

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BRANDENBURG TELEPHONE COMPANY)	
)	
COMPLAINANT)	
V.)	CASE NO.
)	2008-00239
MCIMETRO ACCESS TRANSMISSION)	
SERVICES, LLC AND WINDSTREAM)	
KENTUCKY EAST, INC.)	
)	
DEFENDANTS)	

ORDER

On June 25, 2008, Brandenburg Telephone Company (“Brandenburg”) filed a formal complaint with the Commission against Windstream Kentucky East, LLC (“Windstream”) and MCIMetro Access Transmission Services, LLC d/b/a Verizon Access (“Verizon”). Brandenburg alleges that, in 2005, Verizon had provided its internet service providers (“ISPs”) with a telephone number for dial-up customers that appeared to be local to Brandenburg’s exchanges pursuant to an Extended Area Service (“EAS”) agreement between Brandenburg and Windstream.¹ Verizon had made arrangements with Windstream for the porting of certain numbers used for ISP-bound traffic from Windstream’s Elizabethtown exchange to a tandem in Louisville. As a result of the number porting, some of Brandenburg’s customers were unable to dial their desired ISP numbers, prompting Brandenburg to initiate discussions with Verizon to resolve the

¹ Complaint at 3.

problem and enter into a traffic exchange agreement. Brandenburg alleges that such discussions stalled.²

Brandenburg alleges that in February 2007, Windstream sent an email stating that if Brandenburg did not begin performing local number portability (“LNP”) inquiries and routing the numbers pursuant to the local routing number (“LRN”), Windstream would begin blocking Brandenburg’s traffic.³ Brandenburg claims that upon investigation, it determined that almost all of the traffic in dispute was Verizon ISP traffic.⁴ Brandenburg claims that it began to perform the LNP queries when, at the same time, Windstream began requesting that Brandenburg establish its own trunking facilities with Verizon and remove the traffic from Windstream’s network, but Windstream indicated it would also continue to transit the traffic until the alternate arrangements were made.⁵

Brandenburg claims that it reinitiated negotiations with Verizon for a traffic exchange agreement in February 2007.⁶ Allegedly, Verizon is amenable to a traffic exchange agreement, but Verizon and Brandenburg cannot agree on terms relating to the point of interconnection and whether to exchange the ISP traffic on a bill-and-keep basis.

Brandenburg requests that the Commission order:

² Id. at 4.

³ Id. at 5.

⁴ Id.

⁵ Id.

⁶ Id. at 6.

1. Verizon to establish trunking facilities to Brandenburg at no cost to Brandenburg;
2. Verizon to maintain the trunking facilities as long as the traffic remained above a DS-1 level;
3. Verizon not collect reciprocal compensation for any ISP bound traffic;
4. Verizon to pay any costs Windstream may seek to impose on Brandenburg;
5. Brandenburg should not be required to establish new trunking facilities and deliver traffic to Verizon at Windstream's Elizabethtown tandem; and
6. An informal conference to facilitate resolution of the matter.

On July 1, 2008, the Commission initiated an investigation into a traffic dispute between Windstream, Brandenburg, and Verizon.⁷ The primary rationale for the investigation was to prevent the disruption of internet service to Brandenburg's customers, located in Brandenburg's calling territories near Radcliff and Vine Grove, Kentucky, who subscribed to America Online ("AOL") dial-up internet service. The purpose of this proceeding is to address the traffic dispute and to fashion a remedy that allows AOL customers' service to continue without interruption, as well as to ensure that the proper traffic arrangements are completed so that the parties are receiving and paying proper compensation.

On August 26, 2009, the Commission issued an order in Case No. 2008-00203 in which it:

⁷ Case No. 2008-00203, Investigation into Traffic Dispute Between Brandenburg Telephone Company, Windstream Kentucky East LLC, and Verizon Access (filed Jul. 1, 2008).

1. Ordered Verizon and Brandenburg to negotiate a traffic exchange agreement;

2. Established further proceedings to determine any payment to which Windstream was entitled; and

3. Established further proceedings to determine the reasonableness of Windstream's actions.

Pursuant to the Commission's August 26, 2009 Order in Case No. 2008-00203, Verizon and Brandenburg are currently engaged in negotiations to formulate a traffic exchange agreement--similar to what Brandenburg requested in the complaint in the above-captioned action. It appears that resolution of the issues in Case No. 2008-00203 will resolve the issues Brandenburg raised in this case. Accordingly, the Commission finds that:

1. It is an unnecessary use of administrative resources to keep the current case open when the issues have been fully developed and will be resolved in another proceeding;

2. This case should be dismissed without prejudice; and

3. The record from this proceeding shall be incorporated in the administrative record in Case No. 2008-00203.

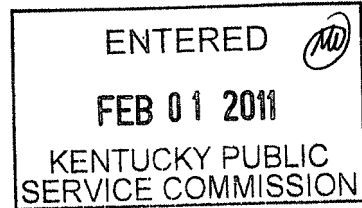
IT IS THEREFORE ORDERED that:

1. This case is dismissed without prejudice and removed from the Commission's docket.

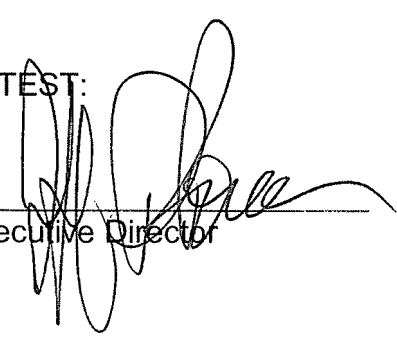
2. The record from this case shall be incorporated into the administrative record of Case No. 2008-00203.

3. This is a final and appealable order.

By the Commission



ATTEST:



Executive Director

Missie Burris
Regulatory Analyst
MCIMetro Access Transmission Services, LLC
5055 North Point Parkway
Alpharetta, GA 30022

Honorable John E Selent
Attorney at Law
Dinsmore & Shohl, LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202

Jeanne Shearer
VP - State Government Affairs
Windstream Kentucky East, LLC
4139 Oregon Pike
Ephrata, PA 17522

Allison Willoughby
Assistant General Manager
Brandenburg Telephone Company, Inc.
200 Telco Road
P. O. Box 599
Brandenburg, KY 40108