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PUBLIC SERVICE  
COMMISSION

November 13, 2007

**VIA FEDERAL EXPRESS**

Hon. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

**Re: *In the Matter of: Application of North Central Telephone Cooperative Corporation, Inc. to Adjust Rates and Charges for Basic Local Exchange Service, Case No. 2007-00162***

Dear Ms. O'Donnell:

I have enclosed for filing in the above-styled case the original and eleven (11) copies of North Central Telephone Cooperative Corporation's Sur-Reply to Motion for Full Intervention. Please return a file-stamped copy in the self-addressed, postage prepaid envelope furnished herewith.

Thank you, and if you have any questions, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



Holly C. Wallace

HCW/rk  
Enclosures  
cc: Parties of Record

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PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

*In the Matter of:*

APPLICATION OF NORTH CENTRAL )  
TELEPHONE COOPERATIVE )  
CORPORATION, INC. TO ADJUST )  
RATES AND CHARGES FOR BASIC )  
LOCAL EXCHANGE SERVICE )

Case No. 2007-00162

**SUR-REPLY TO MOTION FOR FULL INTERVENTION**

North Central Telephone Cooperative Corporation, Inc. ("North Central"), by counsel, hereby files with the Public Service Commission of the Commonwealth of Kentucky (the "Commission"), its sur-reply in opposition to the motion for full intervention of MCImetro Transmission Access Transmission Services, LLC, d/b/a Verizon Access Transmission Services, MCI Communications Services, Inc. d/b/a Verizon Business Services, Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions, TTI National, Inc., Teleconnect Long Distance Services & Systems d/b/a Telecom\*USA and Verizon Select Services, Inc. (collectively, "Verizon"). In support of its sur-reply, North Central states as follows.

**INTRODUCTION**

This matter concerns an inter-exchange carrier's motion to intervene in a proceeding that concerns only basic residential and business service rates. The interexchange carrier, Verizon, does not pay the rates at issue in this proceeding. Verizon admits that the proceeding concerns only rates for retail customers and that Verizon is not a retail customer. (Verizon's reply in support of motion for full intervention, p. 2.) Nonetheless, in a vain attempt to form a basis for its motion, Verizon asserts the implausible argument that it is a member of the North Central cooperative.

Membership in a cooperative is governed by KRS 279.390.

Each incorporator of a cooperative shall be a member thereof but no other person may become a member thereof unless such other person agrees to use telephone service furnished by the cooperative when it is made available through its facilities. Membership in a cooperative shall be evidenced by a certificate of membership which shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in respect of membership . . . .

KRS 279.390. North Central's bylaws expressly exclude interexchange carriers from membership in the cooperative. "Exchange and interexchange carriers who participate with the Cooperative in the provision of telecommunications services to members are neither members nor patrons by virtue of division of revenue contracts." (Bylaws of North Central Telephone Cooperative, Inc., Section 1.2(c).) Accordingly, Verizon is *not* a member of the cooperative.

### **ARGUMENT AND ANALYSIS**

The Commission's regulations afford two alternative bases for full intervention in a Commission proceeding. *In the matter of: An Investigation into East Kentucky Power Cooperative, Inc.'s Continued Need for Certificated Generation*, Case No. 2006-00564, 2007 Ky. PUC LEXIS 290, \*2 (April 19, 2007). A moving party must establish that it "has a special interest in the proceeding which is not otherwise adequately represented," or it "is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings." *Id.*, see also 807 KAR 5:001, §3(b)(b). Verizon has failed to demonstrate either basis for full intervention.

#### **A. VERIZON DOES NOT HAVE A SPECIAL INTEREST THAT IS NOT OTHERWISE ADEQUATELY REPRESENTED.**

Verizon states that its special interest "is to ensure that [North Central] files enough information to give the Commission a complete understanding of its finances . . . ." (Verizon's reply in support of motion for full intervention, p. 4.) As an interexchange carrier that is not a member of

the North Central cooperative, Verizon does not explain how it is uniquely situated to ensure that North Central files enough financial information for the Commission to evaluate its rate application. Moreover, the Commission's regulations govern what information North Central is required to file. Thus, the Commission, not Verizon, is uniquely situated to ensure that North Central complies with those regulations and files sufficient information for the Commission to effectively and efficiently review North Central's rate application. Thus, to the extent, if any, Verizon has an interest in ensuring North Central files sufficient financial information, that interest is more than adequately protected by the Commission.

In addition, Verizon's alleged interest in "certain filing requirements relating to jurisdictional summaries of financial data" is moot. (Verizon's reply in support of motion for full intervention, p. 4.) The jurisdictional summaries are only required to be filed with a rate application supported by a fully-forecasted test period. 807 KAR 5:001 §10(10)(a-e). North Central has converted its rate application to one supported by a historical test period; therefore, it is not required to file jurisdictional summaries. Verizon's stated interest in the jurisdictional summaries is moot.

Verizon has failed to demonstrate a special interest in the proceeding that is not adequately represented; therefore, the Commission should deny its motion.

**B. VERIZON IS NOT LIKELY TO PRESENT ISSUES OR DEVELOP FACTS THAT ASSIST THE COMMISSION.**

Given Verizon failed to establish a special interest in the proceeding, Verizon must establish that it is likely "to present issues or to develop facts that assist the Commission in fully considering the matter." 807 KAR 5:001, §3(8)(b). Verizon failed to do so. Verizon alleges that it may assist the Commission in accounting for North Central's depreciation expense. (Verizon's reply in support of motion for full intervention, p. 3.) Verizon fails to explain, however, how it is uniquely situated to assist the Commission with development of these facts. North Central has already submitted its

most recent depreciation study as part of its rate application. North Central trusts that the Commission and its staff are more than able to evaluate North Central's depreciation study without the assistance of Verizon.

Moreover, as Verizon's reply reveals, Verizon seeks to divert the Commission's attention from the issue before it, North Central's basic rates, to an issue that is not before the Commission, North Central's tariffed switched access rates. Verizon's participation would enlarge the scope of the proceeding beyond the matters before the Commission and thereby unduly complicate and disrupt the proceeding. *See In the matter of: An Investigation into East Kentucky Power Cooperative, Inc.'s Continued Need for Certificated Generation*, Case No. 2006-00564, 2007 Ky. PUC LEXIS 290, \*2 (April 19, 2007). For this reason alone, in accordance with 807 KAR 5:001, §3(8)(b), the Commission should deny Verizon's motion.

#### CONCLUSION

For the reasons stated above, Verizon does not have "a special interest in the proceeding which is not otherwise adequately represented" nor is it "likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding." 807 KAR 5:001, §3(8)(b). Rather, Verizon's participation in this matter would only serve to raise issues (access rates) extrinsic to North Central's rate application thereby unduly complicating and disrupting the proceeding. Accordingly, the Commission should deny Verizon's motion for full intervention.

Respectfully submitted,



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John E. Selent  
Holly C. Wallace  
Edward T. Depp  
**DINSMORE & SHOHL LLP**

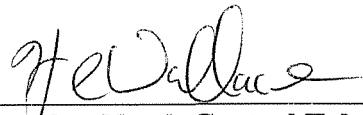
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**Counsel to North Central Telephone  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served on the following via email and U.S. first class mail, postage pre-paid this 14<sup>th</sup> day of November, 2007.

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