

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)

O R D E R

On June 2, 2008, via letter, Dan Logsdon, on behalf of Windstream Kentucky East, LLC ("Windstream"), informed the Commission that as of 9:00 a.m. on June 2, 2008, Windstream had blocked the transmission of traffic from Brandenburg Telephone Company ("Brandenburg") to MCIMetro Access Transmission Services, LLC d/b/a Verizon Access ("Verizon Access").¹ Windstream alleged that Brandenburg was intentionally misusing Windstream's Elizabethtown end office to route the traffic and that Brandenburg should route the traffic through AT&T Kentucky, Inc.'s tandem in Louisville. Windstream alleged that Brandenburg could easily resolve this issue.

Verizon Access provides service to America Online's ("AOL") dial-up customers. The effect of Windstream's blocking of Brandenburg's traffic to Verizon Access is that AOL dial-up customers located in Brandenburg's area are not able to access their Internet service provider ("ISP").

¹ A copy of the letter is appended hereto as Appendix A and is incorporated into the record.

On June 4, 2008, counsel for Verizon Access sent a letter to the Commission's Executive Director, requesting that the Commission issue an emergency order to stop the blocking of Internet access traffic by Windstream.²

On June 5, 2008, representatives from Brandenburg, Verizon Access, and Windstream participated in a teleconference with Commission Staff.³ The parties discussed their relative positions. Windstream claimed that the traffic from Brandenburg to Verizon Access should be routed through AT&T Kentucky, Inc.'s tandem, and not through Windstream's end office, and refused to cease blocking the traffic. Brandenburg and Verizon Access claimed that they were currently negotiating an interconnection agreement that would resolve the traffic dispute. Commission Staff informed the parties that Staff would recommend to the Commission that an emergency hearing be convened on June 6, 2008.

Later on June 5, 2008, Commission Staff informed the parties that the Commission had tentatively scheduled a hearing for 10:00 a.m. on June 6, 2008. Through a series of e-mails on the evening of June 5, 2008, Windstream agreed to cease blocking the traffic and asked that the Commission cancel the emergency hearing.⁴ Windstream agreed to cease blocking the traffic, but still maintained that it had the right to block the traffic if Brandenburg and Verizon Access did not reach

² A copy of the letter is appended hereto as Appendix B and is incorporated into the record.

³ A copy of the informal conference memorandum is appended hereto as Appendix C and is incorporated into the record.

⁴ Copies of the e-mails are appended hereto as Appendix D and are incorporated into the record.

agreement regarding the exchange of the traffic. Commission Staff informed the parties that the hearing had been cancelled.

On June 18, 2008, Windstream sent an e-mail to all parties and Commission Staff.⁵ In the e-mail, Windstream informed the parties that, if the issues had not been resolved by July 3, 2008, it would again block the traffic from Brandenburg to Verizon Access. Windstream requested that the Commission force Brandenburg to take all steps necessary to cease the improper use of Windstream's facilities.

On June 20, 2008, Verizon Access informed the Commission that it had proposed a 50/50 split of the total expense for interconnection and a bill-and-keep arrangement for the traffic originating from Brandenburg's customers in Radcliff.⁶ Verizon Access stated that Brandenburg had refused the offer.

Subsequently, on June 20, 2008, Brandenburg informed Commission Staff that Brandenburg and Verizon Access had been unable to resolve the traffic dispute. Brandenburg informed Verizon Access that if a traffic exchange agreement was signed by July 3, 2008, Brandenburg would begin routing the traffic from its customers to Verizon Access in accordance with the local routing number.⁷ The effect would be that Brandenburg's customers' calls to Verizon Access would now be treated as toll calls, since the calls would now be routed through AT&T Kentucky, Inc.'s Louisville tandem.

⁵ A copy of the e-mail is appended hereto as Appendix E and is incorporated into the record.

⁶ A copy of the e-mail is appended hereto as Appendix F and is incorporated into the record.

⁷ A copy of the e-mail is appended hereto as Appendix G and is incorporated into the record.

The current state of affairs between the parties, absent a traffic exchange agreement between Verizon Access and Brandenburg by July 3, 2008, will lead to either the disruption of service by Windstream or additional costs to AOL customers due to Brandenburg's proposed rerouting. Based on the forgoing, the Commission finds that an investigation should be established to determine the relative rights of all parties and the actions, if any, that should be taken to remedy the traffic dispute. Therefore, pursuant to KRS 278.260, KRS 278.280, and KRS 278.542(1)(a) and (b), the Commission opens this investigation into this dispute among Windstream, Brandenburg, and Verizon Access.

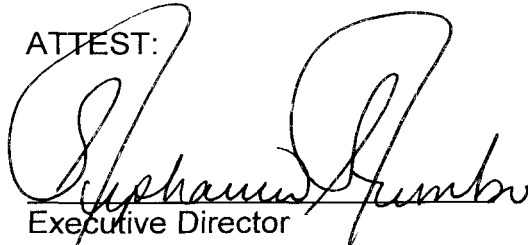
IT IS THEREFORE ORDERED that:

1. The traffic arrangements, as they exist on June 30, 2008, shall continue in their current form until this dispute is resolved.
2. All parties shall keep accounts of the traffic exchanged in order to determine amounts owed, if any, for the exchange and transmission of traffic.
3. Pursuant to 807 KAR 5:001, Section 4(4), the parties shall appear for an informal conference on July 9, 2008 at 1:30 p.m., Eastern Daylight Time, in Conference Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 1st day of July, 2008.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008