phones with local numbers. Windstream and Staff will know in advance the MTA location of the AT&T Mobility wireless phones, but AT&T Mobility will not, because AT&T Mobility will not know the location of the wireless subscriber at the beginning of the call. AT&T Mobility will then examine its records to find the CDRs for the calls in question and indicate the jurisdiction of each call. The study results can then be examined for accuracy. AT&T Mobility is also willing to consider other methods of verification that Staff and/or Windstream may wish to pursue.

Producing to Windstream the street addresses of AT&T Mobility cell sites across the nation goes far beyond what is necessary to determine the reliability of a single traffic study for Kentucky. AT&T Mobility therefore strongly objects to the production of the requested data.

If the Commission is inclined not to accept any of the suggested alternatives and decides to grant the motion to compel the street addresses of individual cell towers, then AT&T Mobility requests that the Commission do so under a protective agreement requiring Windstream to view the information in a mutually acceptable location for the purpose of confirming the MTA location of the cell towers identified in the study. In such a procedure, Windstream would not be allowed to obtain a copy of the street addresses but rather would make use of the information on site.

5. CDRs from Other Wireless Providers

Windstream requests an order requiring AT&T Mobility to obtain from third-party wireless carriers CDRs for local calls originated by Windstream subscribers, terminating on third-party wireless carriers' networks; *i.e.*, calls to AT&T Mobility subscribers

roaming on other wireless systems. AT&T Mobility objects to the production of the requested information on the grounds that it (1) is irrelevant to the instant proceeding, (2) is not in the possession or control of AT&T Mobility and (3) has not been requested by Windstream in its filed data requests.

The AT&T Mobility traffic study in question involves a claim that when a Windstream subscriber dials a call to an AT&T Mobility subscriber with a locally-rated number, but the call terminates outside the MTA of origin, AT&T Mobility owes originating access charges to Windstream. By requesting CDRs for calls terminating to third-party wireless carriers, Windstream is apparently claiming that AT&T Mobility owes terminating access charges when a locally-dialed call terminates outside the MTA *on a network other than AT&T Mobility's*.

Absolutely no law supports the proposition that a wireless carrier owes compensation for a call that does not terminate on the wireless carrier's network, and Windstream has cited none. Thus, Windstream's request for CDRs from third-party wireless carriers is irrelevant to the negotiation of an interconnection agreement between the Parties.

In addition, AT&T Mobility does not have access to CDRs from other wireless carriers. Windstream claims that AT&T Mobility must have access to such records, because AT&T Mobility bills its customers for roaming traffic.⁹ As explained to Windstream, the data used for retail billing does not come from CDRs but rather from separate billing information (in the form of what are called NRTRDE records) compiled by various cellular companies. Not all of AT&T Mobility's roaming partners have

⁹ *Id.* at 4.

NRTRDE agreements with AT&T Mobility. Those carriers will not have roaming records in their systems at all and thus will not be able to produce any billing information for AT&T Mobility. Roaming partners with NRTRDE agreements do produce roaming records for AT&T Mobility, but such billing data do **not** contain information regarding the MTA location of the cell towers of third-party wireless carriers. AT&T Mobility does not have access to such data -- highly sensitive competitive information of third-party carriers.

Pursuant to Rule 34.01 of the Kentucky Rules of Civil Procedure, a party may seek production of documents or information from another party only to the extent that the requested information is "in the possession or control of the party upon whom the request is served." "Control" with respect to the production of documents is defined "not only as possession but as the legal right to obtain the documents requested upon demand."¹⁰ AT&T Mobility does not have the legal right to obtain records showing MTA locations of other wireless carriers' cell sites.

Also, as a technical matter, Windstream has not sought such third-party data in its filed data requests. It only seeks this information in its Motion to Compel.

6. LGR Employees Involved in the Traffic Study

Windstream complains that AT&T Mobility has not identified "any LGR employees involved in the traffic study."¹¹ LGR is a private contractor that parses and loads CDR data into the Oracle database used by AT&T Mobility for a variety of tasks, only one of which is the preparation of traffic studies. LGR had no involvement at all in

¹⁰ *Metro. Prop. & Cas. Ins. Co. v. Overstreet*, 103 S.W.3d 31, 43 (Ky. 2003).

¹¹ Windstream Motion to Compel, p. 5.

the production of the traffic study in question, which was the product solely of AT&T personnel.

For the reasons stated herein, Windstream's Motion to Compel should be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE – KPSC 2009-00246

I hereby certify that a copy of the foregoing was served on the following individuals by mailing a copy thereof, this 7th day of October 2010.

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