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September 25, 2009

RECEIVED

SEP 25 2009

**PUBLIC SERVICE
COMMISSION**

Mr. Jeff DeRouen
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40601

*RE: An Investigation Into The Traffic Dispute Between Windstream Kentucky
East, LLC, Brandenburg Telephone Company And MCImetro Access
Transmission Services, LLC d/b/a Verizon Access
Case No. 2008-00203*

Dear Mr. DeRouen:

Enclosed are an original and ten copies of MCImetro Access Transmission Services LLC's ("Verizon") Response to Appendix A of the Commission's Order dated August 26, 2009. The Order also required Verizon and Brandenburg Telephone Company to file an executed traffic exchange agreement within 30 days, unless no such agreement has been executed. This letter is to advise the Commission that the parties have had discussions, offers have been exchanged, but no agreement has been reached. Accordingly, Verizon will endeavor to work with Brandenburg Telephone Company to make a filing consistent with the requirements set forth in Ordering paragraph number 2 of the Order. Such filing is due in 15 days.

Please indicate receipt of this filing by placing your file stamp on the extra copy and returning to me via our runner.

Very truly yours,

STOLL KEENON OGDEN PLLC

Douglas F. Brent

DFB:

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 25 2009

PUBLIC SERVICE
COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE TRAFFIC)
DISPUTE BETWEEN WINDSTREAM)
KENTUCKY EAST, LLC, BRANDENBURG) CASE NO. 2008-00203
TELEPHONE COMPANY AND MCIMETRO)
ACCESS TRANSMISSION SERVICES LLC)
D/B/A VERIZON ACCESS)

VERIZON'S COMMENTS IN RESPONSE TO AUGUST 26, 2009 ORDER

In its August 26, 2009 Order ("Order"), the Commission requested MCImetro Access Transmission Services LLC d/b/a Verizon Access ("Verizon") to describe in detail how any costs owed to Windstream Kentucky East, LLC ("Windstream") should be allocated. Verizon addresses below potential claims by Windstream for transit services and LNP queries. If Windstream makes additional claims, Verizon will address them in its objections and responses in accordance with the Order.

1. Transit Services

The record evidence establishes that Brandenburg Telephone Company ("Brandenburg") has used Windstream as an intermediary to route traffic indirectly from its end users to Internet Service Providers served by Verizon (the "disputed traffic"). Windstream's right to be compensated for transiting the disputed traffic arises from its transit tariff, which has been in effect since 2006. Under that tariff, Windstream offers transit service to all local service providers, including Brandenburg, by handling traffic bound for any carrier that is "directly interconnected" with Windstream,¹ which

¹ Windstream Kentucky East P.S.C. No. 7, S11.1.2 C.: "Company offers Transit Traffic Service only for Transit Traffic that is intended to terminate to a Telecommunications Service Provider *whose network is directly interconnected with Company's network.* (Emphasis added.)

includes Verizon.² At all times relevant to this dispute, Windstream has routed Brandenburg-originated traffic to Verizon – that is, transited the traffic to Verizon – and Verizon has accepted that traffic without charge to Windstream. The transit tariff provides that the originating carrier (in this case, Brandenburg) must compensate Windstream for performing the transiting function and does not require compensation from the terminating carrier (in this case, Verizon). Brandenburg, not Verizon, therefore is responsible for making any such payments.

2. LNP queries

Windstream also has claimed that it should be compensated for performing Local Number Portability (“LNP”) queries during the time that Brandenburg declined to perform queries for the disputed traffic.³ Such queries enable a local exchange carrier to determine which carrier “controls” a particular number and to which carrier’s network the call should be routed. North American Numbering Council guidelines adopted by the FCC establish the requirements for LNP queries.⁴ If the originating carrier does not perform the LNP query before it routes the call, a downstream carrier may make the query and charge the originating carrier.⁵ Assuming Windstream is entitled to compensation, Brandenburg as the originating carrier would be responsible for payment.

For the foregoing reasons, Verizon respectfully submits that to the extent Windstream is entitled to compensation for providing the transit function or for LNP queries concerning the disputed traffic, Brandenburg must bear the cost.

² See Transcript at 74: 25.

³ See Smith direct testimony at 13-14.

⁴ See 47 C.F.R. § 52.26(a) (stating that the “[l]ocal number portability administration shall comply with the recommendations of the North American Numbering Council (NANC) as set forth in the report to the Commission prepared by the NANC’s Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*) and its appendices, which are incorporated by reference pursuant to 5 U.S.C. § 552(a) and 1 C.F.R. part 51.”).

⁵ See *In re Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 12281, 12324 (1997).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Brent', written over a horizontal line.

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CERTIFICATE OF SERVICE

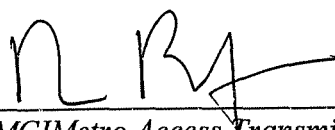
I hereby certify that a true and accurate copy of the foregoing was served on the following by first-class United State mail, sufficient postage prepaid, this 25th day of September, 2009.

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