

**BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of:

MCI COMMUNICATIONS SERVICES, INC.;  
BELLATLANTIC COMMUNICATIONS, INC.;  
NYNEX LONG DISTANCE COMPANY; TTI  
NATIONAL, INC.; TELECONNECT LONG  
DISTANCE SERVICES AND & SYSTEMS  
COMPANY; AND VERIZON SELECT  
SERVICES, INC.

COMPLAINANTS

v.

WINDSTREAM KENTUCKY WEST, INC.;  
WINDSTREAM KENTUCKY EAST, INC. –  
LEXINGTON; AND WINDSTREAM  
KENTUCKY EAST, INC. – LONDON

DEFENDANTS

**RECEIVED**

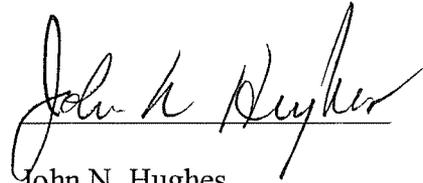
MAR 05 2010

**PUBLIC SERVICE  
COMMISSION**

Case No. 2007-00503

**RESPONSE OF SPRINT COMMUNICATIONS COMPANY, L.P., SPRINT  
SPECTRUM L.P., NEXTEL WEST CORP., AND NPCR, INC. D/B/A NEXTEL  
PARTNERS TO WINDSTREAM'S DATA REQUESTS**

Sprint Communications Company L.P., Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners (collectively, "Sprint Nextel") files its response to the Data Requests filed by Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (collectively referred to as "Windstream Kentucky") on February 12, 2010.



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Attorney at Law  
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**CERTIFICATE OF SERVICE**

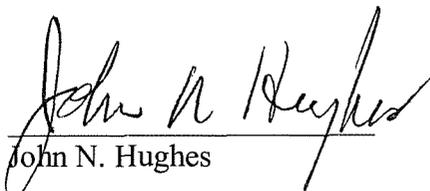
I certify that a copy of this Response has been served by first class mail on the individuals listed below this 5<sup>th</sup> day of March, 2010.

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\_\_\_\_\_  
John N. Hughes

## GENERAL OBJECTIONS

1. Sprint Nextel objects to these Data Requests to the extent that they seek information that is not relevant to any issue in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence.

2. Sprint Nextel objects to each Data Request involving documents or information that are (1) subject to the attorney-client privilege, (2) attorney work-product, or (3) prepared in anticipation of litigation.

3. Sprint Nextel objects to the Data Requests to the extent that they seek to impose obligations on Sprint Nextel that exceed the requirements of the Kentucky Rules of Civil Procedure or other applicable Kentucky law.

4. Sprint Nextel objects to the Data Requests to the extent that they are vague, ambiguous, overly broad, imprecise, call for speculation or to the extent that they utilize undefined or insufficiently defined terms or phrases.

5. Sprint Nextel objects to the Data Requests to the extent that they require the production of documents or information that is in the public domain, or on record with the Kentucky Public Service Commission or the Federal Communications Commission, or which is already in petitioners' possession, custody or control.

6. Sprint Nextel objects to each and every one of these Data Requests to the extent that they seek to have Sprint Nextel create documents or information not in existence at the time of the discovery request.

7. Sprint Nextel objects to each and every one of these Data Requests to the extent they request information, data, or other materials pertaining to matters outside the scope

of Sprint Nextel's intrastate Kentucky operations. (e.g., Windstream Data Requests, p.2. definition of "you" and "your").

8. To the extent that Windstream's Data Requests seek to impose an obligation on Sprint Nextel to respond on behalf of subsidiaries, affiliates, parents, or other persons that are not parties to this docket (e.g., Windstream Data Requests, p.2. definition of "Affiliate"), Sprint Nextel objects on the grounds that such requests are irrelevant, overly burdensome, oppressive and not permitted by the applicable discovery rules.

Without waiving any of the above objections, Sprint Nextel responds as follows:



**Data Request No. 1**

**Identify in detail (including call volumes, dates, and details of each claimed incident) all claims made by any carrier other than Windstream West and Windstream East since 2007 asserting that, in any state in which you operate, you have refused to pay or otherwise disputed invoices assessed to you for intrastate switched access charges.**

**OBJECTION:**

Sprint Nextel objects on the basis that the Data Request seeks information that is not relevant to this proceeding, nor is reasonably calculated to lead to the discovery of admissible evidence, is ambiguous, overly broad and unduly burdensome. The request seeks highly detailed information on “all claims” nationwide over the past three years made by any carrier other than Windstream Kentucky “asserting that...you have refused to pay or otherwise disputed invoices assessed to you for intrastate switched access charges.” The case before this Commission concerns whether Windstream Kentucky’s intrastate switched access rates are just and reasonable and the appropriate level of those rates. The Data Request seeks information on “claims” related to disputed intercarrier billing involving Sprint Nextel and *any carriers other than Windstream Kentucky* and in all states, not just Kentucky. Thus, the requested information is not relevant, nor could it lead to admissible evidence that is relevant to this case. Further, the scope and meaning of the Data Request is vague and uncertain. It is unclear whether Windstream Kentucky is seeking information related to formal legal claims arising from intrastate switched access billing disputes or is referring to information on all disputes. Carriers routinely make and discuss many informal claims with each other on a daily basis regarding intercarrier billing disputes, including disputes over billing for intrastate switched access

charges. In either case, the level of information requested whereby Sprint Nextel would be required to “[i]dentify in detail (including call volumes, dates, and details of each claimed incident”) all claims” would require an unduly burdensome and time-consuming search on a nationwide basis.

***Objections by Counsel***



**Data Request No. 2**

**Produce all documents relating to the claims referenced in and your response to No. 1 above.**

**OBJECTION:**

See OBJECTION to Data Request No. 1, above, which is incorporated herein by reference.

***Objections by Counsel***



**Data Request No. 3**

**Identify in detail the ways in which you are currently unable to compete or otherwise operate in the long distance market in Kentucky.**

**RESPONSE:**

Sprint Nextel is at a competitive disadvantage in Kentucky due to Windstream Kentucky's high intrastate switched access rates. Significant market changes have greatly changed the long distance market since Windstream Kentucky's intrastate switched access rates were set so unreasonably high. The traditional role of stand-alone long distance service providers has greatly diminished in the mass market. Wireless carriers began offering voice packages in blocks of time that do not distinguish between local and long distance usage. Cable providers recognized they possessed the technology necessary to add voice service over their networks built for video service, and began offering all distance packages of voice service. ILECs offer long distance in bundles with the legacy local voice service. In Windstream Kentucky's territory, its competitors, including wireless and cable telephony providers, have lower switched access rates and, therefore, Windstream Kentucky has a competitive advantage on pricing because of the asymmetrical rates. The competitors and their customers must pay the additional costs associated with Windstream's higher switched access and, therefore, competitors must charge and customers must pay more than they should. Outside Windstream Kentucky service areas, Windstream's high access rates also inflate the cost of services provided by carriers serving those areas who also must pay Windstream Kentucky's high rates for

non-local calls. Sprint Nextel and its customers also absorb the high costs in these areas due to Windstream Kentucky's high rates as do the customers of other LECs such as AT&T, whose retail rates are inflated by Windstream Kentucky's high switched access rates for some non-local calls.

Due to the high rates these other carriers pay to Windstream Kentucky, Windstream Kentucky is a net receiver of intrastate access charges. This net payment these other carriers must make to Windstream Kentucky is a cost those carriers must collect from their customers. The net payment is also a competitive advantage for Windstream Kentucky within its service areas. Windstream Kentucky's ability to charge intrastate switched access rates far above the rates other providers can charge makes their charges discriminatory and harmful to competition. Wireless carriers are always at a disadvantage because they are not permitted to charge access rates at all. As a wireless carrier, Sprint Nextel is competitively disadvantaged by Windstream Kentucky's intrastate switched access rates.

***Response by James A. Appleby***



**Data Request No. 4**

**Identify (a) the specific point in time and (b) the specific circumstances under which the intrastate switched access rates of Windstream East became unjust and unreasonable.**

**RESPONSE:**

For purposes of this case and setting just and reasonable rates for Windstream Kentucky's intrastate switched access rates, it is not necessary to determine a specific point in time when either Windstream East or Windstream West intrastate switched access rates were no longer just and reasonable. Precisely how long ago the rates should have been reduced does not speak to whether they should be reduced now, but instead speaks only to how long Windstream Kentucky has benefitted from the windfalls provided by such overcharges. In present market conditions, the rates are not just and reasonable and therefore must be adjusted. When the long distance market was a market comprised of stand-alone long distance carriers that all had to pay Windstream's high access rates, the high rates were not anti-competitive because all carriers paid equally to Windstream. The long distance providers' customers paid higher long distance charges than they otherwise would have paid, but their long distance providers all had to recover the same costs. However, when the long distance market changes described in the RESPONSE to Data Request No. 3 above occurred, wireless carriers and cable telephony carriers were in direct competition with Windstream Kentucky (both Windstream East and Windstream West). At that time, it became unjust and unreasonable for Windstream Kentucky to be permitted to charge more for intrastate access than the carriers it competes against. Windstream Kentucky's intrastate switched access rates were

established at the present high rates far above the cost of providing switched access services to provide a subsidy to Windstream Kentucky and its predecessors at a time when Windstream Kentucky's revenues were limited to a local exchange voice services. Since that time, Windstream Kentucky had begun offering and begun receiving revenues for new services such as long distance, broadband (digital subscriber line) and television. As a competitor in these lucrative new markets receiving additional revenues far in excess of the revenues earned when the intrastate switched access rates were originally set, Windstream is no longer entitled to continue to overcharge other competitors. The overcharges are no longer needed and merely provide Windstream Kentucky with gratuitous windfalls and a market advantage not available to the carriers with which it competes.

***Response by James A. Appleby***



**Data Request No. 5**

**Identify (a) the specific point in time and (b) the specific circumstances under which the intrastate switched access rates of Windstream West became unjust and unreasonable.**

**RESPONSE:**

See RESPONSE to Data Request No. 4 above.

*Response by James A. Appleby*



**Data Request No. 6**

**Identify all of your affiliates', including your wireless affiliate(s), local services, offerings, calling plans, products, bundles, or promotions made available only to your long distance customers from 2006 to present.**

**OBJECTION/RESPONSE:**

Sprint Nextel objects on the basis that the Data Request seeks information that is not relevant to this proceeding, nor is reasonably calculated to lead to the discovery of admissible evidence and that it seeks to impose an obligation on Sprint Nextel to respond on behalf of subsidiaries, affiliates, parents, or other persons that are not parties to this docket. Further, Sprint Nextel objects to the extent it is vague, ambiguous, imprecise, and calls for speculation. It appears the most reasonable interpretation of the question is that it seeks information on all Sprint Nextel retail offerings and promotions "made available only to [Sprint Nextel's] long distance customers from 2006 to present." If the Data Request seeks information on all offerings from 2006 to present and promotions made available only to long distance customers during that period, Sprint Nextel also objects on the basis that the question is overly broad and unduly burdensome and to the extent that the information is already publicly available.

Subject to and without waiving these objections, Sprint Nextel provides the following RESPONSE: All services Sprint Nextel offers that include non-local calling are impacted by Windstream's high intrastate switched access rates, not just traditional wireline long distance. Impacted services include wireline long distance, wireless, and cable telephony services offered with Sprint Nextel's cable partners. All offerings, including promotions, made available only to Sprint Nextel wireline retail long distance

customers from 2006 to present are identified in Kentucky PSC Tariff No. 4 which was effective until July 1, 2007 and is provided on the compact disk marked Attachment A and the current Sprint Communications Company L.P. Intrastate Schedule which is available at [www.sprint.com/tariffs](http://www.sprint.com/tariffs) by clicking first on “Tariffs, Price Lists, Schedules” and then clicking on “Intrastate Schedule (LDD) Non-Tariff States.”

***Objection by Counsel; Response by James A. Appleby***

**Data Request No. 7**

**Identify which long distance carriers that customers of your wireless affiliate(s) may choose to provide their long distance service.**

**OBJECTION/RESPONSE:**

Sprint Nextel objects on the basis that the Data Request seeks information that is not relevant to this proceeding, nor is reasonably calculated to lead to the discovery of admissible evidence and that it seeks to impose an obligation on Sprint Nextel to respond on behalf of subsidiaries, affiliates, parents, or other persons that are not parties to this docket.

Subject to and without waiving these objections, Sprint Nextel provides the following RESPONSE: Sprint Nextel's wireless services are all distance offerings. There is not a separate provider for some subset of the customer's voice traffic.

***Objection by Counsel; Response by James A. Appleby***



**Data Request No. 8**

**Identify in detail how you will flow through rate reductions granted by the Commission in this proceeding to only your end user customers in Kentucky including the amount of the expected rate reductions and specific impacts to your existing calling plans offered in Kentucky.**

**RESPONSE:**

Consumer benefits from switched access reductions in competitive markets like wireless and wireline long distance will be dictated by market imperatives at the time the reductions are implemented, not by planning months before. Sprint Nextel cannot predict the future. In addition to lowering consumer rates, carriers that experience access cost reductions could also use the savings to expand service coverage, improve service quality, improve customer care or develop new products and services the customers will want. All of the potential benefits are made possible by making Windstream's access charges reasonable for intrastate switched access service.

***Response by James A. Appleby***



**Data Request No. 9**

**Explain with specificity how you intend to realize any expense reductions that would result from the Commission's grant of your requested relief in this proceeding and state specifically for what purposes you intend to use such expenses [sic] reductions in Kentucky.**

RESPONSE: See the RESPONSE to Data Request No. 8, above.



**Data Request No. 10**

**For each year from 2006 to the present, provide, by local exchange carrier (“LEC”) in Kentucky, the originating access minutes of use (“MOUs”) for which you compensated each LEC or, in a case where you did not remit the compensation, for which you were billed by each LEC.**

**OBJECTION/RESPONSE:**

Sprint Nextel objects to this Data Request on the basis that it seeks information that is not relevant to this case and cannot lead to the discovery of admissible evidence. The annual originating access minutes of use for each LEC are not relevant to the appropriate level of Windstream Kentucky’s intrastate switched access rates in Kentucky. Sprint Nextel further objects in that the question calls for the production of highly confidential and proprietary information.

Subject to and without waiving these objections, Sprint Nextel provides the following RESPONSE: Pursuant to the parties executing an appropriate nondisclosure agreement, Sprint Nextel will submit as Attachment B to these responses its annual originating switched access minutes by LEC in Kentucky for the period requested.

***Objections by Counsel; Response by James A. Appleby***

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ATTACHMENT B

Response to Windstream- Sprint 1-10 and 1-11  
Originating and Terminating Access Minutes by Vendor 2006 to Present  
Submitted: March 5, 2010

<u>Access Vendor</u>	<u>2006</u>	<u>2007</u>	<u>Originating</u>		<u>2010</u>	<u>Total</u>
			<u>2008</u>	<u>2009</u>		

HIGHLY CONFIDENTIAL

ATTACHMENT B

Response to Windstream- Sprint 1-10 and 1-11

Originating and Terminating Access Minutes by Vendor 2006 to Present

Submitted: March 5, 2010

<u>Access Vendor</u>	<u>2006</u>	<u>2007</u>	<u>Originating</u>		<u>2010</u>	<u>Total</u>
			<u>2008</u>	<u>2009</u>		



**Data Request No. 11**

**For each year from 2006 to the present, provide, by local exchange carrier (“LEC”) in Kentucky, the terminating access minutes of use (“MOUs”) for which you compensated each LEC or, in a case where you did not remit the compensation, for which you were billed by each LEC.**

**OBJECTION/RESPONSE:**

Sprint Nextel objects to this Data Request on the basis that it seeks information that is not relevant to this case and cannot lead to the discovery of admissible evidence. The annual terminating access minutes of use for each LEC are not relevant to the appropriate level of Windstream Kentucky’s intrastate switched access rates in Kentucky. Sprint Nextel further objects in that the question calls for the production of highly confidential and proprietary information.

Subject to and without waiving these objections, Sprint Nextel provides the following RESPONSE: pursuant to the parties executing an appropriate nondisclosure agreement, Sprint Nextel will submit as Attachment B to these responses its annual terminating switched access minutes by LEC in Kentucky for the period requested.

***Objection by Counsel; Response by James A. Appleby***