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October 12, 2009

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PUBLIC SERVICE  
COMMISSION

Hon. Jeff R. 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 Into The Traffic Dispute Between  
Windstream Kentucky East, LLC, Brandenburg Telephone Company and  
MCI metro Access Transmission Services, LLC d/b/a Verizon Access  
Commonwealth of Kentucky, Case No. 2008-00203***

Dear Mr. Derouen:

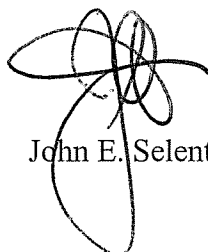
Pursuant to the August 26, 2009 Order (the "Order") of the Public Service Commission of the Commonwealth of Kentucky (the "Commission") in the above-referenced matter, Brandenburg Telephone Company and MCI metro Access Transmission Services, LLC d/b/a Verizon Access (the "Parties") hereby file an original and eleven (11) copies of the attached issues matrix identifying the disputed issues with respect to the traffic exchange agreement the Commission has ordered the Parties to negotiate and execute.

Please return a file-stamped copy of the attached issues matrix with our courier.

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

Very truly yours,

DINSMORE & SHOHL LLP



John E. Selent

Jeff Derouen, Executive Director  
October 12, 2009  
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JES/bmt  
Enclosure  
cc: All parties of record

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

OCT 12 2009

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COMMISSION

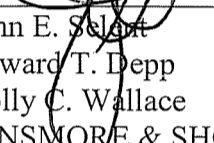
In the Matter of:

AN INVESTIGATION IN 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

ISSUES MATRIX  
OF  
BRANDENBURG TELEPHONE COMPANY AND MCIMETRO ACCESS  
TRANSMISSION SERVICES, LLC D/B/A VERIZON ACCESS

Submitted by

  
\_\_\_\_\_  
John E. Selent  
Edward T. Depp  
Holly C. Wallace  
DINSMORE & SHOHL LLP  
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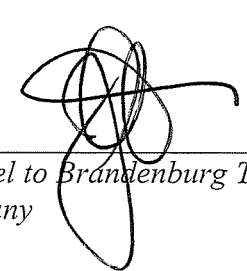
*Counsel to Brandenburg Telephone  
Company*

CERTIFICATE OF SERVICE

I hereby certify a true and accurate copy of the following was served, by first-class United States mail, sufficient postage prepaid, on the following individuals this 12<sup>th</sup> day of October 2009.

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*Counsel to MCI metro*

  
\_\_\_\_\_  
*Counsel to Brandenburg Telephone  
Company*

**CASE NO. 2008-00203  
ISSUES MATRIX**

ISSUE	CONTRACT SECTION(S)	BRANDENBURG TELEPHONE LANGUAGE	BRANDENBURG TELEPHONE POSITION	MCIMETRO LANGUAGE	MCIMETRO POSITION
<p>1. Where should the point of interconnection be, and what are the parties' respective financial responsibilities associated with that interconnection?</p>	<p>1.16; 3.3; 4.1.1; 4.4; 7.4; App. 1, § B</p>	<p>"1.16 'Point of Connection,' or 'POC' . . . means the mutually agreed upon point of demarcation, within the incumbent service area of [Brandenburg], where the Parties connect their networks for the exchange of ISP Traffic."</p> <p>"3.3 This Agreement applies only to the exchange of ISP Traffic over the Parties' network facilities . . . that are interconnected at a POC located at either the boundary of, or within, an Brandenburg Local Service Exchange Area identified in Appendix 1."</p> <p>"4.1.1 The parties agree to interconnect their respective networks at the POC(s) identified in Appendix 1. With respect to each POC that is established, Brandenburg shall deliver to such POC all ISP Traffic subject to this Agreement that originates within the Brandenburg exchanges defined in Appendix 1."</p> <p>"4.4.1 Each Party shall make available to the other at the POC(s), trunks over which the Parties can exchange ISP Traffic . . . ."</p> <p>"4.4.2 Each Party is individually responsible to provide facilities within its network to the POC(s) which are necessary for routing and transporting ISP Traffic in a mutually acceptable</p>	<p>A dedicated connection is appropriate for the volume of traffic being exchanged between the parties. Brandenburg Telephone's duty to interconnect, however, is limited by statute to providing interconnection within its network (that is, within its service territory). Therefore, the POC should be within Brandenburg Telephone's service territory and MCImetro is responsible for any costs incurred to reach that service territory.</p>	<p>"1.16 'Point of Connection,' or 'POC' . . . means the mutually agreed upon point of demarcation, <del>within the incumbent service area of [Brandenburg]</del>, where the Parties connect their networks for the exchange of ISP Traffic."</p> <p>"3.3 This Agreement applies only to the exchange of ISP Traffic over the Parties' network facilities . . . that are interconnected at a POC located at the boundary of, <del>or within,</del> the Brandenburg Local Service Exchange Area identified in Appendix 1."</p> <p>"4.1.1 The parties agree to interconnect their respective networks at the POC(s) identified in Appendix 1. With respect to each POC that is established, Brandenburg shall deliver to such POC all ISP Traffic subject to this Agreement that originates within the Brandenburg exchanges defined in Appendix 1."</p> <p>"4.4.1 Each Party shall make available to the other at the POC(s), trunks over which the Parties can exchange ISP Traffic . . . ."</p> <p>"4.4.2 Each Party is individually responsible to provide facilities within its network to the POC(s) which are necessary for routing and transporting ISP Traffic in a mutually acceptable manner</p>	<p>This issue should be resolved in a commercially reasonable manner. MCImetro has entered into a number of commercial agreements in which it has extended its facilities toward the ILEC's network in exchange for an agreement that MCImetro will receive some compensation for handling ISP-bound traffic originated by the ILEC. MCImetro's proposed language concerning the POC reflects such an arrangement in which the POC would be established at a mutually agreeable point at the boundary of the Brandenburg Local Service Exchange Area.</p>

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ISSUE	CONTRACT SECTION(S)	BRANDENBURG TELEPHONE LANGUAGE	BRANDENBURG TELEPHONE POSITION	MCIMETRO LANGUAGE	MCIMETRO POSITION
		<p>manner that neither destroys nor degrades the normal quality of service each Party provides to its respective Customers."</p> <p>"7.4 Each Party is individually responsible to provide facilities within its network which are necessary for routing and transporting ISP Traffic from the other Party's network and for delivering of such traffic to the other Party's network in a mutually acceptable format and to terminate the ISP Traffic it receives in that mutually acceptable format to the proper address on its network . . . ."</p> <p>Appendix 1, § B: "For ISP Traffic originated by Brandenburg Customers and delivered to CLEC ISP Customers the Parties will interconnect the RDCLKYXADS0 tandem which identifies the Brandenburg Kentucky tandem at 316 Lincoln Trl, Radcliff, KY, 40160 with V &amp; H coordinates of 06621 and 02757."</p>		<p>that neither destroys nor degrades the normal quality of service each Party provides to its respective Customers."</p> <p>"7.4 Each Party is individually responsible to provide facilities within its network which are necessary for routing and transporting ISP Traffic from the other Party's network and for delivering of such traffic to the other Party's network in a mutually acceptable format and to terminate the ISP Traffic it receives in that mutually acceptable format to the proper address on its network . . . ."</p> <p>Appendix 1, § B: "<del>For ISP Traffic originated by Brandenburg Customers and delivered to CLEC ISP Customers the Parties will interconnect the RDCLKYXADS0 tandem which identifies the Brandenburg Kentucky tandem at 316 Lincoln Trl, Radcliff, KY, 40160 with V &amp; H coordinates of 06621 and 02757.</del> <b><u>For ISP Traffic originated by Brandenburg Customers and delivered to CLEC Customers the Parties will interconnect at the Windstream/Brandenberg Exchange Boundary.</u></b>"</p>	
2. Should the traffic exchanged pursuant to the agreement be	1.12; 5.1-5.3; 14.8.1; App. 1, § C	"1.12 "ISP Traffic" means the one-way origination and exchange of traffic between Brandenburg and CLEC that occurs when an Brandenburg Customer originates a call to a CLEC ISP	Reciprocal compensation is not due on non-local traffic destined for ISP modem banks located outside the Commonwealth of Kentucky.	<del>"1.12 "ISP Traffic" means the one-way origination and exchange of traffic between Brandenburg and CLEC that occurs when an Brandenburg Customer originates a call to a CLEC ISP <u>all dial-</u></del>	This issue should be resolved in a commercially reasonable manner. MCI metro has entered into a number of commercial agreements in which it has extended its facilities toward the

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ISSUES MATRIX**

ISSUE	CONTRACT SECTION(S)	BRANDENBURG TELEPHONE LANGUAGE	BRANDENBURG TELEPHONE POSITION	MCIMETRO LANGUAGE	MCIMETRO POSITION
<p>subject to reciprocal compensation?</p>		<p>Customer.”</p> <p>"5.1 Neither Party has any obligation to provide compensation to the other regarding the origination or termination of ISP Traffic pursuant to this Agreement.”</p> <p>"5.2 Except to the extent CLEC utilizes Brandenburg facilities as provided in Subsection 5.3, no recurring or non-recurring charges shall apply with respect to any of the terms of this Agreement.”</p> <p>"5.3 Notwithstanding Subsection 5.2, to the extent CLEC utilizes Brandenburg to provide leased facilities on the CLEC side of a POC, CLEC shall purchase such facilities as special access from Brandenburg subject to the rates, terms, and conditions contained in Brandenburg's applicable Intrastate access tariffs. Notwithstanding any provision in an Brandenburg applicable intrastate access tariff to the contrary, Brandenburg shall not charge CLEC any non-recurring or recurring charge of any type that is premised upon a per minute of use identification, calculation or quantification. Neither Party shall charge the other for the installation or use of trunks or facilities on the Party's side of the POC used for the exchange of traffic pursuant to this Agreement.”</p>		<p><u>up modem traffic originated by Brandenburg Customers and terminated to CLEC Customers that are commercial providers of internet access if: (i) the call originates and terminates from and to, respectively, NPA NXXs assigned to rate centers in the same Local Service Exchange Area; or (ii) originates and terminates from and to, respectively, NPA NXXs assigned to rate centers within different Exchanges that share a common mandatory local calling area, e.g., mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other like types of mandatory expanded local calling scopes as ordered by the Commission or as specified or defined by Brandenburg's tariffs, as approved by the Commission.</u></p> <p><del>“5.1 Neither Party has any obligation to provide compensation to the other regarding the origination or termination of ISP Traffic pursuant to this Agreement. <b>Brandenburg will compensate CLEC for the termination of ISP Traffic originated by Brandenburg Customers and terminated to CLEC Customers at the compensation rate specified in Attachment 3 of this Agreement.</b>”</del></p> <p><del>“5.2 Except to the extent CLEC utilizes Brandenburg facilities as provided in</del></p>	<p>ILEC's network in exchange for an agreement that MCImetro will receive some compensation for handling ISP-bound traffic originated by the ILEC. MCImetro's proposed language concerning compensation for ISP-bound traffic reflects such an arrangement in which ISP-bound traffic would be subject to compensation at the rate of \$0.0007 per minute of use.</p>

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ISSUES MATRIX**

ISSUE	CONTRACT SECTION(S)	BRANDENBURG TELEPHONE LANGUAGE	BRANDENBURG TELEPHONE POSITION	MCIMETRO LANGUAGE	MCIMETRO POSITION
		<p>"14.8.1 Because of the mutual consideration related to the subject matter of this Agreement, the Parties agree that no charges shall apply to the ISP Traffic exchanged pursuant to the terms of this Agreement . . . ."</p> <p>Appendix 1, § C: "1. The parties agree that no charges shall apply for the delivery of ISP Traffic pursuant to the terms of this Agreement. 2. Transport facilities may be purchased from applicable Brandenburg intrastate access tariff."</p>		<p><del>Subsection 5.3, no recurring or non-recurring charges shall apply with respect to any of the terms of this Agreement.</del></p> <p><b><u>All other traffic originated by Brandenburg's Customers and terminated by CLEC that is not ISP Traffic per Sections 5.1 above will be billed as toll under CLEC's Switched Access Tariffs.</u></b></p> <p><del>"5.3 Notwithstanding Subsection 5.2, to the extent CLEC utilizes Brandenburg to provide leased facilities on the CLEC side of a POC, CLEC shall purchase such facilities as special access from Brandenburg subject to the rates, terms, and conditions contained in Brandenburg's applicable Intrastate access tariffs. Notwithstanding any provision in an Brandenburg applicable intrastate access tariff to the contrary, Brandenburg shall not charge CLEC any non-recurring or recurring charge of any type that is premised upon a per-minute of use identification, calculation or quantification. Neither Party shall charge the other for the installation or use of trunks or facilities on the Party's side of the POC used for the exchange of traffic pursuant to this Agreement.</del></p> <p><b><u>[Intentionally omitted]</u></b></p> <p><del>"14.8.1 Because of the mutual consideration related to the subject matter of this Agreement, the Parties agree that</del></p>	

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				<p>no charges shall apply to the ISP Traffic exchanged pursuant to the terms of this Agreement. . . . <u>The charges for an arrangement under this Agreement are to be billed monthly and payable, in immediately available U.S. funds, within thirty (30) days of the date of the bill.</u>"</p> <p>Appendix 1, § C: 1. The parties agree that no charges shall apply for the delivery of ISP Traffic pursuant to the terms of this Agreement. 2. Transport facilities may be purchased from applicable Brandenburg intrastate access tariff. <u>1. "ISP Traffic will be billed at a per minute of use rate of: \$0.0007."</u></p>	
3. Should Billing Dispute Provisions be Reciprocal?	14.8.3; 14.8.4; 14.8.5	"14.8.3 Although it is the intent of both Parties that any invoice will be a timely and accurate statements of submitted charges, Brandenburg's failure to present statements to CLEC in a timely manner shall not constitute a breach or default, or a waiver of the right to payment of the incurred charges by Brandenburg, and CLEC shall not be entitled to dispute Brandenburg's statement(s) based on Brandenburg's failure to submit them in a timely fashion, provided however that Brandenburg shall not bill the other Party for unbilled charges incurred more than two years prior to the date of billing."	This issue 3 was identified for the first time by MCI metro on the afternoon of Friday, October 9; accordingly, Brandenburg Telephone has not had sufficient time to consider MCI metro's proposed revisions and formulate a response thereto. Nevertheless, Brandenburg Telephone states preliminarily that there is no reason to make the language affected by this issue mutual because MCI metro will not be billing Brandenburg Telephone pursuant to the language proposed by Brandenburg Telephone.	"14.8.3 Although it is the intent of both Parties that any invoice will be a timely and accurate statements of submitted charges, <u>Brandenburg's one Party's failure to present statements to CLEC to the other Party</u> in a timely manner shall not constitute a breach or default, or a waiver of the right to payment of the incurred charges by <u>Brandenburg the billing Party</u> , and <u>CLEC the billed Party</u> shall not be entitled to dispute <u>Brandenburg's statement(s) the billing statement(s)</u> based on <u>Brandenburg's the billing Party's</u> failure to submit them in a timely fashion, provided however that	Provisions relating to billing disputes should be reciprocal so that both parties may resolve billing disputes in the same manner.



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		<p>“14.8.4 If any portion of an amount due to Brandenburg is subject to a bona fide dispute between the Parties, CLEC shall within thirty (30) days of its receipt of the invoice containing such disputed amount give notice to Brandenburg of the amount it disputes ("Disputed Amount") and include in such notice the specific details and reasons for disputing each item. CLEC shall pay when due all undisputed amounts to Brandenburg.”</p> <p>“14.8.5 If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within sixty (60) days after delivery to Brandenburg notice of the Disputed Amounts, each Party shall appoint a designated representative that has authority to settle the dispute and that is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.”</p>		<p>Brandenburg <u>the billing Party</u> shall not bill the other Party for unbilled charges incurred more than two years prior to the date of billing.”</p> <p>“14.8.4 If any portion of an amount due to Brandenburg <u>the billing Party</u> is subject to a bona fide dispute between the Parties, <del>CLEC</del> <u>the billed Party</u> shall within thirty (30) days of its receipt of the invoice containing such disputed amount give notice to <u>Brandenburg the billing Party</u> of the amount it disputes ("Disputed Amount") and include in such notice the specific details and reasons for disputing each item. <del>CLEC shall pay when due all undisputed amounts to Brandenburg.</del> <u>All undisputed amounts will be paid when due.</u>”</p> <p>“14.8.5 If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within sixty (60) days after delivery to <u>Brandenburg the billing Party</u> notice of the Disputed Amounts, each Party shall appoint a designated representative that has authority to settle the dispute and that is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to</p>	

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				<p>resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.”</p>	