

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MCI COMMUNICATIONS SERVICES, INC.,	)	
BELL ATLANTIC COMMUNICATIONS, INC.,	)	
NYNEX LONG DISTANCE COMPANY, TTI	)	
NATIONAL, INC., TELECONNECT LONG	)	
DISTANCE SERVICES & SYSTEMS COMPANY,	)	
AND VERIZON SELECT SERVICES, INC.	)	
	)	
COMPLAINANTS	)	CASE NO.
V.	)	2007-00503
	)	
WINDSTREAM KENTUCKY WEST, INC.,	)	
WINDSTREAM KENTUCKY EAST, INC. –	)	
LEXINGTON, AND WINDSTREAM KENTUCKY,	)	
EAST, INC. – LONDON	)	
	)	
DEFENDANTS	)	

O R D E R

The subject of this proceeding is a complaint by MCI Communications Services, Inc., Bell Atlantic Communications, Inc., NYNEX Long Distance Company, TTI National, Inc., Teleconnect Long Distance Services & Systems Company, and Verizon Select Services, Inc. (collectively, "Verizon") against Windstream Kentucky West, Inc., Windstream Kentucky East, Inc. – Lexington, and Windstream Kentucky East, Inc. – London (collectively, "Windstream") wherein Verizon asked the Commission to reduce Windstream's switched access charges. On March 11, 2009 ("March 11 Order"), the Commission denied Windstream's request to dismiss the proceeding based on Windstream's argument, *inter alia*, that the Commission should move forward with a

comprehensive, generic proceeding aimed at access reform for all carriers in the Commonwealth versus a targeted review of only Windstream's rates based on Verizon's allegations that Windstream's rates were not fair, just and reasonable.<sup>1</sup>

Since the issuance of the March 11 Order, numerous events have taken place. Notably, the Franklin Circuit Court, the Kentucky Court of Appeals, and the Kentucky Supreme Court have each denied Windstream's request for injunctive relief to prevent the Commission from conducting a review of Windstream's intrastate switched access rates. Specifically, based on Windstream's request for interlocutory relief from the Commission's March 11 Order, the Franklin Circuit Court affirmed the Commission's decision and further held that the Commission has the jurisdiction, pursuant to KRS 278.543(6), to investigate and determine whether Windstream's switched access rates are reasonable.<sup>2</sup>

Simultaneous with the issuance of this Order, the Commission, by Order, is establishing an administrative proceeding to investigate the reasonableness of the current intrastate switched access rates charged by all Kentucky incumbent and competitive local exchange carriers, including Windstream.<sup>3</sup> The issues that have been

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<sup>1</sup> Motion to Dismiss, Answer and Response to Motion for Intervention, at 14-15. Filed on January 17, 2008.

<sup>2</sup> See *Windstream Kentucky East v. Kentucky Public Service Commission*, Franklin Circuit Court Case No. 09-CI-00552 (Order issued October 19, 2009); *Windstream Kentucky East v. Kentucky Public Service Commission*, Kentucky Court of Appeals Case Nos. 2009-CA-1973 and 2009-CA-2145 (Order issued June 7, 2010); and *Windstream Kentucky East v. Kentucky Public Service Commission*, Kentucky Supreme Court Case No. 2010-SC-400 (Order issued August 26, 2010).

<sup>3</sup> Administrative Case No. 2010-00398, *An Investigation into the Intrastate Switched Access Rates of All Kentucky Incumbent and Competitive Local Exchange Carriers*.

raised at bar by Verizon will be considered within the administrative case. However, as the Commission will be moving forward with an administrative examination of access rates, in the interest of administrative efficiency, the Commission will not allow a simultaneous proceeding on a separate complaint case which concerns the same issue and consists of an incumbent carrier who will also be a party to the administrative case. The Commission desires to have only one case that will result in the resolution of the issue as to the proper access rates to be collected by each incumbent and competitor. For these reasons, the Commission hereby closes the instant proceeding and incorporates the record of this matter into Administrative Case 2010-00398 by reference.

#### OUTSTANDING MOTIONS

First, on April 26, 2010, Windstream moved to hold this proceeding in abeyance. In support of the motion, Windstream stated that the Federal Communications Commission ("FCC") recently announced its commitment to pursue intrastate switched access reform as part of the National Broadband Plan and, as such, the Kentucky Public Service Commission should stay the progress of Verizon's complaint pending resolution of the FCC's reform proceedings. Verizon and the other parties each submitted replies objecting to Windstream's motion. In the initiating Order for Administrative Case No. 2010-00398, the Commission addresses the FCC's National Broadband Plan and the potential implications for all state commissions regarding switched access charge reform. However, the Commission finds that the issue of rates of Kentucky carriers must be addressed and that the potential initiatives by the FCC will not serve as a deterrent to the regulatory obligations of the Commission to ensure that

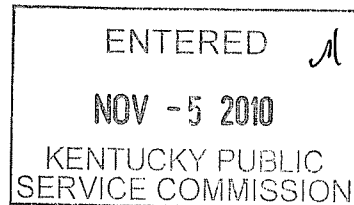
incumbent and competitive carriers are charging fair, just, and reasonable rates for their wholesale services. The Commission hereby finds that the motion should be denied.

Second, Verizon moved the Commission on September 30, 2010 to establish new hearing dates in this matter. By Order dated October 1, 2010, the Commission cancelled the formal hearing dates set for October 26 and 27, 2010 and provided that a forthcoming Order would outline the basis for the Commission's decision. Having reviewed the pleading, the Commission finds that the motion should be denied.

IT IS HEREBY ORDERED that:

1. This proceeding is closed and removed from the Commission's docket.
2. The record of Case No. 2007-00503 is incorporated by reference into the record of Administrative Case No. 2010-00398.
3. Windstream's Motion to Hold Proceeding in Abeyance is denied.
4. Verizon's Motion to Set a Hearing Date is denied.

By the Commission



ATTEST:

  
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