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OCT 31 2011

PUBLIC SERVICE
COMMISSION
DOUGLAS F. BRENT
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October 28, 2011

Mr. Jeff DeRouen
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40601

*RE: An Investigation Into The Traffic Dispute Between Windstream Kentucky East, LLC, Brandenburg Telephone Company And MCImetro Access Transmission Services, LLC d/b/a Verizon Access
Case No. 2008-00203*

Dear Mr. DeRouen:

Enclosed for filing in the above-referenced matter are an original and ten copies each of the MCImetro's Responses to Supplemental Data Requests from Windstream Kentucky East and Brandenburg Telephone Company as well as a Joint Motion for Confidential Treatment.

Windstream's data requests included document requests the responses to which are confidential and proprietary in their entirety. The information is being furnished to Windstream and Brandenburg Telephone Company pursuant to a non-disclosure agreement.

Please indicate receipt of this filing by placing your file stamp on the extra copies and returning to me via the enclosed, self-addressed envelope.

Very truly yours,

STOLL KEENON OGDEN PLLC

Douglas F. Brent

DFB:

Enclosures

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE TRAFFIC)
DISPUTE BETWEEN WINDSTREAM)
KENTUCKY EAST, LLC, BRANDENBURG) CASE NO. 2008-00203
TELEPHONE COMPANY AND MCIMETRO)
ACCESS TRANSMISSION SERVICES, LLC)
d/b/a VERIZON ACCESS)

JOINT MOTION FOR CONFIDENTIAL TREATMENT

MCImetro Access Transmission Services LLC, ("MCImetro") and Brandenburg Telephone Company petition the Public Service Commission of Kentucky ("Commission") pursuant to 807 KAR 5:001, Section 7, to grant confidential protection to certain information being filed in response to:

A. Data Request No. 5(a) and (c) of Windstream Kentucky East ("Windstream") to MCImetro; and

B. Data Request No. 6(c) of Windstream to Brandenburg Telephone Company in this case. In support of this Petition, MCImetro and Brandenburg Telephone Company state as follows:

I. INTRODUCTION

1. By Order of September 15, 2011, the Commission established a procedural schedule providing for additional discovery among parties.

2. Windstream served data requests on MCImetro and Brandenburg Telephone Company, including Request No. 5 to MCImetro and 6(c) to Brandenburg Telephone Company, which each state, in pertinent part:

To the extent not provided in response to subparts a or b of this data request, please also produce all other documents in your possession, including e-mails and other electronic files, relating to implementation of the "2009 Order" to which you refer . . .[in] your Updated Direct Testimony. This request includes but is not limited to negotiation of a traffic exchange agreement (or attempts at such negotiation) and implementation of the Brandenburg-Verizon Agreement.

II. GROUNDS FOR CONFIDENTIAL PROTECTION

3. The Kentucky Open Records Act exempts from disclosure certain commercial or proprietary information. KRS 61.878(1)(c). To qualify for the exemption and, therefore, maintain the confidentiality of the information, a party must establish that the material is of a kind generally recognized to be confidential or proprietary, and the disclosure of which would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

4. The information being disclosed to Windstream consists almost entirely of correspondence between MCImetro and Brandenburg Telephone concerning a proposed contract governing ISP-bound traffic at dispute in this case, or internal communications related to the same topic. The correspondence provides insight into the negotiations that led to an agreement, including preliminary drafts with redlining that reflects the "give and take" of commercial negotiation, and could provide a commercial advantage to any entity that might seek to negotiate comparable arrangements with MCImetro or Brandenburg Telephone in the future. Some of the information disclosed concerns prior commercial dealings between MCImetro and a Kentucky local exchange carrier that is not a party to this proceeding. Finally, the documents and information also include other information

generally not disclosed outside the telecommunications industry, and within the industry it is disclosed only to employees with a legitimate business need to know and act upon the information. For example, email communications included in the response include abundant commercially significant information concerning network facilities, circuit capacities, CLLI codes and end points, information concerning points of contact within network planning organizations at carriers, and other infrastructure related information that is only disclosed within the industry. The information also includes infrastructure records including street address information identifying network facilities that movants assert are "public utility critical systems" subject to confidential treatment under KRS 61.878(1)(m)f.

5. The information provided in response to Windstream demonstrates on its face that it merits confidential protection. If the Commission disagrees, however, it must hold an evidentiary hearing to protect the due process rights of MCImetro (and Brandenburg Telephone Company) and supply the Commission with a complete record to enable it to reach a decision with regard to this matter. *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, Ky. App., 642 S.W.2d 591, 592-94 (1982).

6. MCImetro and Brandenburg Telephone Company do not object to disclosure of the confidential information, pursuant to a protective agreement, to parties with a legitimate interest in reviewing the confidential information for the purpose of assisting the Commission's review in this proceeding. The documents and information subject to this motion are being provided to Windstream subject to a non-disclosure agreement, and counsel for Windstream has authorized the movants to state that Windstream is not opposed to the filing of this motion.

7. In accordance with the provisions of 807 KAR 5:001 Section 7, one copy of each confidential response to Windstream is filed contemporaneously by each movant.

WHEREFORE, MCImetro and Brandenburg Telephone Company respectfully request that the Commission grant confidential protection, or in the alternative, schedule an evidentiary hearing on all factual issues.

Respectfully submitted,

Edward T. Depps by dfb and

CK Hatfield

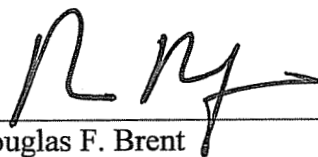
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Petition of Confidential Treatment has been served by first class mail or Federal Express on those persons whose names appear below this 28th day of October, 2011.

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Benjamin Crittenden
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