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September 29, 2009

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

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OCT 02 2009
PUBLIC SERVICE
COMMISSION

RE: Case No. 2008-00335—Insight Communications v. Windstream

Dear Mr. DeRouen:

We are counsel to Intervenor Big River Telephone Company. In a letter dated June 8, 2009 we described how on June 1, 2009 Windstream began requiring a competing carrier that is porting the number of a Windstream customer to provide a “PIN” that Windstream had quietly assigned to each Windstream account. We described the customer frustration Windstream had caused and explained how Windstream’s plan is inconsistent not only with FCC precedent but also with Kentucky law governing carrier changes.

In response, Windstream defended its contrived “PIN” requirement by claiming it to be “sound and fully supported by FCC precedent.” However, Windstream did not cite any legal authority that would justify a carrier’s decision to generate unrequested “PINs” then use their existence as an excuse to inhibit customer choice.

Windstream’s policy finds no support whatsoever within the industry standards body that determines “best practices” for local number portability. In fact, in an apparent reaction to what Windstream has done, on September 16, 2009 the Local Number Portability Administration Working Group (LNPA Working Group)¹ issued a new “Best Practices Document” titled “Impact to the porting process of Service Provider-assigned pass codes/PINs to End User accounts.”² That document, which we enclose, focuses on the exact conduct described by Big River Telephone’s June 1 letter, stating, in pertinent part:

¹ Neustar, Inc., a neutral, third party administrator, has developed the Number Portability Administration Center. The LNPA Working Group makes the decisions and recommendations that form the basis of regulatory orders issued by the FCC related to local number portability.

² Available at: http://www.npac.com/cmas/LNPA/best_practices_60.htm

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It has been brought to the attention of the LNPA WG that some providers have instituted a practice of assigning pass codes or PINs to their End Users' accounts without the request, or in some cases, the knowledge, of the End User. This practice can severely delay and impede the porting process. These provider-assigned pass codes differ from the practice of many providers that enable their End Users to request that a pass code or PIN be assigned to their account to ensure privacy and to prevent activity without the End User's permission.

It is the position of the LNPA WG that only pass codes/PINs requested and assigned by the End User may be utilized as an End User validation field on an incoming port request by the Old Network Service Provider/Old Local Service Provider. In addition, any service provider assigned pass code/PIN may not be utilized as a requirement in order to obtain a Customer Service Record (CSR).

LNPA WG Best Practices Document, Item No. 60, September 16, 2009 (emphasis added).

We have already explained how Windstream's so-called "protection plan" is a transparent attempt to interfere with the competitive efforts of carriers like Big River Telephone Company. Now the LNPA WG has condemned the same conduct. Next, the Commission should order Windstream to cease the practice and to show cause why it should not be penalized for continuing to impede customer choice in Kentucky. The Commission should also move promptly to address other issues pending in this complaint case.

Please indicate receipt of this letter by placing your file stamp on the extra copy and returning to me via the enclosed, self-addressed, stamped envelope.

Very truly yours,

STOLL KEENON OGDEN PLLC

A handwritten signature in black ink, appearing to read "DFB", with a long horizontal stroke extending to the right.

Douglas F. Brent

DFB:

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cc: Parties of Record

09/24/09

Best Practices Document

Item Number	60
Topic:	Impact to the porting process of Service Provider-assigned pass codes/PINs to End User accounts.
Date Logged	9/16/09
Date Modified	
Related Regulation / Document Ref	
Related Issue	
Reported to NANC?	
Recommended Change to Requirements?	
Submitted by	LNPA-WG
Decisions / Recommendations	<p>FCC Order 07-188 requires that LNP validation for Simple Ports be based on no more than the following 4 data fields on an incoming port request:</p> <ul style="list-style-type: none"> (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code; and (4) pass code (if applicable). <p>It has been brought to the attention of the LNPA WG that some providers have instituted a practice of assigning pass codes or PINs to their End Users' accounts without the request, or in some cases, the knowledge, of the End User. This practice can severely delay and impede the porting process. These provider-assigned pass codes differ from the practice of many providers that enable their End Users to request that a pass code or PIN be assigned to their account to ensure privacy and to prevent activity without the End User's permission.</p> <p>It is the position of the LNPA WG that only pass codes/PINs requested and assigned by the End User may be utilized as an End User validation field on an incoming port request by the Old</p>

Network Service Provider/Old Local Service Provider. In addition, any service provider assigned pass code/PIN may not be utilized as a requirement in order to obtain a Customer Service Record (CSR).

This site was last updated 9/24/09