

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO TRAFFIC DISPUTE)
BETWEEN BRANDENBURG TELEPHONE) CASE NO.
COMPANY, WINDSTREAM KENTUCKY EAST,) 2008-00203
LLC AND VERIZON ACCESS)

O R D E R

On April 21, 2010, Windstream Kentucky East, LLC (“Windstream”) filed a Motion for Issuance of Subpoenas Duces Tecum to compel the production of certain documents and records in the possession of Brandenburg Telephone Company (“Brandenburg”) and MCIMetro Access Transmissions Services, LLC d/b/a Verizon Access (“Verizon”) which regard traffic originating with Brandenburg’s end-user customers and Verizon’s internet service provider customers in Elizabethtown, Kentucky. According to Windstream, it became aware of newly discovered e-mails regarding the traffic issue that were contained in Verizon’s March 30, 2010 discovery response.

On May 6, 2010, Brandenburg filed a response objecting to the Motion on the grounds that the information requested is already on file in this case. Brandenburg states that the e-mails were provided to Windstream by Brandenburg and Verizon in their respective July 2008 discovery responses. On July 31, 2008, in response to Windstream’s data request, Brandenburg filed certain documents and information.

Included in the information in response to Windstream's second data request was an e-mail exchange between Brandenburg and Verizon dated January 23, 2006 that discussed the traffic issue. Brandenburg acknowledges that it failed to include in its response a second e-mail between Brandenburg and Verizon dated February 21, 2007 which discussed the traffic issue. Brandenburg states that its oversight was offset because Verizon included the e-mail in Verizon's July 2008 response to Windstream's data request.

On May 7, 2010, Verizon filed a response objecting to the Motion on the grounds that the information requested is already on file in this case. On August 1, 2008, in response to Windstream's data request, Verizon filed certain documents and information. Included in the information in response to Windstream's eighth data request was a description of the February 21, 2007 e-mail regarding traffic issues. Verizon also filed a copy of said e-mail in its response to Request #17 in Windstream's July 17, 2008 First Set of Data Requests and Requests for Production of Documents to Verizon.

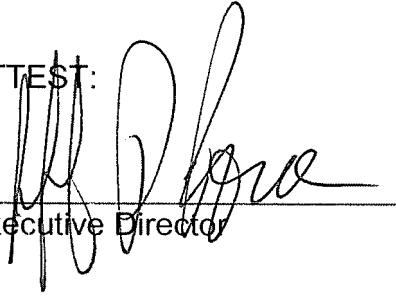
It appears to the Commission that the purpose of Windstream's Motion is the production of the e-mail exchanges between Brandenburg and Verizon which document the parties' discussion of the traffic issue, beginning in 2005. The Commission, having considered the Motion, the responses, and the evidence of record, finds that the documents requested, while not all in one place, already exist in the record and that the Motion should be denied.

IT IS THEREFORE ORDERED that Windstream's Motion for Issuance of Subpoenas Duces Tecum is denied.

By the Commission

ENTERED
JUN 17 2010 *M*
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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