

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the matter of:

MCImetro Transmission Access Services LLC,)
MCI Communications Services, Inc.,)
Bell Atlantic Communications, Inc.,)
NYNEX Long Distance Company,)
TTI National, Inc.,)
Teleconnect Long Distance Service & Systems)
and Verizon Select Services, Inc.)

Complainants)

vs.)

Windstream Kentucky West, Inc.,)
Windstream Kentucky East, Inc. – Lexington,)
and Windstream Kentucky East, Inc. – London)

Defendants)

Case No. 2007-00 503

PETITION FOR CONFIDENTIAL PROTECTION

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 Service & Systems d/b/a Telecom*USA and Verizon Select Services, Inc. (collectively, “Verizon”) hereby petition the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 7, and KRS 61.878(1)(c) to grant confidential protection to the average access revenues per minute (“APRM”) calculations provided in support of Verizon’s Petition to Reduce Windstream’s Access Charges. In support of this Petition, Verizon states as follows:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information, including records generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of the party seeking confidentiality. See Southeastern United Medigroup v. Hughes, 952 S.W. 2d 195, 199 (Ky. 1997); Marina Management Servs. v. Cabinet for Tourism, Dep't of Parks, 906 S.W. 2s 318,319 (Ky. 1995) (internal records allowing ascertainment of “economic status” of entity by competing operators entitled to protection from disclosure).

2. Verizon owns a telecommunications network which includes transmission facilities (including fiber-optic lines and microwave transmitters) and points of presence in various locations in Kentucky. In order to provide interexchange services to its customers, Verizon must purchase “switched access” services under tariff from various local exchange carriers. The rates for those services are subject to Commission jurisdiction and are disclosed in publicly filed tariffs. However, some tariffed rates for switched access service are calculated on an access line basis, yet billed on a per-minute basis. Accordingly, reading the filed tariffs alone does not provide enough public information to determine the actual costs of access services to any one access customer.

3. To calculate its cost of purchasing access services from a particular carrier, Verizon calculates the aggregate charges—or average access revenues per minute (“ARPM”)—based on billings to Verizon. The ARPM calculation takes into account all of the relevant access rate elements that are billed on a per-minute-of-use basis.

4. This calculation and any associated documents reflect the business judgments and competitive analysis of Verizon. Verizon does not share this information with its various competitors¹ in the interexchange business, and those competitors do not share their own internal studies with Verizon. Moreover, revealing the analysis in the public record will harm Verizon by providing to its competitors the methods and sources used to assess and evaluate access charge expense.

5. Verizon seeks to restrict from public disclosure only information that, if made available to the public, would allow Verizon's competitors to know valuable information about Verizon's wholesale costs, potentially allowing those competitors to gain a competitive advantage by modifying their pricing strategies based on information that they might derive from the ARPM data. Cost and demand information about a competitor are valuable to competing firms seeking to find ways to gain advantages in a highly competitive marketplace. Public disclosure of even aggregated cost and demand information thus hands to those competitors a distinct competitive advantage over Verizon in the telecommunications marketplace and would potentially cause substantial harm to the competitive position of Verizon in the state. Verizon takes extensive measures to protect ARPM information when it is made available to non-employees and employees alike, which is done only under limited circumstances.

6. Verizon's competitors might gain valuable insights into its business operations and benefit from the disclosure of such sensitive commercial information. Specifically, making ARPM data public would allow a competitor to access otherwise unavailable information to benchmark Verizon's ARPM data against its own, and draw inferences about Verizon's cost

¹ Among the many interexchange carriers competing against Verizon in Kentucky are AT&T, Sprint, Level 3, and Windstream.

structure and the demand for its services. A competing firm would not be able to gain this information from any publicly available sources.

7. Further, to the extent that the Commission were to allow public disclosure of current ARPM data, competitors might also seek access to historical ARPM data, and would then be able to gain valuable insights from the trend information that would be developed by comparing current and historical ARPM data. Such trend information would not be otherwise available to Verizon's competitors.

8. If the Commission disagrees, however, it must hold an evidentiary hearing (a) to protect the due process rights of Verizon and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., 642 S.W.2d 591, 592-94 (Ky. Ct. App. 1982).

9. Verizon will disclose the confidential information, pursuant to a protective agreement, to Windstream and others with a legitimate interest in this information and as required by the Commission. In accordance with the provisions of 807 KAR 5:001 Section 7, one copy of the confidential information contained in Exhibit __ is highlighted on yellow paper and ten (10) copies of without the confidential information is herewith filed with the Commission.

WHEREFORE, Verizon respectfully requests that the Commission grant confidential protection for the information at issue, or in the alternative, schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Dated: December 5, 2007

Respectfully submitted,



C. Kent Hatfield
Douglas F. Brent
STOLL KEENON OGDEN, PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Telephone: (502) 333-6000
Facsimile: (502) 333-6099

Dulaney L. O'Roark, III
Vice President and General Counsel – Southeast
Region
Verizon
5055 North Point Parkway
Alpharetta, Georgia 30022

Counsel for MCImetro Transmission Access
Transmission Services LLC, MCI Communications
Services, Inc., Bell Atlantic Communications, Inc.,
NYNEX Long Distance Company, TTI National,
Inc., Teleconnect Long Distance Service & Systems
and Verizon Select Services, Inc.