

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE INTRASTATE)	ADMINISTRATIVE
SWITCHED ACCESS RATES OF ALL)	CASE NO.
KENTUCKY INCUMBENT AND COMPETITIVE)	2010-00398
LOCAL EXCHANGE CARRIERS)	

O R D E R

On November 5, 2010, the Commission found that an administrative case should be established to examine the switched access rates of Kentucky incumbent and competitive carriers. The purpose of the Commission's examination was, inter alia, to determine if the switched access rates of Kentucky telecommunication carriers include above-cost implicit subsidies. The Commission made all incumbent local exchange carriers ("ILECs") parties to the case and served notice on several other interested entities.

The Commission also issued a procedural schedule in its November 5, 2010 Order which defined the times for requests for intervention, filing of interstate access tariffs and the filing of public comments. Several parties moved for intervention, several parties filed comments, and the ILECs filed their respective intrastate access tariffs. As a result, the first procedural step is complete and the case should move forward.

There is a case in the Kentucky Court of Appeals, however, that may affect the Commission's jurisdiction with respect to the access rates of carriers "electing" under

KRS 278.543.¹ In the Court of Appeals case, Windstream Kentucky West and Windstream Kentucky East, LLC (collectively “Windstream”) has appealed an opinion and order of the Franklin Circuit Court upholding the Commission’s authority over the intrastate access rates of “electing carriers.” If the Court of Appeals overturns the Franklin Court’s decision, then the Commission will lose jurisdiction over the access rates of four of the ILECs that are party to this case. Based on this uncertainty, and the possibility of the Commission’s jurisdiction shifting during this proceeding, the Commission is reluctant to complete this proceeding until the case in the Court of Appeals has reached finality, including any appeals to the Kentucky Supreme Court. Therefore, the Commission, while issuing a procedural schedule in this Order, will not schedule a hearing or render a final decision until the case before the Court of Appeals is final.²

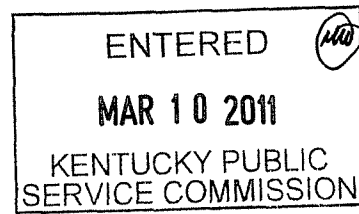
IT IS THEREFORE ORDERED that:

1. All participants to this proceeding shall follow the procedural schedule attached as Appendix A to this Order.
2. All participants to this proceeding shall follow the electronic registration and electronic filing procedures referenced within Appendix B to this Order. Should any conflict exist between the procedures set forth in 807 KAR 5:001 and those established in this Order, the parties shall comply with the latter.

¹ Windstream Kentucky West and Windstream Kentucky East, LLC. v. Kentucky Public Service Commission et al., Case No. 2010-CA-1973.

² We note that the Commission’s co-appellee in the Court of Appeals case has filed a motion to dismiss the appeal as moot, based upon the Commission’s initiation of this case. If the Court of Appeals grants the motion, the Commission will be free to schedule a hearing in this matter, assuming there is no appeal.

By the Commission



ATTEST:

Edward D. Gresham for
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2010-00398 DATED **MAR 10 2011**

PROCEDURAL SCHEDULE

Parties shall propose feedback on AT&T Kentucky's Plan or Alternate Proposals to AT&T Kentucky's Plan.....	April 15, 2011
ILECs Shall Provide the Amount of Access Revenue Shift They Would Experience if their Intrastate Switched Access Rates Mirror their Interstate Switched Access Rates.....	April 15, 2011
First Data Requests, Including Commission Staff's.....	May 2, 2011
Responses to Data Requests	June 10, 2011
Simultaneous Prefiled Direct Testimony	July 8, 2011
Second Data Requests	August 5, 2011
Responses to Second Data Requests	August 29, 2011
Simultaneous Prefiled Rebuttal Testimony	September 19, 2011
Hearing	To be determined
Simultaneous Post- Hearing Briefs	30 days after receipt of hearing transcript
Simultaneous Post- Hearing Reply Briefs	60 days after receipt of post-hearing briefs

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2010-00398 DATED MAR 10 2011

ELECTRONIC FILING PROCEDURES

1. Unless the Commission requires otherwise, all parties to this proceeding shall, when submitting any pleading or other document in this proceeding, file with the Commission an original and one copy in paper medium and one copy in electronic medium.

2. All parties shall submit the electronic copy of any pleading or document to the Commission by following the instructions located on the Commission's Electronic Case Filings page at <http://www.psc.ky.gov/efs/efsmain.aspx>. All parties shall fully comply with the instructions for electronic transmission and uploading set forth at <http://www.psc.ky.gov/efs/efsmain.htm>.

3. All electronic filings shall be made in the following manner:

a. All pleadings, documents, and exhibits shall be submitted in Portable Document Format ("PDF") and be capable of viewing with Adobe Acrobat Reader. All electronic submissions in PDF format shall be search-capable and shall be optimized for viewing over the Internet.

b. Any submitted documents that are scanned shall be scanned at a resolution of 300 dots per inch.

c. The electronic version of each document shall be bookmarked to distinguish sections of the document.

d. All electronic submissions shall include an introductory file in PDF format that is named "Cover Letter" and that contains a general description of the filing, a list of all materials not included in the electronic filing, and a statement attesting that the electronically filed documents are a true representation of the original documents. The "Cover Letter" file and any other document that normally contains a signature shall include a signature in electronic format. The electronic version of the cover letter accompanying the paper filing may be substituted for a general description.

e. If the electronic submission does not include all documents contained in the paper version (e.g., confidential materials or materials that are too large or bulky to transfer by electronic medium), then the absence of these documents shall be noted in the "Cover Letter" document.

f. No electronic transmission or uploading session shall exceed 20 files or a total size of 100 megabytes. No individual file shall exceed 25 megabytes.

g. When submitting documents for which confidential treatment is sought, a party shall:

(1) Submit an original, a paper copy, and an electronic copy of a petition requesting confidential treatment and setting forth the grounds pursuant to KRS 61.870 upon which the material should be classified as confidential. Also submit a redacted copy of the material with those portions for which confidentiality is sought.

(2) Submit a paper copy of the material in question which identifies by underscoring, highlighting with transparent ink, or other reasonable means only those portions which, unless deleted, would disclose confidential material and a CD-ROM containing an electronic version of such material with highlighting.

4. When filing any document with the Commission, any party participating in this case through electronic means shall certify that:

a. The electronic version of the filing is a true and accurate copy of the document(s) filed in paper medium.

b. The electronic version of the filing has been transmitted to the Commission.

c. The party has, by electronic mail, notified the Commission and the other parties participating in this case by electronic means that the electronic version of the filing has been transmitted to the Commission.

d. The party has sent, in paper medium, a copy of its filing to all parties whom the Commission has excused from participation by electronic means.

5. The Commission's Executive Director shall make all electronic filings available at http://www.psc.ky.gov/efs/EFS_Search.aspx.

6. Upon a party's receipt of an electronic mail message from the Commission indicating that an electronic submission has been made to the Commission, it shall be the receiving party's responsibility to access the

Commission's electronic file depository at http://psc.ky.gov/efs/EFS_Search.aspx and download a copy of the submission.

7. a. Within ten days of the date of this Order, any Kentucky ILEC that does not have an active Electronic Filing Account with the Commission shall establish an account at <http://www.psc.ky.gov/Account/Register>.

b. Each party granted leave to intervene in this proceeding after the date of this Order who does not have an active Electronic Filing Account with the Commission shall, within five days of entry of the Order granting intervention, establish an account at <http://www.psc.ky.gov/Account/Register>.

c. Persons or entities solely interested in monitoring this proceeding may sign-up for electronic notification of filings and Orders at <http://www.psc.ky.gov/efs/EmailSignUp.aspx>.

8. The instructions for electronic filing with the Commission are set forth at http://psc.ky.gov/agencies/psc/casefile/filing_instructions_web.pdf. To the extent that any portion of these instructions conflicts with the provisions of this Order, the provisions of the Order shall control.

9. A document shall be considered timely filed with the Commission if it has been successfully transmitted in electronic medium to the Commission within the time allowed for filing. The original document in paper medium shall be filed at the Commission's offices on the next business day following the electronic filing. Parties shall attach to the top of such submission a paper copy of the electronic mail message from the Commission confirming transmission and receipt of its electronic submission.

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