

DIRECT TESTIMONY OF KERRY SMITH

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Q. Please state your name, business address, employer and position.

A. My name is Kerry Smith. I am employed by Windstream Communications (4001 Rodney Parham Road, Little Rock, Arkansas 72212) as Staff Manager of Wholesale Services.

Q. Please describe your educational background and business experience.

A. I received a Baccalaureate of Science in Accounting from the University of Arkansas at Little Rock in 1996. Currently, I am working toward a Baccalaureate of Arts in General Finance at the University of Arkansas at Little Rock. In 1995, I began my career in the telecommunications industry with Alltel in the Revenue Accounting Department. I began as an intern working in various groups within Revenue Accounting such as Billing and Collections, and Purchase of Accounts Receivable. Alltel retained me full time in December 1995 as an accountant in Settlement Accounting. In that area, I completed settlements between Alltel and various incumbent local exchange carriers (“ILECs”) across several states. Subsequently, I was promoted to Senior Accountant in Settlements where my responsibilities included determining how to address new and evolving settlement issues prevalent with changing telecommunications technology.

Through the course of my involvement with settlements, I have participated in industry meetings and workshops involving various Access Record exchanges among ILECs on settlement record types such as 93-01, 92-99, and Cat 11 records. Additionally, I participated in the Alltel conversion of the GTE Kentucky properties for all settlement related items. These items included the Area Calling Service (“ACS”) and IntraLATA Toll Originating Responsibility Plan (“ITORP”) processes for Kentucky. I have also

1 presented record exchange information to industry participants and was a member of
2 several Billing and Record Exchange groups which addressed settlement related issues
3 between ILECs. I was also responsible for ensuring that Alltel met required settlement
4 record exchanges in North Carolina, Pennsylvania (where I also served as chairman of
5 the ITORP sub-committee for four years), Florida, Alabama, Mississippi, Kentucky,
6 Georgia, Oklahoma, Missouri, Arkansas, Texas, South Carolina, and Ohio. As Staff
7 Manager of Wholesale Services, my current duties include issues related to switched
8 access usage such as analysis and forecasting of usage, revenue and expenses.

9
10 ***Q. Can you please state the purpose of your testimony and provide an overview thereof?***

11 ***A.*** I am presenting testimony on behalf of Windstream to address the compensation
12 mechanism for the two types of charges set forth in Mountain Rural's Complaint (*i.e.*,
13 traffic sensitive and non-traffic sensitive charges) and a third type (*i.e.*, facilities charges)
14 raised by Mountain Rural in subsequent telephone conferences between the parties.

15
16 I will explain that it is not appropriate to apply non-traffic sensitive charges to the
17 Windstream ACS traffic for several reasons. As a general matter, there was an
18 arrangement between Mountain Rural, BellSouth, and Windstream's predecessor
19 (Verizon) for many years not to apply such charges to ACS traffic. This arrangement is
20 consistent with and reflective of the public policy in Kentucky which encourages such
21 ACS calling plans and which would otherwise be deterred by the application of such non-
22 traffic sensitive charges. It especially is not appropriate to apply non-traffic sensitive
23 charges to Windstream's ACS traffic during the periods claimed by Mountain Rural
24 (2004, 2005, and 2006) because Mountain Rural failed to produce the supporting

1 documentation necessary to prove that it included ACS traffic minutes when calculating
2 its non-traffic sensitive rate per minute. Without such documentation, there is no way to
3 prove demonstratively that Mountain Rural would not be over-recovering its non-traffic
4 sensitive revenue requirement. Additionally, should the Commission amend the prior
5 compensation arrangement and establish a policy against such ACS plans by applying
6 non-traffic sensitive charges to ACS traffic on a prospective basis, then Mountain Rural's
7 carrier common line monthly per line rate (which is a necessary component in
8 determining the non-traffic sensitive charges) must be re-examined. The Commission
9 established Mountain Rural's carrier common line monthly per line rate in 1991 but has
10 not reviewed that rate element in fifteen years and should ensure that the rate element
11 continues to be cost-based, just, and reasonable.

12
13 As to traffic sensitive charges, I will address how that issue has been resolved. Finally, I
14 will discuss how most of the facilities charges have been paid and that the remaining
15 facilities charges in dispute are inappropriate and should be denied.

16
17 **Non-Traffic Sensitive Charges**

18 ***Q. Have you reviewed Mountain Rural's Formal Complaint and other pleadings filed in***
19 ***this proceeding?***

20 **A** Yes. It is my understanding from those documents that Mountain Rural is asserting that
21 non-traffic sensitive charges apply to certain ACS traffic exchanged between Windstream
22 and Mountain Rural. I also understand that Mountain Rural has described this issue as a
23 "simple collections case" in which Mountain Rural's tariffed rate should simply be
24 applied to the traffic in question.

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Q. Do you agree with those assertions by Mountain Rural?

A No. The application of non-traffic sensitive rate elements to ACS traffic is not a “simple collections” matter. In fact, the rate that Mountain Rural seeks to apply to such traffic is not a tariffed rate and instead is a rate calculated by Mountain Rural based on several factors. Mountain Rural itself acknowledged in Paragraph 13 of its Formal Complaint that this is a “significant dispute” involving carriers’ rights to assess non-traffic sensitive charges to certain area calling plan traffic.

Q. As an initial matter, to what type of traffic is Mountain Rural attempting to apply its non-traffic sensitive charges?

A Mountain Rural is attempting to apply non-traffic sensitive charges to certain ACS traffic exchanged between the parties. By ACS traffic, I am referring to traffic resulting from area calling plans offered to Windstream subscribers. Calls from Windstream to Mountain Rural exchanges are non-local. Consequently, Windstream offers its subscribers an area calling plan whereby Windstream subscribers can call end users in certain Mountain Rural exchanges as if the calls were local. The Kentucky General Assembly and Commission traditionally have encouraged carriers to establish such area calling plans to benefit Kentucky customers.

Q. Are such calling plans in the public interest?

A Yes. These calling plans benefit both Windstream and Mountain Rural customers. As noted above, it is my understanding that legislative and commission regulatory policy in Kentucky has promoted and driven the establishment of such area calling plans.

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Q. Have some carriers in Kentucky established certain arrangements which support this public policy?

A Yes. Windstream has written agreements with some carriers in Kentucky not to apply non-traffic sensitive charges to ACS traffic and arrangements with other carriers whereby such charges have never been applied to ACS traffic. Additionally, as I previously mentioned, there was a long-standing arrangement between Mountain Rural, BellSouth and Windstream’s predecessor, Verizon, not to apply non-traffic sensitive rates (*i.e.*, carrier common line charges) to minutes associated with ACS plans. Again, such an arrangement reflects the public policy in favor of the establishment of such area calling plans. Because these ACS plans are provided to consumers for a flat rate instead of the per-minute rate structure for typical long distance calls, they are viewed as being more beneficial to customers, and as I discuss later, they effectively increase customers’ “local” calling scope.

Q. What evidence supports the existence of such a long-standing arrangement between Mountain Rural, BellSouth and Verizon?

A I personally was involved with the operational transition meetings which occurred during 2002 between representatives from Verizon and Windstream regarding LEC-to-LEC settlements. In the settlement process in Kentucky, the main types of records created for minutes-based LEC-to-LEC billing purposes are ITORP records and ACS records. Both types of records use the same record structure of an 11-01-01 record format, but the ACS settlement record has one unique difference from an ITORP record. At position 122 (indicator 30) of the 11-01-01 record, the letter "K" is placed on all ACS records.

1 Otherwise, position 122 (indicator 30) of the 11-01-01 record is populated with a 0
2 (zero). The effect of the “K” indicator is to instruct the billing systems to not apply the
3 non-traffic sensitive rate. During our operational transition meetings, Verizon made it
4 clear that the appropriate record fields were to be populated with “K” for ACS traffic,
5 including ACS traffic delivered to Mountain Rural customers. In other words, the parties
6 historically have taken particular care to differentiate and separate the ACS traffic
7 minutes from other minutes subject to non-traffic sensitive charges. Were the ACS traffic
8 minutes to be subject to the same non-traffic sensitive charges as Mountain Rural alleges,
9 then there would have been no need for the parties to take these additional steps in the
10 recording process. See by way of example for purposes of illustration Exhibit 1.

11
12 ***Q. Can you provide the history behind this ACS settlement process in Kentucky?***

13 **A** The ACS settlement process has been in place since the late 1990s. Each month
14 BellSouth creates and provides to each ILEC in Kentucky, including Mountain Rural, a
15 monthly ACS settlement statement that indicates the originating carrier, the quantity of
16 ACS minutes, and the Rate Category. The only Rate Categories for ACS traffic are Local
17 Transport, End Office and Network Switching. See by way of example for purposes of
18 illustration Exhibit 2. Each of these three Rate Categories is included under Traffic
19 Sensitive rate elements (not non-traffic sensitive rate elements). These monthly ACS
20 settlement statements do not include, and to the best of my knowledge never have
21 included, non-traffic sensitive rate elements. Mountain Rural has received such monthly
22 ACS settlement statements from BellSouth, and the associated compensation from
23 Verizon and Windstream for many years. I verified through the examination of prior
24 monthly ACS settlement statements that Mountain Rural has received these statements

1 since at least February 2000, and I have no reason to believe that Mountain Rural did not
2 receive these monthly statements prior to 2000.

3
4 I should also mention that upon Windstream's acquisition of the Verizon operating assets
5 in Kentucky in 2002, there were no outstanding or pending claims or issues between
6 Mountain Rural and Verizon with respect to ACS settlement statements. After
7 acquisition, Windstream continued to compensate all ILECs in Kentucky, including
8 Mountain Rural, according to the same processes used by Verizon in prior years.

9
10 **Q. Do you agree with Mountain Rural's assertion at Paragraph 8 of its Formal Complaint**
11 **that "Mountain Rural, like many other rural LEC's who had similar arrangements**
12 **with BellSouth and Alltel (or its predecessor, Verizon)", received compensation for**
13 **switched access traffic "pursuant to historical arrangement"?**

14 A. Yes. As stated by Mountain Rural itself, this *historical arrangement* was established as
15 the settlement process by which many rural LECs, including Mountain Rural, were
16 appropriately compensated for switched access compensation. This included non-traffic
17 sensitive compensation for those minutes which were subject to the non-traffic sensitive
18 rate element, specifically, ITORP traffic – not ACS traffic.

19
20 **Q. Does Mountain Rural offer such calling plans to its end users?**

21 A Mountain Rural's tariffs do not appear to provide such area calling arrangements to
22 Mountain Rural's customers. Therefore, I believe that some of Mountain Rural's
23 confusion as to what types of charges traditionally have been assessed or not assessed to
24 such ACS traffic may be the result of Mountain Rural's lack of familiarity with such

1 calling arrangements. Windstream does not include ACS minutes in the calculation of its
2 carrier common line rate.

3
4 ***Q. Can you describe the difference between such end user ACS calling arrangements and***
5 ***end user toll calling?***

6 A ACS calling plans allow an end user to place unlimited calls to certain exchanges within
7 the LATA for a fixed monthly fee with no additional per minute charges. These ACS
8 calling plans stimulate calling between these exchanges and may result in reduced
9 charges to the end users as compared to an end user placing similar calls (and incurring
10 per minute toll charges) without the benefit of the ACS calling plan. Unlike toll calling
11 plans, ACS plans are more geographically confined and stimulate local calling between
12 communities of interest.

13
14 ***Q. Specifically what rate elements are at issue with such ACS traffic?***

15 A Calls from a Windstream ACS subscriber to a customer in Mountain Rural's territory
16 involve traffic sensitive rate elements. I will discuss traffic sensitive charges in greater
17 detail in the following section of my testimony. Mountain Rural has asserted that ACS
18 traffic also involves non-traffic sensitive rate elements. However, as I explained above,
19 the traditional record exchange process between Mountain Rural, Windstream and
20 BellSouth does not support this contention.

21
22 ***Q. Regardless of the historical compensation arrangement between the parties and***
23 ***Kentucky public policy, has Mountain Rural proven that it is appropriate for Mountain***
24 ***Rural to apply non-traffic sensitive charges to ACS traffic?***

1 A No, I cannot. The application of such non-traffic sensitive charges for the periods
2 asserted by Mountain Rural in its complaint would depend on how Mountain Rural
3 calculated its per minute carrier common line charges during those time periods.
4 However, Mountain Rural has refused to provide the records and detail necessary to
5 verify those calculations.

6
7 ***Q. How are non-traffic sensitive (“carrier common line” or “CCL”) charges generally***
8 ***calculated?***

9 A For simplicity, throughout the remainder of my testimony, I will refer to non-traffic
10 sensitive charges as CCL charges. CCL charges are calculated by applying formulas
11 using several different components. The following are the general formulas that apply:

12
13
$$\text{Allowable Annual CCL Revenue Requirement} =$$

14
$$\text{CCL Revenue per Line} \times 12 \times \text{Forecasted Access Lines in Service}^1$$

15
16
17
18
$$\text{CCL per Minute of Use Rate} = \frac{\text{Allowable Annual CCL Revenue Requirement}}{\text{Forecasted Toll Terminating Minutes of Use}}$$

19
20

21
22 ***Q Can you please explain these formulas and their components?***

23 A Mountain Rural should use the first formula set forth above to determine its annual
24 allowable CCL revenue requirement which is to be recovered through its CCL per
25 Minute of Use Rate.

26

¹ Because forecasted numbers are used, subsequent true-ups may be necessary to ensure that a carrier is not over collecting its allowable annual CCL revenue requirement.

1 Once Mountain Rural has determined its total allowable annual CCL revenue
2 requirement, Mountain Rural should then use the second formula to determine the CCL
3 per Minute of Use Rate to be charged to ILECs and interexchange carriers for toll traffic
4 terminated to Mountain Rural.

5
6 Mountain Rural is asserting that the rate produced under this formula should also be
7 applied to ACS traffic minutes. But, application of the CCL per Minute of Use rate to
8 ACS traffic when such traffic was not included in the calculation of the rate, results in
9 Mountain Rural over-recovering its annual CCL revenue requirement.

10
11 While the terms “CCL revenue per access line,” “CCL revenue requirement” and “CCL
12 per Minute of Use Rate” are similar and may create some confusion, they are very
13 distinct elements. The CCL revenue per access line is the amount per month that
14 Mountain Rural may recover from LECs and interexchange carriers. The CCL revenue
15 per access line is the amount that the Commission established for Mountain Rural in 1991
16 and is reflected in Mountain Rural’s tariff as \$10.88.

17
18 Mountain Rural’s CCL revenue requirement is the CCL revenue per access line
19 multiplied by 12 months, then multiplied by its number of access lines in service.
20 Assuming for example that Mountain Rural had 16,000 access lines in service, its CCL
21 revenue requirement for the year would be \$2,088,960.00 ($\$10.88 \times 12 \text{ months} \times 16,000$
22 access lines).

1 Finally, the CCL per Minute of Use Rate is a calculated rate that Mountain Rural is
2 seeking to apply to Windstream's ACS traffic minutes but is not actually a tariffed rate as
3 suggested by Mountain Rural. Once Mountain Rural has determined its CCL revenue
4 requirement, it must then forecast the quantity of its annual terminating toll minutes. The
5 CCL revenue requirement should be divided by the forecasted annual terminating toll
6 minutes to produce a CCL per Minute of Use Rate. For the sake of example, if Mountain
7 Rural forecasted termination of 40,000,000 toll minutes during the upcoming year, its
8 CCL per Minute of Use rate would be \$0.052224 ($\$2,088,960 / 40,000,000$ minutes).

9
10 ***Q. Is Mountain Rural's CCL per Minute of Use rate a tariffed rate?***

11 **A** No, it is not a tariffed rate. Mountain Rural's tariff (like Windstream's tariff) permits
12 Mountain Rural to convert the CCL per line rate of \$10.88 to a per minute of use rate,
13 although the per minute of use rate itself is not set forth in the tariff. Only Mountain
14 Rural's CCL revenue per line of \$10.88 is set forth in Mountain Rural's tariff. However,
15 again, to be clear, this is not the CCL per Minute of Use Rate that Mountain Rural is
16 seeking to apply to Windstream's ACS traffic minutes. In contrast, Mountain Rural's
17 CCL revenue per line was established by the Commission in 1991. At the time it was
18 established, this rate component was intended to be cost-based and just and reasonable.
19 Because the rate component has not been reviewed by the Commission in over fifteen
20 years, Windstream cannot say with any certainty nor can Mountain Rural likely claim
21 that such per line rate necessarily continues to be reflective of Mountain Rural's costs or
22 just and reasonable. Mountain Rural refused to answer Windstream's data requests that
23 were intended to investigate whether such rate continues to be cost based, just, and
24 reasonable.

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Q. *Were you able to verify what annual forecasted minutes Mountain Rural used in its annual calculations for the time periods set forth in Mountain Rural’s complaint?*

A No. Mountain Rural provided a summary sheet and statement identifying some forecasted minutes and also suggested that it had included ACS minutes in its calculations, but Mountain Rural refused to provide the actual supporting documents and records from which the minutes were derived and subsequently admitted that there were errors on the summary sheet. Therefore, Windstream has not been able to verify what forecasted minutes were used or should have been used by Mountain Rural in its calculations for 2004, 2005, and 2006. Similarly, Windstream has been unable to verify what true-ups may have been appropriate and that Mountain Rural should have performed.

Q. *What is the result of Mountain Rural’s refusal to provide such records?*

A Because Mountain Rural has not produced the necessary documentation with respect to its ACS minute calculations, Windstream and the Commission cannot verify with any certainty the development of Mountain Rural’s CCL per Minute of Use rate and whether Mountain Rural may potentially over-recover its Allowable Annual CCL Revenue Requirement.

Q. *Assuming for argument sake that Mountain Rural had produced the records necessary to validate its calculations, how would that information have been used?*

A Mountain Rural’s Annual CCL Revenue Requirement could be calculated for 2004, 2005, and 2006 by multiplying Mountain Rural’s tariffed CCL revenue per line of \$10.88 times its forecasted annual lines. For future years, Mountain Rural would not only need to

1 produce the records to validate its forecasted annual minutes, but Mountain Rural should
2 also produce the account information requested by Windstream necessary to verify that
3 Mountain Rural's tariffed CCL revenue per line of \$10.88 (established by the
4 Commission in 1991) continues to be cost-based, just, and reasonable. The results of
5 these calculations are then used as a component in the next formula discussed below.

6
7 ***Q. What is the next calculation that must be performed?***

8 A After discerning Mountain Rural's applicable annual revenue requirement as set forth
9 above, that information is then used in another formula to calculate Mountain Rural's
10 CCL per Minute of Use Rate. This is the CCL per minute rate that Mountain Rural is
11 seeking to apply to Windstream's ACS traffic in this proceeding. It is not a tariffed rate.
12 Instead, the rate is derived by dividing Mountain Rural's Annual CCL Revenue
13 Requirement (as calculated above) by its forecasted terminating minutes of use. Here is
14 the source of confusion in the instant proceeding. The outcome of this proceeding
15 depends on which minutes Mountain Rural included in this calculation for 2004, 2005,
16 and 2006. If Mountain Rural did not include ACS minutes in those calculations, then it
17 would be mathematically incorrect to apply the CCL charges to Windstream's ACS
18 traffic. (Again, regardless of whether Mountain Rural included or excluded ACS minutes
19 from its rate calculation, it would not have been appropriate under the parties' historical
20 arrangement to apply such charges to ACS traffic.)

21
22 ***Q. Have you been able to determine whether Mountain Rural included ACS minutes in its***
23 ***calculations?***

1 A No. Mountain Rural refused to provide the requested records necessary to verify whether
2 such ACS minutes were included in its calculations for the relevant time periods. I can
3 state that prior to 2004, Mountain Rural did not record the traffic and BellSouth did.
4 BellSouth did not assess Windstream or its predecessors for CCL charges on the ACS
5 minutes.

6
7 ***Q. What is the result if Mountain Rural is allowed to apply the CCL per minute of use***
8 ***charges to the ACS traffic without submitting the supporting records to verify those***
9 ***calculations?***

10 A The result is that Mountain Rural could be allowed to over-collect its CCL annual
11 revenue requirement. In other words, Mountain Rural may not have included such ACS
12 minutes in its annual calculations for the requested time periods. If that is the case, then
13 Mountain Rural has already collected its entire annual revenue requirement across the
14 other traffic minutes that it did include in its annual CCL calculations. Very simply, the
15 result would be that Mountain Rural is over-collecting its annual CCL revenue
16 requirement.

17
18 ***Q. To clarify, what happens when a carrier excludes a class of minutes (such as ACS***
19 ***minutes) from the rate calculation but then is allowed to assess the resulting rate to all***
20 ***minutes of use?***

21 A In such a case, a carrier like Mountain Rural would recover revenues in excess of its CCL
22 revenue requirement. For example, as stated above, if Mountain Rural has a \$10.88 per
23 line per month tariffed CCL rate and has 16,000 access lines, then Mountain Rural's
24 annual CCL revenue requirement would be \$2,088,960.00 (\$10.88 x 12 months x 16,000

1 access lines). Assume for purposes of this example that Mountain Rural terminates 10
2 million ACS minutes and 40 million toll minutes for a total of 50 million minutes. If
3 Mountain Rural uses its toll minutes to develop the CCL per minute of use rate, the
4 resulting rate would be \$0.052224 (\$2,088,960 / 40,000,000 toll minutes). However, if
5 Mountain Rural then assesses this per minute of use rate to all minutes of use, including
6 ACS minutes, Mountain Rural would recover \$522,240.00 (\$0.052224 x 10,000,000 ACS
7 minutes) in excess of its annual CCL revenue requirement).

8
9 ***Q. Did Mountain Rural include all such minutes of use in its calculations for 2004, 2005,***
10 ***and 2006?***

11 **A.** We do not know. As I stated above, Mountain Rural has refused to provide the records
12 necessary to verify the relief set forth in its complaint with respect to the application of
13 such CCL per minute of use rates to ACS traffic. Mountain Rural also refused to provide
14 records requested for the prior periods necessary to compare the minutes to determine the
15 difference in the types of minutes included at different points in the parties' relationship.
16 Further, Mountain Rural has failed to demonstrate why the parties' historical arrangement
17 should be amended to apply such CCL per minute of use rates to ACS traffic.

18
19 **Traffic Sensitive Charges**

20 ***Q. What traffic sensitive rate elements are involved with the ACS traffic exchanged***
21 ***between Windstream and Mountain Rural?***

22 **A.** Traffic sensitive rate elements include local switching, local transport facilities, tandem
23 switching and transport termination. Traffic sensitive rates are set forth in Mountain
24 Rural's access tariffs.

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Q. Did Mountain Rural’s Complaint include a claim for unpaid traffic sensitive charges?

A Yes.

Q. Are Mountain Rural’s traffic sensitive charges appropriately applied to ACS traffic at issue in this proceeding?

A Yes, and Windstream does not dispute the application of such charges. It is my understanding that Windstream has explained that it inadvertently failed to remit payment to Mountain Rural for such traffic sensitive charges due to the parties’ other ongoing traffic dispute.

Q. Has Windstream paid such traffic sensitive charges to Mountain Rural?

A Yes. Windstream already paid \$60,403.49 for such traffic sensitive charges to Mountain Rural plus the associated late payment fees. Windstream does not believe that any issues remain with respect to traffic sensitive charges.

Facilities Charges

Q. Are facilities charges set forth in Mountain Rural’s complaint?

A. No, Mountain Rural raised the issue of facilities charges for the first time during the parties’ telephone conferences with Commission Staff. At that time, Mountain Rural asserted that there was an unspecified amount of outstanding facilities charges, although the only facilities invoices provided to Windstream reflected a credit balance in Windstream’s favor.

1 **Q.** *Did the parties subsequently determine that there were facilities charges outstanding?*

2 A Yes. After Mountain Rural provided facilities invoices to Windstream and after the
3 parties verified those invoices, they determined that there were facilities charges
4 outstanding. Windstream subsequently paid to Mountain Rural undisputed facilities
5 charges from January 2006 forward, although charges for facilities prior to December
6 2005 (\$18,016.43) and a portion of the December 2005 facilities charges (\$5,350.99)
7 remain in dispute.

8

9 **Q.** *What facilities are involved in the dispute?*

10 A Prior to December 2005, the parties had jointly provisioned two-way facilities.
11 Specifically, these facilities were used for many years to deliver commingled traffic
12 (including BellSouth traffic, Windstream traffic, wireless carrier traffic, CLEC traffic,
13 and traffic of Mountain Rural end users that subscribed to BellSouth to carry their 1+
14 traffic) between the Windstream and Mountain Rural networks. Prior to December 2005,
15 both Mountain Rural and Windstream were responsible for maintaining its facility on its
16 respective side of an established meet point (or point where the two networks meet). See
17 Exhibit 3.

18

19 **Q.** *Are the facilities still used to deliver such commingled traffic?*

20 A No. After Mountain Rural and BellSouth completed routing changes in early December
21 2005, the facility was converted from a two-way shared facility to a one-way
22 (Windstream to Mountain Rural) facility. During December 2005, Windstream
23 repurposed and resized the facilities. The facilities now carry Windstream traffic and also

1 may carry wireless and CLEC traffic. At that time, Windstream became financially
2 responsible for the entire facility and has paid, in full, for use of the facility.

3
4 ***Q. What is the substance of the billing dispute between the parties for these facilities?***

5 A. Mountain Rural is attempting to charge Windstream \$18,016.43 for Mountain Rural's
6 portion of the facility (the portion of the facility from the meet point to Mountain Rural's
7 tandem in West Liberty, Kentucky) for the period prior to December 2005. Clearly,
8 during this period, Mountain Rural was responsible for provision of its facility just as
9 Windstream was responsible for provision its facility from the meet point back to the
10 Windstream Morehead, Kentucky tandem office. With respect to the disputed \$5,350.99
11 for a portion of December 2005, Mountain Rural failed to provide Windstream sufficient
12 notice of a network change which resulted in over-charges by Mountain Rural for that
13 month. Windstream has paid Mountain Rural \$1,945.81 for the undisputed portion for
14 December 2005.

15
16 **Conclusions**

17 ***Q. Based on the above, what do you conclude with respect to the various charges in***
18 ***dispute between the parties?***

19 A. First, with respect to non-traffic sensitive charges, Mountain Rural should not be allowed
20 to apply a CCL per minute of use rate to Windstream's ACS traffic for the periods 2004,
21 2005, 2006. Mountain Rural has not demonstrated that it included such ACS minutes in
22 its CCL per minute of use rate calculations for those time periods. Indeed, the parties'
23 prior arrangement and Kentucky's public policy in favor of such ACS calling
24 arrangements indicates that such ACS minutes were likely not included in such

1 calculations and should not be included. Nevertheless, should the Commission determine
2 that Mountain Rural should be allowed to apply a CCL per minute of use rate to ACS
3 traffic going forward, then prior to such application, Mountain Rural should be required
4 to show cause that its tariffed CCL per line monthly rate of \$10.88 (established in 1991)
5 is still cost-based, just and reasonable. Second, with respect to the claims set forth in the
6 Complaint as to traffic sensitive charges, they should be dismissed as no dispute remains,
7 and there are no traffic sensitive charges outstanding. Third, with respect to remaining
8 facilities charges for December 2005 and any prior period, all such assertions should be
9 denied. The facilities charges were not set forth in Mountain Rural's complaint.
10 Nevertheless, during the periods claimed by Mountain Rural in subsequent discussions,
11 the parties' facilities were subject to a Meet Point Billing Arrangement, and Mountain
12 Rural's associated claim, therefore, is inappropriate.

13
14 ***Q.*** *Does this conclude your testimony?*

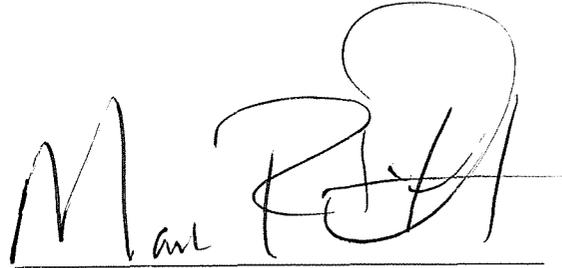
15 ***A.*** Yes, at this time.

16
17

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, on this 2nd day of November, 2006 upon:

John E. Selent
Holly C. Wallace
Edward T. Depp
Dinsmore & Shohl, LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
e-mail: selent@dinslaw.com

A handwritten signature in black ink, appearing to read "Mark R. Overstreet", written over a horizontal line. The signature is stylized and cursive.

Mark R. Overstreet

Exhibit 1

PAYOR COMPANY: ALLTEL-KENTUCKY-LEXINGTON
ATTN: CHUCK LUNSFORD
MAILSTOP: 1269-B4F03-NC
ONE ALLIED DRIVE

COMPANY NUMBER 9690
ACCOUNT NUMBER KIA05109690

LITTLE ROCK, AR 72203

***** AREA CALLING SERVICE *****
***** SUMMARY OF MONTHLY INTRALATA PAYMENT *****

COMPANY SUMMARY
PAYMENT PERIOD: SEPTEMBER 2005
=====

PAYABLE TO: MOUNTAIN TEL COOP CORP
P O BOX 399
405 MAIN ST
WEST LIBERTY KY 41472

RATE CATEGORY:	AMOUNT
I. LOCAL TRANSPORT.....	\$5,352.31
II. END OFFICE.....	\$3,911.14
III. NETWORK SWITCHING.....	\$0.00
SUB TOTAL	\$7,263.45

ADJUSTMENTS.....

*** TOTAL DUE ***

IF YOU ARE PARTICIPATING IN THE NETTING OF SETTLEMENTS, PLEASE DO NOT PAY FROM THIS STATEMENT.

*Windsream
Exhibit 1
Page 1
Direct Testimony of Kerry Smith*

FORM HP-5837
 RETAIN OPT
 LOUISVILLE
 PAGE 0001

KENTUCKY ACS SETTLEMENT SYSTEM
 *** TERMINATING TRANSPORT SUMMARY ***
 PAYMENT PERIOD: SEPTEMBER 2005

FSD MW10
 DATE 10/25/2005
 TIME 07:55 JOB: MW10A20KPGH MW10A20
 CONFILED 09/05/0510.36.56 JES JOB44124

PAYOR COMPANY NO: 9690 NAME: ALLTEL - LEXINGTON

PAYABLE TO COMPANY NO: 0414 NAME: MOUNTAIN RURAL

PAYOR CLLI	PAYEE CLLI	TERMINATING TOLL CENTER CLLI	TERMINATING TOLL CENTER OCN	TERMINATING END OFFICE CLLI	TERMINATING END OFFICE OCN	TYPE COMP	MINUTES	RATE	PCT	MILES	AMOUNT
MRHDKYXA	FRBCKYXA	MRHDKYXA	9690	FRBCKYXA	0414	FACILITY TERMINATION	27,445	.0001890	0.2200	0019	\$21.68
MRHDKYXA	FRBCKYXA	MRHDKYXA	9690	FRBCKYXA	0414	REC		.0009370			\$25.61
MRHDKYXA	SNDHKYXA	MRHDKYXA	9690	SNDHKYXA	0414	FACILITY TERMINATION	84,826	.0125150	0.2200	0019	\$343.47
MRHDKYXA	SNDHKYXA	MRHDKYXA	9690	SNDHKYXA	0414	REC		.0001890			\$67.01
MRHDKYXA	WLTKYXA	MRHDKYXA	9690	WLTKYXA	0414	FACILITY TERMINATION	51,992	.0009370	0.2200	0021	\$79.14
MRHDKYXA	WLTKYXA	MRHDKYXA	9690	WLTKYXA	0414	REC		.0125150			\$1,061.60
OLHLKYXA	SNDHKYXA	MRHDKYXA	9690	SNDHKYXA	0414	FACILITY TERMINATION	70,881	.0001890	0.2200	0019	\$48.51
						REC		.0125150			\$650.68
								.0009370			\$56.00
								.0125150			\$26.13
								.0009370			\$887.03
						TOTAL	235,144				\$3,352.31

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 Direct Testimony of Kerry Smith*

FORM HP-5838
 RETAIN OPT
 LOUISVILLE
 PAGE 0001

KENTUCKY ACS SETTLEMENT SYSTEM
 ***K TERMINATING END OFFICE SUMMARY ***K
 PAYMENT PERIOD: SEPTEMBER 2005

FSD MNTLO
 DATE 10/25/2005
 TIME 07:55 JOB: MNTLOA20KPGH MNTLOA20
 COMPILED 08/05/0510.36.56 JES JOB44124

PAYOR COMPANY NO: 9690 NAME: ALLTEL - LEXINGTON
 PAYABLE TO COMPANY NO: 0414 NAME: MOUNTAIN RURAL

PAYOR CLLI ORIGINATING END OFFICE	PAYEE CLLI TERMINATING END OFFICE	TYPE COMP	MINUTES	RATE	AMOUNT
HRHDKYXA	FRBCKYXA	LOCAL SWITCHING	27,445	.0164720	\$452.07
HRHDKYXA	FRBCKYXA	INFO SURCHARGE		.0001410	\$4.32
HRHDKYXA	SNDHKYXA	LOCAL SWITCHING	84,826	.0164720	\$1,397.25
HRHDKYXA	SNDHKYXA	INFO SURCHARGE		.0001410	\$13.66
HRHDKYXA	WLBTKYXA	LOCAL SWITCHING	51,992	.0164720	\$856.41
HRHDKYXA	WLBTKYXA	INFO SURCHARGE		.0001410	\$8.37
OLHLKYXA	SNDHKYXA	LOCAL SWITCHING	70,881	.0164720	\$1,167.55
OLHLKYXA	SNDHKYXA	INFO SURCHARGE		.0001610	\$11.21
TOTAL					=====
					\$3,911.14

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 Direct Testimony of Kerry Smith*

Exhibit 2

*Windstream
Exhibit 2
Direct Testimony
Keray Smith*

CARRIER ACCESS USAGE
NORTH AMERICAN ORIGINATED AND TERMINATED
MESSAGE TELEPHONE SERVICE

11 Category			01 Group			01 Record Type										
Pos	Field Description		Char	Pos	Field Description		Char	Pos	Field Description		Char					
1	Category		X	68	Method Of Recording		9	136	Reserved for Local Company Use (continued)		9					
2	Group		X	69	Return Code		X	137	Reserved		9					
3	Record Type		X	70	From RAO		X	138	NECA Company Code		X					
4	Year		9	71	Local Company Information		9	139	BSA / Feature Group D Call Event Status		9					
5	Month		9	72	Cust. Bill Format		9	140	Reserved		9					
6	Day		9	73	Conference Leg Number		9	141	BSA / Feature Group ID Code		X					
7	From Number Length		9	74	Type of Access Service		9	142	Library Code		X					
8	NPA		9	75	Reserved		9	143	Settlement Code		X					
9	NXX			76	Method Of Signaling		9	144	Min		9					
10	Line Number			77	Indicators		9	145	Sec							
11	Overflow Digits			78	Operator Unit			9	146	1/10						
12	To Number Length			79	Recording Point Identification (AMA)				9	147		Originaling LRN		9		
13	NPA		80	Serial Number		9				148		Originaling DCN			X	
14	NXX		81	CABS Billing RAO						X	149	Originaling LRN Source Indicator				9
15	Line Number		82	Indicators			9				150	Terminating LRN				
16	Originating / Terminating ID		83	Carrier Identification Code				9			151	Terminating OCN				
17	BSA / Feature Group D Trunk Group Number		84	Carrier Access Method					9		152	Terminating LRN Source Indicator		9		
18	Reserved		85	Routing Method		9					153	Send To OCN			X	
19	Carrier Access Method		86	Dialing Method						9	154	Reserved				9
20	Routing Method		87	ANI			9				155	Reserved				
21	Dialing Method		88	NCTA				9			156	Reserved				
22	ANI		89	Hr					9		157	Reserved				
23	NCTA		90	Min		9					158	Reserved				
24	Hr		91	Sec						9	159	Reserved				
25	Min		92	Min			9				160	Reserved				
26	Sec		93	Sec				9			161	Reserved				
27	Bilable Or Reported Time		94	Min					9		162	Reserved				
28	NPA		95	Sec		9					163	Reserved				
29	NXX		96	Min						9	164	Reserved				
30	Line Number		97	Sec			9				165	Reserved				
31	Originating / Terminating ID		98	Min				9			166	Reserved				
32	BSA / Feature Group D Trunk Group Number		99	Sec					9		167	Reserved				
33	Reserved		100	Min		9					168	Reserved				
34	Carrier Access Method		101	Sec						9	169	Reserved				
35	Routing Method		102	Min			9				170	Reserved				
36	Dialing Method		103	Sec				9			171	Reserved				
37	ANI		104	Min					9		172	Reserved				
38	NCTA		105	Sec		9					173	Reserved				
39	Hr		106	Min						9	174	Reserved				
40	Min		107	Sec			9				175	Reserved				
41	Sec		108	Min				9			176	Reserved				
42	Bilable Or Reported Time		109	Sec					9		177	Reserved				
43	NPA		110	Min		9					178	Reserved				
44	NXX		111	Sec						9	179	Reserved				
45	Line Number		112	Min			9				180	Reserved				
46	Originating / Terminating ID		113	Sec				9			181	Reserved				
47	BSA / Feature Group D Trunk Group Number		114	Min					9		182	Reserved				
48	Reserved		115	Sec		9					183	Reserved				
49	Carrier Access Method		116	Min						9	184	Reserved				
50	Routing Method		117	Sec			9				185	Reserved				
51	Dialing Method		118	Min				9			186	Reserved				
52	ANI		119	Sec					9		187	Reserved				
53	NCTA		120	Min		9					188	Reserved				
54	Hr		121	Sec						9	189	Reserved				
55	Min		122	Min			9				190	Reserved				
56	Sec		123	Sec				9			191	Reserved				
57	Bilable Or Reported Time		124	Min					9		192	Reserved				
58	NPA		125	Sec		9					193	Reserved				
59	NXX		126	Min						9	194	Reserved				
60	Line Number		127	Sec			9				195	Reserved				
61	Originating / Terminating ID		128	Min				9			196	Reserved				
62	BSA / Feature Group D Trunk Group Number		129	Sec					9		197	Reserved				
63	Reserved		130	Min		9					198	Reserved				
64	Carrier Access Method		131	Sec						9	199	Reserved				
65	Routing Method		132	Min			9				200	Reserved				
66	Dialing Method		133	Sec				9			201	Reserved				
67	ANI		134	Min					9		202	Reserved				
68	NCTA			Sec		9					203	Reserved				
69	Hr			Min						9	204	Reserved				
70	Min			Sec			9				205	Reserved				
71	Sec			Min				9			206	Reserved				
72	Bilable Or Reported Time			Sec					9		207	Reserved				
73	NPA			Min		9					208	Reserved				
74	NXX			Sec						9	209	Reserved				
75	Line Number			Min			9				210	Reserved				
76	Originating / Terminating ID			Sec				9								
77	BSA / Feature Group D Trunk Group Number			Min					9							
78	Reserved			Sec		9										
79	Carrier Access Method			Min						9						
80	Routing Method			Sec			9									
81	Dialing Method			Min				9								
82	ANI			Sec					9							
83	NCTA			Min		9										
84	Hr			Sec						9						
85	Min			Min			9									
86	Sec			Sec				9								
87	Bilable Or Reported Time			Min					9							

Field Characteristics:
9 = Numeric
X = Alphabetic
S 9 = Signed Numeric
+ = Continued on Next Column
- = Continued on Next Column

Exhibit 3

WINDSTREAM
DIRECT TESTIMONY OF KERRY SMITH
EXHIBIT 3

