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January 5, 2012

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 MCIMetro's Motion for Rehearing and For Confidential Treatment.

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

Very truly yours,

STOLL KEENON OGDEN PLLC

Douglas F. Brent

DFB:

Enclosures

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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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)

MOTION FOR REHEARING AND FOR CONFIDENTIAL TREATMENT

MCImetro Access Transmission Services LLC, (“MCImetro”) petitions the Public Service Commission of Kentucky ("Commission") pursuant to KRS 278.400 and 807 KAR 5:001, Section 7, to grant confidential protection to certain information filed in response to Data Request No. 5(a) and (c) of Windstream Kentucky East (“Windstream”) to MCImetro. In support of this Petition, MCImetro states 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.

3. On October 31, 2011, MCImetro and Brandenburg Telephone each filed responses to the referenced data requests, along with a Joint Motion for Confidential Treatment. That motion is pending.

4. MCImetro subsequently produced additional documents in response to Windstream Request No. 5 and filed them with the Commission on November 4, 2011, four business days after the Joint Motion for Confidential Treatment was filed.

5. On December 21, 2011 the Commission, through its Executive Director, denied confidential treatment of the November 4, 2011 filing on procedural grounds and withheld the documents from public inspection to allow a request for rehearing. Accordingly, MCImetro files this motion, requesting confidential treatment of the November 4, 2011 filing.

II. GROUNDS FOR CONFIDENTIAL PROTECTION

6. 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, the disclosure of which would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

7. The information 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.

8. 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, which is party to the pending Joint Motion for Confidential Treatment of related documents filed October 31, 2011) and supply the Commission with a complete record to enable it to reach a decision with regard to this

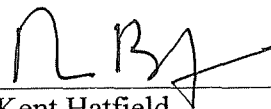
matter. *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, Ky. App., 642 S.W.2d 591, 592-94 (1982).

9. MCImetro does 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 were already provided to Windstream and Brandenburg Telephone subject to a non-disclosure agreement, and counsel for Windstream previously authorized MCImetro and Brandenburg Telephone to state that Windstream was not opposed to the October 31, 2011 Joint Motion.

10. Consistent with the provisions of 807 KAR 5:001 Section 7, one copy of each confidential response to Windstream is already in the Commission's possession.

WHEREFORE, MCImetro respectfully requests that the Commission grant confidential protection, or in the alternative, schedule an evidentiary hearing on all factual issues.

Respectfully submitted,



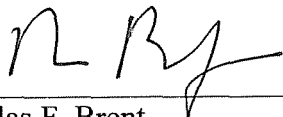
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CERTIFICATE OF SERVICE

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 5th day of January, 2012.

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