

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

**APPLICATION OF COMPETITIVE CARRIERS OF)
THE SOUTH, INC. FOR A DECLARATORY ORDER)
AFFIRMING THAT THE INTERCONNECTION)
REGIMES UNDER KRS 278.530 AND 47 U.S.C. § 251)
ARE TECHNOLOGICALLY NEUTRAL)**

**CASE NO.
2015-00283**

MOTION FOR CONFIDENTIAL TREATMENT

Comes now the Competitive Carriers of the South, Inc., (“CompSouth”), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to the Responses to Data Requests tendered simultaneously herewith in the above-captioned proceeding, respectfully states as follows:

1. On August 18, 2016, MCImetro Access Transmission Services LLC, d/b/a Verizon Access Transmission Services (“Verizon”) tendered its first set of data requests to CompSouth in the above-styled proceeding. Verizon’s Request No. VZ 1-1, Verizon requests that CompSouth identify all agreements between each CompSouth member and another service provider, other than an affiliate, providing for the exchange of IP voice traffic.
2. Verizon’s Request No. VZ 1-2 requests copies of the agreements identified in response to Request No. VZ 1-1 be provided.
3. Verizon’s Request No. VZ 1-3 requests the percentage of each CompSouth member’s retail customers that subscribe to VoIP service.

4. CompSouth has generally objected to all of these data requests on the basis that they are directed to CompSouth's members, who are not parties to this proceeding, and they seek information which is not relevant to the legal issues raised in this proceeding. Nevertheless, as a demonstration of good faith, CompSouth's participating members have agreed to provide CompSouth with information that is responsive to Verizon's data requests. The information made available to CompSouth and provided in response to Verizon's data requests includes information describing an agreement for the exchange of IP voice traffic by one of CompSouth's participating members and certain VoIP subscription numbers for CompSouth's participating customers (collectively, the "Confidential Information").

5. CompSouth has been advised and believes the Confidential Information includes proprietary information regarding its participating members' IP voice traffic agreements and VoIP subscription percentages. Indeed, neither CompSouth nor its counsel has been provided with an unredacted copy of the IP voice traffic agreement provided by Windstream Communications, Inc. ("Windstream"), and being tendered herewith, and understands from its participating member that such agreement is subject to a confidentiality agreement with the counterparty.¹ In addition, CompSouth understands that the subject agreement was previously filed in a proceeding before a Massachusetts regulatory body in a similarly redacted form as well. Though it is voluntarily providing a redacted copy of the agreement as a courtesy and show of good faith, the simple fact is that none of the Confidential Information would otherwise be in the possession of CompSouth in the ordinary course of business. Moreover, CompSouth has been advised and believes the open

¹ Windstream has provided the redacted agreement to CompSouth as a courtesy. In so doing, Windstream is not waiving any objections it might have – including the fact that it is not a party to this proceeding – to any request for an unredacted copy of the agreement, and all such objections are expressly reserved and may be asserted in the future either independently or in conjunction with the General Objections and Specific Objections asserted by CompSouth in its Responses to Data Requests.

disclosure of this Confidential Information would allow competitors of CompSouth's participating members to gain an unfair commercial advantage in future contract negotiations. The Confidential Information also constitutes a trade secret since it is commercial information, which, if disclosed to the public, could cause competitive harm to CompSouth's participating members.

6. CompSouth believes the Confidential Information is generally recognized as confidential and proprietary in the telecommunications industry, and the public disclosure of the Confidential Information would potentially harm CompSouth's participating members' competitive position in the marketplace, to the detriment of CompSouth, its participating members and, ultimately, their customers. In light of these facts, the Kentucky Open Records Act exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(c)(1).

7. KRS 61.878(1)(c)(1) protects "records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records." The Kentucky Supreme Court has stated, "information concerning the inner workings of a corporation is 'generally accepted as confidential or proprietary'" *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The Confidential Information is critical to the effective execution of business decisions and strategy. If disclosed, the Confidential Information would give competitors an unfair commercial advantage. Accordingly, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

8. In the event that the Confidential Information is not afforded confidential treatment, it will have a significant chilling effect on the willingness of the members of the many associations appearing regularly before the Commission to assist with matters before the Commission, even

when under no legal compulsion to do so. In accordance with the provisions of 807 KAR 5:001, Section 13(2), CompSouth is filing, in a separate sealed envelope marked confidential, one (1) copy of the Responses to Verizon's First Set of Information to CompSouth, with the Confidential Information highlighted. Redacted copies of these responses are attached to CompSouth's responses which are being tendered simultaneously herewith. As set forth above, the actual IP voice traffic agreement being tendered herewith has only been made available to CompSouth in redacted form, but even this version of the document should be deemed confidential in its entirety.

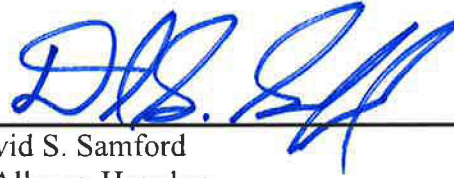
9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), CompSouth respectfully requests that the Confidential Information be withheld from public disclosure for ten (10) years.

10. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, CompSouth will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, CompSouth respectfully requests that the Commission classify and protect as confidential the specific Confidential Information described herein for a period of ten (10) years.

This 9th day of September, 2016.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on September 9, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand delivered to the Commission on this the 9th day of September.



Counsel for Competitive Carriers of the South, Inc.