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PUBLIC SERVICE
COMMISSION

Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Blvd
P.O. Box 615
Frankfort, KY 40602-0615

Re: *In the Matter of: An Investigation in the Traffic Dispute Between Windstream Kentucky East, LLC, Brandenburg Telephone Company and MCI Metro Access Transmission Services, LLC d/b/a Verizon Access, Case No. 2008-00203*

Dear Mr. Derouen:

We are legal counsel to Brandenburg Telephone Company ("Brandenburg Telephone"). In that capacity, we have been requested to respond to the December 30, 2008 letter of Bruce F. Clark filed on behalf of Windstream Kentucky East, LLC ("Windstream") in the above-referenced case, and the Second Supplemental and Amended Response of Windstream to Brandenburg Telephone's and Commission Staff's data requests attached thereto.

As a preliminary matter, Brandenburg Telephone notes that a public hearing has already been held in this matter. Therefore, Brandenburg Telephone questions the appropriateness of Windstream filing a supplemental response at this time. Brandenburg Telephone notes further that even if it were appropriate to file a supplemental response at this time, Windstream failed to supply any support for the additional compensation to which Windstream now alleges it is entitled.

Windstream alleges that it is entitled to \$1,294,680.00 in compensation from either Brandenburg Telephone or MCIMetro Access Transmissions Services, LLC d/b/a Verizon Access ("MCIMetro"). There is no basis for Windstream to assert that Brandenburg Telephone is responsible for the alleged traffic charges. The alleged charges are not contained in any Windstream tariff or any agreement between Windstream and Brandenburg Telephone. Therefore, there is no legal basis for Windstream to charge Brandenburg Telephone for the traffic in question. Moreover, pursuant to applicable law, Brandenburg Telephone is only responsible for exchanging traffic with MCIMetro at a point located within Brandenburg Telephone's incumbent network. The charges that Windstream is attempting to levy on

Brandenburg Telephone arise outside of Brandenburg Telephone's incumbent network. Therefore, there is no basis for Windstream to allege that Brandenburg Telephone is responsible for those charges.

Finally, to the extent that Windstream is entitled to any compensation for the traffic in question, MCIMetro is the party properly responsible for compensating Windstream.¹ Brandenburg Telephone has attempted to execute a traffic exchange agreement with MCIMetro for over two years. It is MCIMetro's refusal to execute a traffic exchange agreement with Brandenburg Telephone and thereby accept financial responsibility for the traffic that has led to the dispute in the present matter. MCIMetro has executed a traffic exchange agreement with South Central Rural Telephone Cooperative Corporation that is substantially similar to the one which Brandenburg Telephone has proposed. Nonetheless, MCIMetro, to this day, refuses to execute a traffic exchange agreement with Brandenburg Telephone.

In summary, there is no basis for Windstream to assert that Brandenburg Telephone is responsible for Windstream's alleged damages in this matter. There is no tariff or agreement under which Windstream may properly charge Brandenburg Telephone for the traffic in question. Moreover, to the extent that Windstream has suffered any compensable damages, the party properly responsible for compensating Windstream is MCIMetro. Accordingly, Brandenburg Telephone respectfully requests that the Commission issue an order holding that Brandenburg Telephone is not responsible for compensating Windstream for the traffic in dispute in this matter, and requiring MCIMetro to execute a traffic exchange agreement with Brandenburg Telephone.

Thank you, and if you have any questions with regard to this matter, please call us.

Very truly yours,

DINSMORE & SHOHL LLP



Holly C. Wallace

cc: Bruce F. Clark, Esq.
Douglas F. Brent, Esq.
John E. Selent, Esq.
Edward T. Depp, Esq.

¹ See, generally, 47 U.S.C. §251; see also *In the Matter of: Petition of Ballard Rural Telephone Cooperative Corporation, Inc for Arbitration of Certain Terms and Conditions of Proposed Interconnection Agreement with American Cellular f/k/a ACC Kentucky License LLC, Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996*, Kentucky Public Service Commission Case No. 2006-00215, 2007 Ky. PUC LEXIS 191, *9-10 (Order of March 19, 2007) (“The [Telecommunications] Act [of 1996] is careful to explain that an ILEC’s obligation to interconnect . . . extends only to a ‘point within the carrier’s network.’”).