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August 15, 2008

Stephanie L. Stumbo
Executive Director
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 Ms. Stumbo:

Enclosed is the Rebuttal Testimony of Don Price on behalf of MCImetro Access
Transmission Services LLC.

Please indicate receipt of these filings by placing your file stamp on the extra copy and
returning to me via the enclosed, self-addressed, stamped envelope.

Very truly yours,

STOLL KEENON OGDEN PLLC

Douglas F. Brent

DFB:

Enclosures

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

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

**REBUTTAL TESTIMONY OF DON PRICE
ON BEHALF OF
MCIMETRO ACCESS TRANSMISSION SERVICES LLC
d/b/a VERIZON ACCESS TRANSMISSION SERVICES**

AUGUST 15, 2008

1 **Q. Please state your name and business address.**

2 A. My name is Don Price, and my business address is 701 Brazos, Suite 600, Austin, Texas,
3 78701.

4
5 **Q. Are you the same Don Price who previously filed direct testimony in this**
6 **proceeding?**

7 A. Yes.

8
9 **Q. Have you reviewed the direct testimonies of Allison T. Willoughby on behalf of**
10 **Brandenburg Telephone and of Kerry Smith on behalf of Windstream?**

11 A. Yes I have.

12
13 **Q. What is the purpose of your rebuttal testimony?**

14 A. My rebuttal testimony addresses three subjects. First, I respond to Ms. Willoughby's
15 direct testimony concerning the historical background of this dispute. Second, I explain
16 that MCI has sought in good faith to negotiate a traffic exchange agreement with
17 Brandenburg, contrary to several mischaracterizations in Ms. Willoughby's testimony.
18 Third, I discuss the two primary options available to Brandenburg for routing the
19 disputed traffic in the absence of an agreement – through the AT&T tandem in Louisville
20 or Windstream's network in Elizabethtown. Both options are available to Brandenburg
21 and both are within its control; MCI does not take a position as to which one
22 Brandenburg should choose.

23
24 **Q. What do you mean by the term "disputed traffic"?**

25 A. I will use the term "disputed traffic" throughout my testimony to mean calls from

26 Brandenburg Telephone's end user customers in Radcliff that are destined for ISPs on
27 MCI's network; specifically, these are calls that Brandenburg has routed over EAS trunks
28 to Windstream's Elizabethtown network for completion to MCI at MCI's Point of
29 Interconnection with Windstream in Elizabethtown. The term does not include calls
30 placed by Windstream's Elizabethtown end user customers, and it excludes calls from
31 Brandenburg's end user customers in Radcliff to Windstream's end user customers in
32 Elizabethtown.

33

34 **Q. At page 3 of her testimony, Ms. Willoughby begins a lengthy discussion of the facts**
35 **in this proceeding. Do you agree with her recitation of those facts?**

36 A. No. As I discussed on page 3 of my direct testimony, MCI has offered dial-up service in
37 Elizabethtown to ISPs since 1997, long before the 2005 date Ms. Willoughby mentions in
38 her testimony. (Willoughby direct at 3.) At pages 3-4 of my direct I discussed the
39 change in service architecture that MCI implemented in 2003 by which MCI ported
40 various telephone numbers to its own Class 5 switch serving Elizabethtown. The
41 implementation of number portability by Windstream or its predecessor company would
42 have provided notice to Brandenburg that the telephone numbers ported to MCI were no
43 longer "homed" on the Windstream tandem in Elizabethtown.¹ Stated differently,
44 beginning in 2003, those ported telephone numbers were to be associated with an LRN
45 that resided on the AT&T Louisville tandem, absent an agreement to handle the traffic in
46 a different manner, as I discuss in more detail below.

47

¹ I understand that Brandenburg operates a CLEC that offers local services in competition with Windstream in Elizabethtown. Thus, Brandenburg would have been aware of Windstream's number portability implementation in Elizabethtown, because it was porting telephone numbers from the incumbent, just as MCI did. Brandenburg would have known that a number ported to MCI was no longer "homed" on Windstream's Elizabethtown network.

48 **Q. Ms. Willoughby suggests at page 4 of her testimony that MCI's actions to modify its**
49 **service arrangement in Elizabethtown in 2003 were inappropriate given that MCI**
50 **"had no traffic exchange agreement with Brandenburg" and that MCI "had made**
51 **no other interim arrangements for the exchange of this traffic with Brandenburg."**
52 **How do you respond?**

53 A. As I stated in my direct testimony at page 3, MCI does not offer local service in any
54 Brandenburg exchanges. Because MCI has not held itself out as providing local service
55 in the Brandenburg service territory, it is disingenuous for Ms. Willoughby to suggest
56 that MCI's decision to provide certain services in Elizabethtown imposed on MCI any
57 obligations to carriers such as Brandenburg. Furthermore, as I explain, there is no two-
58 way "exchange" of traffic between MCI and Brandenburg. Rather, 100 percent of the
59 disputed traffic involves calls originated by Brandenburg's end user customers.
60 Therefore, MCI's activities in Elizabethtown have been completely appropriate under the
61 circumstances.

62

63 **Q. Does Ms. Willoughby accurately describe the negotiations between Brandenburg**
64 **and MCI?**

65 A. No. She mischaracterizes them in several respects. For example, Ms. Willoughby states
66 several times that MCI has "refused" to enter an agreement with Brandenburg.
67 (Willoughby direct at 3, 6, and 10.) That simply is not true. As I stated in my direct
68 testimony at page 11, MCI has been – and continues to be – willing to negotiate in good
69 faith with Brandenburg regarding reasonable terms and conditions for an agreement, and
70 Ms. Willoughby's description of MCI's prior actions is self-serving and wrong.

71 **Q. Ms. Willoughby states that as part of the discussions between Brandenburg and**
72 **MCI, MCI has “claim[ed] that ... Brandenburg must establish trunking facilities to**
73 **a point of interface located outside Brandenburg’s incumbent network.”**
74 **(Willoughby direct at 6.) Is that correct?**

75 A. No. At the outset, I would point out that MCI has presented various alternative offers to
76 Brandenburg for its consideration. A critical flaw in Ms. Willoughby’s testimony is that
77 she ignores the fact that MCI’s proposals contain multiple components, and that our
78 offers include both a “quid” and a “quo.” By highlighting only one aspect of one of
79 MCI’s multi-dimensional proposals, she ignores other related components of MCI’s
80 entire offer, and thus creates a misleading perception of MCI’s position in the
81 negotiations. In fact, MCI has offered to establish a point of interconnection on
82 Brandenburg’s network, provided that Brandenburg agrees to compensate MCI for traffic
83 originated on Brandenburg’s network and terminated on MCI’s network, which thus far
84 Brandenburg has been unwilling to do. MCI also has proposed alternative arrangements
85 with an interconnection point outside of Brandenburg’s incumbent network in exchange
86 for other terms and conditions, which Brandenburg also has been unwilling to accept.

87
88 **Q. Ms. Willoughby’s testimony states that MCI has “claim[ed] that ... MCImetro is**
89 **entitled to compensation for the transport and termination of this EAS traffic.”**
90 **(Willoughby direct at 6-7, 10.) How do you respond?**

91 A. Currently, MCI is entitled under its tariff to be compensated for terminating the disputed
92 traffic. During the traffic exchange negotiations between MCI and Brandenburg, MCI
93 has made certain proposals that would involve MCI receiving compensation for the
94 disputed traffic as one component of an overall agreement, but MCI has made other
95 proposals that would not require Brandenburg to compensate MCI for its functions in

96 terminating the disputed traffic.

97

98 **Q. Ms. Willoughby asserts that MCI has not had any “incentive” to reach an**
99 **agreement with Brandenburg because MCI is receiving the disputed traffic “free of**
100 **charge.” (Willoughby direct at 4.) Do you agree with Ms. Willoughby’s suggestion**
101 **that MCI should pay to receive Brandenburg’s local traffic?**

102 A. No. As a general matter an end user’s local exchange carrier bears the responsibility for
103 routing its end users’ originated traffic properly and compensating the carrier that
104 terminates any non-toll traffic. Terminating carriers typically do not pay to receive
105 traffic.

106

107 **Q. What options does Brandenburg have for routing the disputed traffic?**

108 A. The routing of calls originated by Brandenburg’s end user customers is an operational
109 matter that is totally within Brandenburg’s control. Neither Windstream nor MCI (nor
110 any other carrier) can – or should – be entitled to affect the routing logic that
111 Brandenburg implements for its customers’ outgoing calls. As regards the disputed
112 traffic, Brandenburg has chosen to implement routing logic in its end office switch (or
113 switches) that directs the disputed traffic over EAS trunks to Windstream’s
114 Elizabethtown exchange. As I discussed in my direct testimony, MCI does not dispute
115 Brandenburg’s right to route traffic in this manner using Windstream as a transit carrier.
116 I also noted in my direct testimony, at pages 8 and 9, that alternatively Brandenburg may
117 route the disputed traffic to the AT&T tandem in Louisville, but it has chosen not to do
118 so.

119

120 **Q. Ms. Willoughby testified that “Brandenburg has no EAS facilities available to route**
121 **the traffic” to the AT&T Louisville tandem? (Willoughby direct at 8.) How do you**
122 **respond?**

123 A. The testimony confuses two different concepts and for that reason is misleading. Terms
124 such as “local,” “toll,” and “EAS” refer to retail services. Facilities are merely pieces of
125 equipment and thus are completely agnostic as to the nature or the category of service
126 traffic that traverses the facilities.² It is incorrect, confusing, and misleading to refer to
127 facilities using descriptive terms that only have relevance to categories of services
128 provided to end user customers. As noted above, it is Brandenburg’s personnel who
129 exercise control over how to route calls originated by Brandenburg’s end user customers,
130 and Brandenburg certainly could modify its switches to route the traffic to the AT&T
131 Louisville tandem rather than to Elizabethtown.³

132

133 **Q. Might there be financial implications to Brandenburg of routing traffic to MCI**
134 **through the AT&T Louisville tandem?**

135 A. Yes, there could be. AT&T could charge Brandenburg for the use of AT&T’s network to
136 “transit” traffic that is originated by Brandenburg’s end users.⁴ As I noted above,
137 however, Brandenburg bears certain obligations to route calls originated by its end user

² I am using the term “facilities” here because that is the term used by Ms. Willoughby. More specifically, the term “facilities” refers to a transmission medium – for example, a fiber optic cable. Once the facilities are operable, they are configured for a particular use, such as interoffice trunks that are used to connect an end office switch with a tandem switch.

³ To the extent Brandenburg lacks sufficient capacity to route traffic to AT&T’s network in Louisville, it may address that issue by augmenting its facilities.

⁴ The term “transit” is used to describe a switching function provided by a third-party carrier when the call neither originates nor terminates on that carrier’s network. As regards the disputed traffic, if the call is switched between Brandenburg’s network and MCI’s network by an intermediary third-party carrier – i.e., Windstream or AT&T – that third-party carrier is providing a “transit” function because no Windstream or AT&T customer is involved on either the originating or terminating end of the call.

138 customers so they can be completed. If the Commission makes clear in this proceeding
139 that Brandenburg must fulfill those obligations, it will have a greater incentive to
140 complete its negotiations with MCI.

141

142 **Q. Would a decision by Brandenburg to route the disputed traffic through the AT&T**
143 **Louisville tandem mean that Brandenburg's end users would "incur toll charges" as**
144 **Ms. Willoughby states? (Willoughby direct at 4.)**

145 A. No. The routing of the disputed traffic is in no way related to Brandenburg's rating of its
146 end user customers' calls. Thus, Brandenburg could continue to treat these calls for
147 rating purposes just as it has for more than a decade; that is, calls to ported numbers in its
148 designated EAS area would continue to be transported at no additional charge to its local
149 exchange service customers, as provided for in its tariff (which I referenced on page 5 of
150 my direct testimony). As an alternative, Brandenburg might implement the necessary
151 changes in its tariffs, and billing and other systems, to enable it to begin billing toll
152 charges to its end users for calls that they have for many years dialed on a 7-digit "local"
153 basis. (Whether that would be considered a reasonable and nondiscriminatory billing
154 practice is a question for another day.) Brandenburg would have to take steps to
155 effectuate such changes, but such actions certainly are in no way required for
156 Brandenburg to route its customers' calls to MCI's network pursuant to industry
157 guidelines.

158

159 **Q. Should Brandenburg be allowed to route traffic to Windstream's network in**
160 **Elizabethtown, using Windstream as a transit carrier?**

161 A. Yes. As I explained at page 9 of my direct testimony, Windstream is obligated to act as a
162 transit carrier under its Kentucky transit tariff. Windstream has chosen to route the

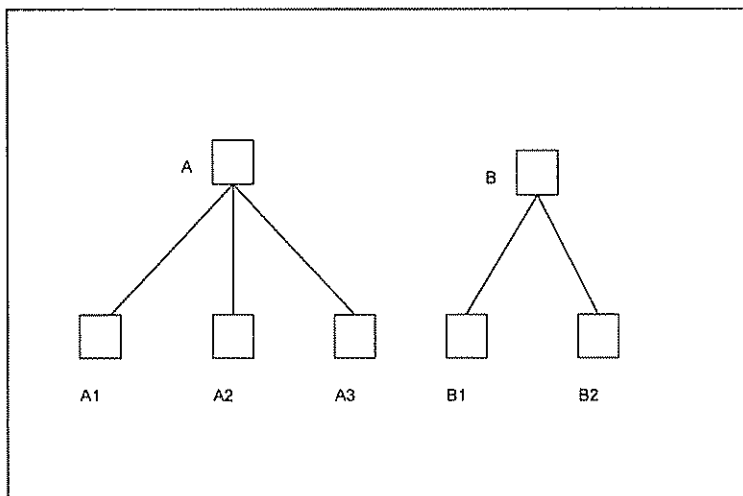
163 disputed traffic it receives from Brandenburg over Windstream's interconnection trunks
164 with MCI. That arrangement is acceptable to MCI.

165
166 **Q. Windstream's witness Kerry Smith states in his testimony that MCI's switch or**
167 **network is not "homed behind Windstream's network." (Smith direct at 6, 8 and 9.)**
168 **Can you explain what is meant by the term "homed" as used by Mr. Smith?**

169 A. Yes. Telephone networks for nearly a century were designed in a strictly hierarchical
170 manner. For example, the schematic below depicts a scenario in which switches A1, A2,
171 and A3 are "homed" on switch A, and switches B1 and B2 are "homed" on switch B.
172 The term "homed" refers to the fact that the only path for getting traffic to switch A1 was
173 through switch A, and the only path for getting traffic to switch B2 was through switch B.

174

Network Schematic 1

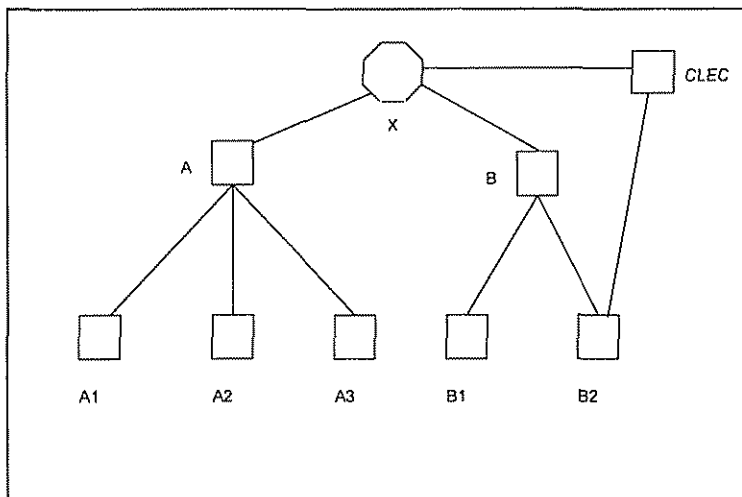


175

176 Prior to implementing telephone number portability, a call to a phone number residing in
177 switch A1 would always be routed for termination through switch A to reach the
178 destination switch, switch A1.⁵ As I explain below, after implementation of number
179 portability, that is no longer true.

180

Network Schematic 2



181

182 In Network Schematic 2, above, I have modified the first schematic by adding a CLEC
183 switch, depicted in the upper right corner, and a tandem switch "X." The CLEC switch is
184 shown with interconnections both at tandem switch "X" and at switch B2. Here, the
185 CLEC could port in a telephone number that previously was assigned, for example, in
186 switch A1. Unlike in the past where a call to that number would always be routed
187 through switch A, the involvement of switch A in routing that call is now situational –

⁵ The only exception to this rule involves a call between end users in switch A1. Such a call would not need to route through switch A.

188 meaning that it may or may not be involved in the routing.⁶ For example, a call to that
189 (former A1) telephone number from an end user customer served by switch B2 could be
190 routed directly to the CLEC switch. Conversely, when the end user customer served by
191 switch B2 places a call to an end user customer whose telephone number is still served by
192 switch A1, that call must route through both tandem switch X and switch A to reach the
193 destination switch A1. This is why call routing in the number portability world is
194 “situational.” When referring to ported telephone numbers, the term “homed” is no
195 longer appropriate or meaningful.

196

197 **Q. Is Mr. Smith correct when he states (on pages 6, 8, and 9) that MCI’s switch or**
198 **network is not “homed behind Windstream’s network?”**

199 A. Not exactly. Mr. Smith’s use of the term “homed” could be misleading because the
200 disputed traffic involves calls to telephone numbers that MCI has ported in to its switch
201 from NXXs associated with Windstream’s Elizabethtown exchange. As a result, , it is no
202 longer appropriate for a carrier originating its end user customers’ calls to a telephone
203 number in one of those NXXs automatically to view Windstream’s network as the
204 “destination” for calls to those telephone numbers. That said, because Brandenburg has
205 chosen to route the disputed traffic to Windstream’s network, and Windstream has
206 elected to serve as a transit service provider, the current routing Brandenburg has selected
207 is appropriate. Mr. Smith’s statement that MCI’s switch is not “homed” to
208 Windstream’s network thus has no bearing on this situation.

⁶ By the term “situational,” I mean that call routing is different for a call to a ported telephone number than for a call to a number that still resides on the original LEC switch.

209 The industry uses Local Routing Numbers, or LRNs, rather than “homing,” as a default
210 mechanism to help route calls such as the disputed traffic properly. The simplified
211 network diagrams above help explain the significance of the industry’s use of LRNs, and
212 I also addressed this subject at pages 8-9 of my direct testimony. Because routing of calls
213 is now situational, the LRN provides routing guidance to all carriers within the LATA for
214 directing calls that their customers originate. And because a CLEC’s switch can port in a
215 telephone number from numerous end offices within the LATA, an LRN is always
216 associated with a tandem switch (and each CLEC will have a unique LRN within each
217 LATA). As I explained in my direct testimony, however, carriers are free to adopt
218 alternative routing arrangements, as in this case. Moreover, the type of service that the
219 originating carrier offers to its end user customers is in no way related to the way in
220 which calls to ported telephone numbers are routed.

221

222 **Q. Mr. Smith’s testimony states at page 5 that MCI has “supplie[d] a telephone**
223 **number for use by its ISP customers that has a routing point different from its**
224 **rating point.” Do you agree with that statement?**

225 A. Although Mr. Smith’s statement is literally true, it is misleading. As I discussed above,
226 the fact that one or more telephone numbers was ported in to MCI’s Class 5 switch means
227 that MCI was required to establish an LRN. I also explained that the industry guidelines
228 call for a single LRN to be established for each LATA in which the carrier – in this case,
229 MCI – ports in telephone numbers previously assigned in other LECs’ switches. For
230 these reasons, Mr. Smith’s statement would be equally applicable to any carrier porting a
231 telephone number anywhere and, for that reason, is irrelevant to the issues in dispute in
232 this proceeding.

233

234 Q. Does that conclude your rebuttal testimony?

235 A. Yes.