

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION **RECEIVED**

In the Matter of:

**BRANDENBURG TELEPHONE COMPANY** )  
)  
)  
**v.** )  
**MCI METRO ACCESS SERVICES, LLC.** )  
**AND** )  
)  
**WINDSTREAM KENTUCKY EAST, INC.** )

JUL 14 2008  
PUBLIC SERVICE  
COMMISSION

Case No. 2008-00239

**ANSWER BY WINDSTREAM KENTUCKY EAST, LLC**

Windstream Kentucky East, LLC (“Windstream”) hereby states as follows in response to the Formal Complaint (“Complaint”) filed by Brandenburg Telephone Company (“Brandenburg”) against Windstream and MCI Metro Access Services, LLC (“Verizon”):

1. Windstream denies the allegations set forth in the Complaint unless expressly admitted herein and reserves the right to plead further in this matter as necessary. Windstream is without information to admit or deny allegations pertaining to negotiations between Brandenburg and Verizon as Windstream has not been a party to those discussions, and Windstream states that any statutes mentioned in the Complaint are written documents which speak for themselves.
2. Windstream is a Delaware limited liability company, and its name is Windstream Kentucky East, LLC.
3. Although the Complaint indicates that this matter is a traffic dispute among three parties, the dispute arises solely out of the inability of only two parties - Brandenburg and Verizon - to come to terms over the proper routing and compensation of traffic exchanged between them (see Complaint, Paragraph 5). Windstream’s presence in this matter exists solely

as a result of the misuse of its network in a manner foreign to recognized industry routing protocols.

4. Windstream's involvement in the relationship between Verizon and Brandenburg is described in greater detail in its Motion for Leave to File a Prehearing Statement, filed July 3, 2008, in Docket No. 2008-00203. That case is considering the narrow issues of the continued unauthorized use of Windstream's network and compensation due Windstream for such use.

5. For the reasons explained in its position statement, Windstream is not an indispensable party to the Complaint in this proceeding. This is because the traffic at issue<sup>1</sup> is not destined to any Windstream customer nor to any carrier homed behind Windstream's network. To the contrary, as set forth by Windstream in Docket No. 2008-00203, the traffic exchanged between Brandenburg and Verizon can and should be rerouted properly either indirectly through the Louisville tandem consistent with industry routing protocols or directly through connections established between Verizon and Brandenburg.

6. To avoid further harm to Windstream in having to incur legal expenses to defend the Complaint to which it is neither a proper nor necessary party, the Commission should act immediately in Case No. 2008-00203 to provide a clear directive to Brandenburg and Verizon to reroute their traffic, to fully compensate Windstream for the unauthorized use of its network including interest and applicable attorneys' fees. Provided such action is taken in Case No. 2008-00203 Windstream should be removed from this proceeding.

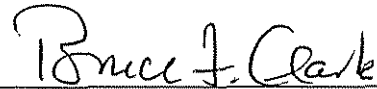
7. WHEREFORE, Windstream respectfully requests that the Commission take either of the following two actions:

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<sup>1</sup> Windstream's network is wrongfully being used without just compensation to Windstream to route over 3 million minutes of traffic per month (this represents a DS3 level of traffic) exchanged between Brandenburg and Verizon while Brandenburg and Verizon remain unable to agree over which of them is responsible for payment of delivery of their traffic.

- A. Dismiss Windstream from this Complaint proceeding; or
- B. Order that Windstream is not an indispensable party to this proceeding, but that Windstream is to continue to be served with pleadings in the case so that Windstream can determine if more active participation will be required.

Respectfully submitted,



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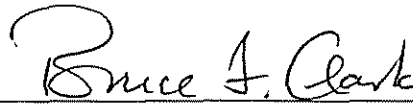
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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer by Win stream Kentucky East, LLC has been sent, via first class U.S. Mail, postage prepaid upon:

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