

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE COMMISSION

In the Matter of:

MOUNTAIN RURAL TELEPHONE)
COOPERATIVE CORPORATION)

COMPLAINANT)

V.) CASE NO. 2006-00198

KENTUCKY ALLTEL, INC.)

RESPONDENT)

**WINDSTREAM KENTUCKY EAST, INC.'S REPLY TO MOUNTAIN RURAL'S
RESPONSE TO THE MOTION TO COMPEL AND MOTION TO HOLD
PROCEDURAL SCHEDULE IN ABEYANCE**

Comes now Windstream Kentucky East, Inc. f/k/a Kentucky Alltel, Inc. ("Windstream"), by counsel and, in support of this Reply to the Response by Mountain Rural Telephone Cooperative Corporation ("Mountain Rural") to the Motion to Compel and Motion to Hold Procedural Schedule in Abeyance, states as follows:

1. Windstream's prior Motion to Compel sufficiently sets forth the detailed reasons why it is critical that Mountain Rural provide the requested information and why the procedural schedule should be held in abeyance in the interim. Very simply, without the requested records and information, it is not possible for the Commission or any party to determine whether Mountain Rural's tariff even applies to area local calling minutes, which is the crux of Mountain Rural's complaint. Nevertheless, Windstream believes this abbreviated Reply is necessary to respond to several misrepresentations set forth in Mountain Rural's Response to the Motion to Compel. Windstream denies all statements in the Response unless otherwise admitted herein.

2. Mountain Rural continues to generically refer to "undisputed charges." To clarify, there are three charges at issue between the parties. The first two charges (traffic-sensitive and non-traffic sensitive charges) were raised by Mountain Rural in its complaint. The third (facilities charges) were raised during the parties' subsequent conference call with Commission Staff. During that conference call, the parties discussed that Windstream was unaware of any prior outstanding balance for facilities charges as Mountain Rural's invoices to Windstream at that time reflected a credit balance. During that conference call, Mountain Rural did not produce an invoice reflecting otherwise and could not establish a firm amount that it asserted was owed for facilities. Therefore, Windstream's statements at that time that it was not aware of any undisputed outstanding facilities charges was correct and was not "in bad faith" as asserted by Mountain Rural.

3. With respect to traffic-sensitive charges, Windstream set forth explicitly in Paragraph 2 of its answer that it "inadvertently failed to remit payment to Mountain Rural for these charges due to the parties' ongoing traffic dispute with respect to non-traffic sensitive charges." Windstream further noted that upon realizing its error, it remitted payment to Mountain Rural for traffic sensitive charges. Windstream also paid the associated late payment charges. Mountain Rural's accusations of bad faith on the part of Windstream with respect to traffic sensitive charges are also without merit.

4. Finally, with respect to non-traffic sensitive charges ("Carrier Common Line" or "CCL"), Mountain Rural continues to misrepresent this issue as a simple "collections case" whereby the Commission should merely apply Mountain Rural's tariffed access rates. However, such reasoning is misguided and overlooks the critical question at issue here - *i.e.*, to what types of traffic should Mountain Rural's CCL usage rates apply. In fact, Mountain Rural's CCL usage

charge is not even a tariffed rate. Instead, CCL per minute rates to be charged to various types of traffic are developed annually using a company's tariffed CCL monthly per line rate, the company's forecasted access lines, and the forecasted minutes of use for the relevant time period. Therefore, which types of minutes a company includes in its calculations determines how the CCL usage charges may be assessed and whether a company has already collected its entire revenue requirement across other types of minutes. Put another way, if Mountain Rural cannot prove that it included area local calling minutes in its calculations for all requested time periods, then Mountain Rural is not entitled to assess the CCL usage charge on those minutes since it would have already collected its entire revenue requirement through its assessments on other types of minutes.

5. Additionally, Mountain Rural insists that "this is not a rate case." However, Mountain Rural placed its CCL rates and revenue requirement at issue by requesting in its Complaint that the Commission declare that Windstream "is liable to Mountain Telephone for all past and future switch access service charges..." [Emphasis supplied.] If Mountain Rural can prove that its CCL usage rates even should apply to the area local calling minutes, then Windstream and this Commission are entitled to review the reasonableness of those rates to be applied. The filed rate doctrine, as relied upon by Mountain Rural, does not stand for the notion that a rate once charged is presumed to forever be just and reasonable and exempt from further scrutiny. To the contrary, should the CCL usage rates be proven to apply to the traffic at issue and should the Commission consider Mountain Rural's request for prospective declaratory relief, then the Commission and Windstream are entitled to review whether Mountain Rural's tariffed CCL per line rate (which was established fifteen years ago) is still reflective of Mountain Rural's cost and is just and reasonable.

6. For the reasons explained herein and in Windstream's underlying Motion to Compel, Windstream requests that Mountain Rural be compelled to provide sufficient responses to the data requests prior to the parties proceeding in this matter and that the procedural schedule set forth in Appendix A of the Commission's September 1, 2006 Order be held in abeyance (including Direct Testimony on November 2, 2006). Such information and responses also would be beneficial to the parties' further attempted settlement of this matter.

WHEREFORE, Windstream requests that the Commission issue an order granting the relief requested in Windstream's Motion to Compel and granting all other necessary and proper relief.

Dated this 19th day of October, 2006.

Respectfully submitted,

Windstream Kentucky East, Inc.

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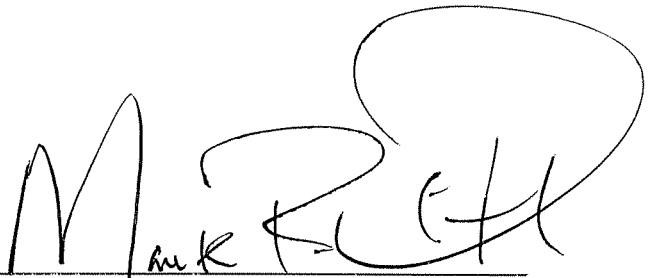
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, on this 19th day of October, 2006 upon:

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