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June 15, 2010

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

RECEIVED

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PUBLIC SERVICE
COMMISSION

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

Dear Mr. DeRouen:

Big River Telephone Company has reviewed Insight's recent supplemental filing in support of its formal complaint against Windstream, and Windstream's response. Insight's filing, which Big River Telephone supports, underscores what Big River Telephone pointed out to the PSC a year ago. In a letter on June 8, 2009 we explained that Windstream's aggressive efforts to foil competition in the guise of consumer protection violate not only industry best practices, but federal and state regulatory law governing the carrier change process. Big River Telephone agrees with Insight that the Commission should apply the same reasoning as the FCC and order Windstream to stop violating the law.

On June 1, 2009 Windstream began requiring a competing carrier that is porting the number of a Windstream customer to provide a passcode or "PIN" that Windstream quietly assigned to each customer's account. Within a week we wrote to the PSC and explained how Windstream's use of passcodes or "PIN(s)" was a transparent attempt to interfere with the competitive efforts of carriers like Big River Telephone. We further described the resulting frustration that customers attempting to change carriers were experiencing since Windstream instituted the arbitrary passcode or "PIN" requirement.

Windstream offered a variety of excuses to the PSC, and mounted a similar defense when other carriers complained to the FCC. Federal regulators have now condemned Windstream's conduct in no uncertain terms. The FCC's recent *Report and Order*¹, which is attached to Insight's supplemental filing, directly addresses the issues raised in Big River Telephone's June 8, 2009 letter and affirms that the passcode requirement does, in fact, delay the porting process. The *Report and Order* also supports Big River Telephone's assertion that the passcode requirement is harmful by stating that the requirement adds "frustration," "complexity," and

¹ *Local Number Portability Porting Interval and Validation Requirements*, Report and Order (FCC 10-85), rel. May 20, 2010, at 3-17.

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results in “anticompetitive effects.”²

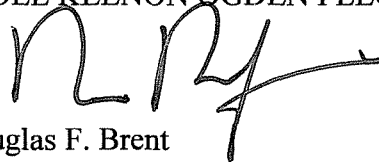
In response to Insight, Windstream concedes that the FCC order does not allow for the use of carrier-initiated passcodes for port validation, yet Windstream claims that its “verification policy” is compliant with the FCC’s order to the extent that it relies on customer-requested passcodes to validate port orders. Of course, customer-requested passcodes (if any exist) had nothing at all to do with the problems Windstream has caused. Moreover, as of today Windstream is still rejecting Big River Telephone’s port requests unless they include Windstream’s *carrier-initiated* passcodes for validation. Although Windstream claims it has “initiated process and system changes” to stop the practice criticized by the FCC it does not provide a date when the practice will actually cease. Yet, remarkably, Windstream asks the Commission to dismiss the Insight complaint *with prejudice*, declaring that it is moot.

No other Kentucky ILEC is interfering with customer choice in the manner criticized by the FCC. There is no reason to allow Windstream to continue placing roadblocks in the path of customers who exercise the right to choose other carriers. The Commission should promptly rule on Insight’s complaint.

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



Douglas F. Brent

DFB:

cc: Parties of Record

² *Id.* at 10.