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RECEIVED

MAY 15 2009

PUBLIC SERVICE
COMMISSION

May 13, 2009

Jeff Derouen
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, Kentucky 40602

RE: By Insight Phone of Kentucky, LLC to Require Windstream Kentucky East, LLC and Windstream Kentucky West, LLC to Provide Account Numbers when Authorized by Customers if it Requires an Account Number for Ports – Case No.: 2008-00335

Dear Mr. Derouen:

Enclosed please find an original and one (1) copy of Insight's Motion for Procedural Order and Briefing Schedule in the above-referenced matter. Please file the original and return a file-stamped back to me in the enclosed, postage prepaid, envelope.

Thank you in advance for your assistance in this matter.

Sincerely,

Jennifer Stuart

Jennifer Stuart
Legal Assistant/Paralegal for
Janice M. Theriot

///:jls

Enclosures

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAY 15 2009

PUBLIC SERVICE
COMMISSION

In the Matter of:

FORMAL COMPLAINT)	
BY INSIGHT PHONE OF KENTUCKY, LLC TO)	
REQUIRE WINDSTREAM KENTUCKY EAST, LLC)	CASE NO.
AND WINDSTREAM KENTUCKY WEST, LLC)	2008-00335
TO PROVIDE ACCOUNT NUMBERS WHEN)	
AUTHORIZED BY CUSTOMERS IF IT REQUIRES)	
AN ACCOUNT NUMBER FOR PORTS)	

INSIGHT’S MOTION FOR PROCEDURAL ORDER AND BRIEFING SCHEDULE

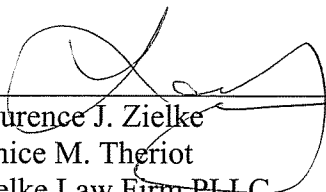
INTRODUCTION

Insight Phone of Kentucky, LLC (hereinafter “Insight Phone”), by counsel, petitioned the Public Service Commission of the Commonwealth of Kentucky (hereinafter “Commission”) to enter an order requiring Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (hereinafter, collectively “Windstream”) to either stop requiring account numbers for ports or, if it requires account numbers, to provide access to them on its Windstream Express interface when a customer has authorized such access. Big River Telephone Company, LLC (hereinafter “Big River”) intervened with the same allegations. The parties have participated in informal conference and have conferred with each other regarding an appropriate procedure for resolution.

Insight Phone moves the Commission to enter a procedural order and set a briefing schedule. The matters at issue are matters of law for which all parties agree no factual testimony is needed. Counsel for all parties have agreed to a stipulation of facts followed by a legal brief as an appropriate procedure to reach resolution. On April 14, 2009, Insight Phone emailed proposed stipulated facts to Windstream and Big River. Insight Phone has heard no opposition to the stipulated facts. A copy of the proposed stipulated facts is attached.

Insight Phone and counsel for Windstream agreed that a briefing schedule providing Insight Phone and Big River 30 days to file briefs, Windstream 30 days to respond to those briefs and Insight Phone and Big River 15 days to file replies would be sufficient. A proposed order with these dates is attached.

Respectfully submitted,



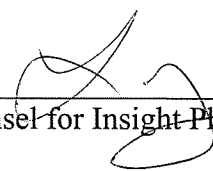
Laurence J. Zielke
Janice M. Theriot
Zielke Law Firm PLLC
462 S. 4th Street
Suite 1250
Louisville, KY 40202
Counsel for Insight Phone of Kentucky, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via U.S. Mail and email on this the 13 day of May 2009 upon:

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Counsel for Insight Phone of Kentucky, LLC

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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FORMAL COMPLAINT)	
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PROCEDURAL ORDER AND BRIEFING SCHEDULE

Upon motion of Insight Phone of Kentucky, LLC (hereinafter “Insight Phone”), and for good cause being shown, it is hereby ORDERED

1. That the proposed stipulated facts attached to Insight Phone’s motion are entered as the only material facts required for the resolution of the allegations in this case. For the purposes of this case, the facts are to be treated as true without further proof as no party has objected to the stipulated facts since the draft of them was circulated on April 14, 2009.

2. That Insight Phone and Big River shall file a legal brief based on the stipulated facts and setting forth their arguments within 30 days after receipt of this order from the Commission.

3. That Windstream shall file a legal brief based on the stipulated facts and setting forth their arguments within 30 days after receipt of the legal briefs filed by Insight Phone and Big River.

4. That Insight Phone and Big River shall file a reply brief within 15 days after receipt of Windstream’s brief after which the case shall stand submitted to the Commission for adjudication.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FORMAL COMPLAINT)	
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REQUIRE WINDSTREAM KENTUCKY EAST, LLC)	CASE NO.
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STIPULATED FACTS

The Parties having conferred and agreed to submit stipulated facts, said facts being circulated to counsel of record by Insight Phone of Kentucky, LLC, and no objections being heard, the following stipulated facts are submitted to the Commission:

1. Windstream is an incumbent local exchange telecommunication company (“ILEC”) authorized to provide telecommunications in the Commonwealth of Kentucky.
2. Windstream is organized under the laws of the State of Delaware and has its primary place of business located in Little Rock, Arkansas.
3. Insight Phone is a certified competitive local exchange telecommunications company (“CLEC”) which is authorized to provide local telecommunication services in the Commonwealth of Kentucky. It is organized under the laws of the State of Delaware. Its primary place of business is in Kentucky.
4. Insight Phone and Windstream have two Interconnection Agreements (“ICA”) approved by this Commission (one for Windstream West, the other for Windstream East) with identical Section 17 language which explicitly states “Subject to applicable rules, orders, and decisions, Windstream will provide Insight Phone with access to Customer Proprietary Network

Information (CPNI) for Windstream End Users upon Insight Phone providing Windstream a signed blanket Letter of Agency (LOA) for Windstream's Customer of record." Section 17 reads as follows:

17.0 Changes in Subscriber Carrier Selection

17.1 Each Party will abide by applicable state or federal laws and regulations in obtaining End User authorization prior to changing End User's Local Service Provider to itself and in assuming responsibility for any applicable charges as specified in §258 (b) of the Telecommunications Act of 1996. Either Party shall make authorization available to the other Party upon reasonable requests and at no charge.

17.2 If an End User notifies either Party that the End User requests local exchange service, the Party receiving such request shall be free to immediately provide service to such End User.

17.3 When an End User changes or withdraws authorization, each Party will release Customer specific facilities in accordance with the Customers' direction or the End User's authorized agent.

17.4 Subject to applicable rules, orders, and decisions, Windstream will provide Insight with access to Customer Proprietary Network Information (CPNI) for Windstream End Users upon Insight providing Windstream a signed blanket Letter of Agency (LOA) for Windstream's Customer of record, based on Insight's representation that subscriber has authorized Insight to obtain such CPNI.

17.4.1 The Parties agree that they will conform to FCC and/or state regulations regarding the provisioning of CPNI between the Parties, and regarding the use of that information by the requesting Party.

17.4.2 The requesting Party will document End User permission obtained to receive CPNI, whether or not the End User has agreed to change Local Service Providers. For End users changing service from one Party to the other, specific End User LOAs may be requested by the Party receiving

CPNI requests to investigate slamming complaints, and for other reasons agreed to by the Parties.

17.4.3 CPNI requests will be processed in accordance with the following:

17.4.3.1 For Customers with 1-25 lines: one (1) business day.

17.4.3.2 For Customers with 26+ lines: two (2) business days.

17.4.4 If the Parties do not agree that Insight requested CPNI for a specific End User, or that Windstream has erred in not accepting proof of an LOA, the Parties may immediately request dispute resolution in accordance with General Terms & Conditions, §9.0, Dispute Resolution.

17.5 Windstream will only accept an LOA for a Windstream Customer of record. Insight may delegate its obligation to obtain written authorization from Windstream's Customer of record to a third party only after Insight has provided Windstream a Letter of Agency on Insight letterhead, and signed by an authorized Insight representative identifying the third party name, and specific functions by state the third party is authorized to perform on behalf of Insight.

5. Insight Phone provided Windstream a signed blanket LOA on January 2, 2008, and Windstream has been providing Insight Phone with access to most, but not all, CPNI. A copy of the blanket LOA is attached to this Complaint as Exhibit A.
6. To provide access to CPNI, Windstream has created a GUI called "Windstream Express" for use by telephone providers with authority to access CPNI such as Insight Phone. Windstream Express, however, contains only some of the CPNI omitting freeze information and account numbers, for example.
7. In addition to the blanket LOA, Insight Phone has consumers who desire to port their telephone number to Insight sign an individual LOA or verify their request through third-party verification, a record of which is kept in case any question is later raised about Insight Phone's

authority to port the telephone number. The individual LOA includes the statement authorizing Insight to act on the customer's behalf to lift any account freezes that may be on the customer's existing account. A copy of the LOA form is attached to this Complaint as Exhibit B.

8. Windstream notified Insight Phone that, beginning August 1, 2008, it will require customers to provide account numbers for all port orders.

9. Before August 1, 2008, Windstream performed ports without account numbers; therefore, account numbers are not required to validate the port request and accomplish the port.

10. Insight Phone contacted Windstream to request that if Windstream requires account numbers then Windstream should make the account numbers available pursuant to the ICA and federal law.

11. Windstream has refused to provide account numbers thus interfering with the customers' right to choose a telephone service provider.

12. As a result of Windstream's actions, if a customer does not have ready access to their account number, a port cannot occur and that customer cannot change telephone service providers.

13. Upon information and belief, very few customers know their account number and they will only be able to provide it by contacting Windstream or, otherwise, providing a copy of a bill from Windstream, which they may not have kept or may not have with them, thus frustrating the ability of customers to choose a telephone provider.

14. Windstream has withheld other CPNI from Insight including freeze information.

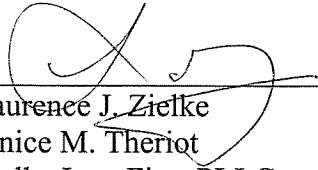
15. On November 2, 2008, Windstream added a requirement that before Insight make **any** Customer Service Inquiry through Windstream Express, it obtain a customer's Windstream Account Number. This prevents Insight from verifying a customer's Windstream account

information, such as spelling of name or address, telephone number, complete account number, additional lines, DSL or other factors that could result in Windstream rejecting an Insight order on a technicality and results in additional delays in providing customer service because the order information does not exactly match Windstream's records.

16. Windstream has only investigated two alleged cases of slamming related to Insight. The two alleged incidents are contained in the letter attached by Windstream to its Answer to Insight's Formal Complaint filed with this Commission. Attached hereto at Exhibit A is Insight's response to those two alleged incidents. The End User associated with one of the alleged incidents placed an order to port to Insight but cancelled that order before any change in service was made. With no port, there can be no slamming. The End User associated with the other alleged incident ported the number to Insight, after which the customer changed the name on the Insight account from father to daughter. Weeks later, the customer ported back to Windstream. Because of the different name, Insight initially rejected Windstream's LSR. This change in names was discovered, the issue resolved, and the number ported.

17. Insight has in place procedures which satisfy the requirements of the ICA as well as the requirements of state and federal law as they relate to slamming. Its procedures include obtaining customer permission prior to transferring service to Insight and include sending a person to each customer's house to knock on the door and physically make the hardware changes necessary to transfer service. This on-site visit cannot be skipped because of the required hardware changes. This on-site visit means that if there is any confusion on the part of the customer about the change in service to Insight, that confusion will necessarily be cleared up prior to any change. These procedures prevent any slamming.

Tendered by,



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