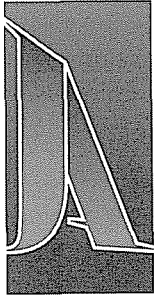


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AMLUNG  
LAW OFFICES

November 14, 2006

Ms. Beth O'Donnell, Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602

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NOV 20 2006

PUBLIC SERVICE  
COMMISSION

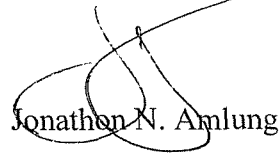
**RE: Touchtone Communication, Inc., and ALEC, Inc. v.**  
**Kentucky ALLTEL, Inc.,**  
**Case No. 2005-00482**

Dear Ms. O'Donnell:

Please find enclosed for filing an original and four (4) copies of ALEC's First Set of Data Requests, for filing in the above-referenced case.

Thank you for your attention to this matter. Please do not hesitate to contact me should you have any questions or concerns.

Cordially yours,



Jonathon N. Amlung

Enclosures

cc: Mark Overstreet

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

TOUCHTONE COMMUNICATIONS, INC. )  
and ALEC, Inc., )  
 )  
Complainants, )  
 )  
vs. )  
 )  
KENTUCKY ALLTEL, Inc., )  
 )  
Defendant. )

Case No.  
2005-00482

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PUBLIC SERVICE  
COMMISSION

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COMPLAINANT'S FIRST SET OF DATA REQUESTS

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The Complainants, Touchtone Communications, Inc., and ALEC, Inc. (collectively "ALEC"), hereby request Defendant to submit answers to the following data requests by serving the same on its counsel by the deadline set by the Commission in this docket.

**INSTRUCTIONS**

These data requests shall be deemed continuing in nature, and all answers must be supplemented when additional information responsive to the data request comes to your attention or the attention of your attorneys or other representatives while this docket is pending.

1. Each data request should be answered fully and independently. If it is not possible to provide a complete answer to a data request, or portion of a data request, the remaining part of the data request should be answered and a reason should be stated why only part of the data request has been answered.

2. All words used in their singular form shall include the words in their plural form, and all words in their plural form shall include the words in their singular form.

3. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense.

4. If you contend that you are entitled to withhold any information requested herein on a claim of privilege, then for each such item of information:

a. Identify the character of the information that is claimed to be privileged;

b. State the date and place of any communication which contained the information;

c. Identify each person who sent, participated in, overheard, or received the communication or who now has possession, custody, or control of any documents relating thereto;

d. Describe the subject matter of the privileged information;

e. State the number of pages of any privileged document;

f. State the basis upon which you contend that you are entitled to withhold the information.

5. Any objection which you raise should be confined to that portion of the data request for which you claim a privilege or objection and shall not excuse you from answering the remaining part of the data request.

6. If any document requested has been lost or destroyed, state the circumstances of such loss or destruction and identify each person having knowledge of such loss or destruction.

7. For any data request answered, identify the person or persons answering the data request.

## **I. DEFINITIONS**

1. As used in these data requests, the terms “you,” “your” and “Windstream” shall refer to Windstream Kentucky East, Inc., Kentucky ALLTEL, Inc., ALLTEL Communications, Inc., their principals and predecessors in interest, and any person acting on behalf of any of them, including but not limited to their past or present officers, directors, agents, representatives, employees, attorneys, accountants, consultants and investigators.

2. The term “Commission” shall refer to the Public Service Commission of Kentucky, its past or present commissioners and employees, and any person acting on behalf of any of them.

3. The term “consultant” includes both any individual who will be providing consultation, analysis or testimony on your behalf in this docket and the firm, including other principals of the firm, that employs the individual.

4. The term “data request” includes an interrogatory and request for production of documents, as applicable.

5. The term “document” has the same meaning as in Rule 34 of the Kentucky Rules of Civil Procedure. It includes the original and all non-identical copies (whether different from the original because of notes made on or attachments to such copies or otherwise) of all “writings” and “recordings” as defined in Rule 1001 of the Kentucky Rules of Evidence. The term “document” as used herein also includes, without limitation, papers, books, letters, journals, photographs, correspondence, telegrams, cables, telex messages, facsimile copies, brochures, memoranda, notes, notebooks, work

papers, data sheets, bulletins, instructions, tape recordings, video tapes, transcripts, minutes or other records of meetings or conferences, reports, agendas, affidavits, studies, financial statements, press releases, contracts, pamphlets, catalogues, calendars, desk calendars, appointment books, diaries, time records, telephone logs, expense reports, and drafts of all of the above. The term “document” further includes tapes, disks, and all other computer, electronic, photographic, magnetic, laser, or mechanical means of storing and recording information, together with program and program documentation necessary to use or retrieve such information, and printouts of such information.

6. The words “and” and “or” shall be construed conjunctively or disjunctively as necessary to make the requests inclusive rather than exclusive. The word “including” shall be construed to mean without limitation.

7. The term “communication” means any oral or written statements, conversations, meetings, speeches, discussions, remarks, questions, answers, telephone calls, letters, memoranda, correspondence, voice mail, electronic mail or other electronic transmissions, or other transmittal of information by writing or by other means.

8. The terms “relating to” or “regarding” means constituting, comprising, containing, consisting of, evidencing, setting forth, proposing, showing, disclosing, describing, discussing, explaining, summarizing, concerning, reflecting, authorizing, referring to, or in any way pertinent to the subject matter, either directly or indirectly.

9. The term “identify” or words of similar import:

a. When used in reference to a document, shall mean to describe the document with sufficient specificity to enable it to be requested in a subpoena duces tecum, including, but not limited to, the type of document, its author (and,

if different, its signer or signers), its date, its present or last known location, and its present or last known custodian.

b. When used in reference to a natural person shall require the person's full name, present or last known residence address, present or last known place of employment, and present or last known occupation or job title.

10. The term "person" means any individual, firm, corporation, association, partnership, joint venture, governmental agency, or any other form of entity, together with any officers, directors, partners, trustees, employees, representatives or agents.

11. To "state the factual basis" for a claim, denial or defense means to provide a reasonably detailed statement of the facts, information and matters which you presently believe support or tend to support that claim, denial or defense. Your summaries should include, where applicable, references to dates, times, persons and documents.

12. The term "Answer" shall refer to Kentucky ALLTEL Inc.'s Motion to Dismiss and Answer filed at the Kentucky Public Service Commission on or about February 6, 2006.

## **II. DATA REQUESTS**

1. In reference to numerical paragraph 44 of Windstream's Answer, state each and every factual basis for your denial of the allegations in Paragraph 3 of the Complaint.

2. In reference to numerical paragraph 44 of Windstream's Answer, state each and every factual basis for your denial of the allegations in Paragraph 5 of the Complaint.

3. In reference to numerical paragraph 46 of Windstream's Answer, please identify in detail all steps taken by Windstream to resolve the dispute between the parties.

In your answer, please identify the substance of any communication between you and the Complainants; the names of the people involved; the dates upon which such communication took place and the result, if any, of each such communication. If the communication was in writing, transmitted electronically or otherwise, please provide a copy of all such correspondence with your response.

4. In reference to numerical paragraph 49 of Windstream's Answer, please state each and every factual basis denial of the assertion that the parties will assume that traffic is 95% local.

5. In reference to numerical paragraph 51 of Windstream's Answer, please state each and every factual basis for your denial of the assertions referenced therein. Further, please provide all evidence, documentary or otherwise, supporting your assertion that you have compensated ALEC per the parties' Interconnection Agreement.

6. In reference to numerical paragraph 53 of Windstream's Answer, please state each and every factual basis for your denial of the allegations contained in paragraphs 20, 21, 22, 23, 25, 26 and 26 of the Complaint.

7. In reference to numerical paragraph 61 of Windstream's Answer, please state each and every factual basis for your denial of the allegations contained in paragraph 42 of the Complaint.

8. In reference to numerical paragraph 63 of Windstream's Answer, please state each and every factual basis for your denial of "inconsistency between the positions of the separate Alltel affiliates listed in ALEC's Complaint." Please describe and explain in detail the positions taken by the affiliates listed in the Complaint as referenced.

9. In reference to numerical paragraph 64 of Windstream's Answer, please state each and every factual basis for your denial of the assertion in Paragraph 45 of the Complaint, and further provide a detailed explanation as to your allegation that "it is an incomplete summary of the traffic involved."

10. In reference to numerical paragraph 65 of Windstream's Answer, please state each and every factual basis for your denial of *every* allegation contained in Paragraphs 46, 47 and 48 of the Complaint.

11. In reference to numerical paragraph 66 of Windstream's Answer:

(a) Have you provided ALEC with semi-annual factor updates? If so, please include all documents and other evidence supporting this answer.

(b) Please state each and every factual basis for your assertion that the allegations of Paragraph 49 of the Complaint are misleading.

12. In reference to numerical paragraph 67 of Windstream's Answer, please state each and every factual basis for your denial of the allegations in Paragraph 50 of the Complaint.

13. Do you reduce toll fees or extended service fees to your customers for calls made by your customers to the Internet? If so, for what percentage of your customers do you do this? Also, please provide the number of such customers and their location broken down by state.

14. How many CLECs are you compensating for ISP traffic or at the FCC ISP traffic rate? Please provide a list of all CLECs by name and location that you are compensating for such traffic within Kentucky and your operating footprint.



15. Did you provide an offer to ALEC, or propose an amendment to the ICA, to exchange traffic as dictated by FCC (all or split rate) as specified by the FCC in paragraph 89 of the *ISP Remand Order*? Please provide copies of any and all communications or documents sent by you in this regard..

16. Are you utilizing the FCC internet reciprocal compensation scheme as specified by the *ISP Remand Order* for any other providers in KY and in other parts of U.S.? If so, please provide a list of all providers and the states in which those providers operate pursuant to an ICA with you..

17. Please provide a list of carriers to which you pay access charges and/or reciprocal compensation charges for which you apply the “ISP traffic setoff” as described by Stephen Weeks. For clarity, this “ISP traffic setoff” is a calculation whereby the ISP traffic is removed from the total compensable toll traffic prior to the 5% toll calculation.

18. Please provide a complete and detailed description of the data contained in invoices sent by other carriers to you sufficient for you to make timely payments on the invoices.

19. Please provide copies of all evidence you intend to introduce at the formal hearing in this matter to support the allegations set forth in your Motion to Dismiss and Answer.

20. Please provide copies of all correspondence, whether written, electronic or otherwise, between you, your representatives/agents and any agent or person affiliated with Complainants.

Respectfully submitted,



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Oakland, CA 60294577  
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Facsimile (510) 868-8418  
[kris@lokt.net](mailto:kris@lokt.net)

*Attorneys for Complainants*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served upon the following via Electronic Mail and/or regular U.S. Mail, postage pre-paid, this the 17<sup>th</sup> day of November, 2006:

Hon. Mark Overstreet  
STITES & HARBISON, PLLC  
421 West Main Street  
P.O. Box 634  
Frankfort, KY 40602-0634  
[MOVERSTREET@stites.com](mailto:MOVERSTREET@stites.com)



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JONATHON N. AMLUNG