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PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FORMAL COMPLAINT FOR EMERGENCY RELIEF )  
 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

MOTION FOR EMERGENCY HEARING  
AND FOR AN IMMEDIATE INFORMAL CONFERENCE

Insight Phone of Kentucky, LLC (hereinafter "Insight Phone"), by counsel, has filed a Formal Complaint concurrent with this Motion For Emergency Hearing and For an Informal Conference. In the Formal Complaint, Insight Phone requested that the Public Service Commission of the Commonwealth of Kentucky (hereinafter "Commission") expedite this matter.

Insight seeks an order for emergency relief requiring Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (hereinafter, collectively "Windstream") to either stop requiring account numbers for simple ports or, if it requires account numbers, to provide them on its Windstream Express interface when a customer has authorized it.

FACTS

1. 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.

2. 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 the Formal Complaint.
3. CPNI as used in the ICA is defined in 47 U.S.C. §222(h)(1)(B) as including "information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier."
4. For each customer of Windstream, the CPNI includes Windstream's account number and whether an account has a freeze on it.

5. Under the ICA, Windstream is contractually required to provide the account number and freeze information when the customer authorized Insight Phone to obtain that information.
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 when a customer agrees to change telephone providers from Windstream to 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 sign an individual LOA which is kept in case any question is later raised about Insight Phone’s authority; the individual LOA includes the statement authorizing Windstream to provide all CPNI including the account number and any account freezes. A copy of the LOA form is attached to the Formal Complaint.
8. Federal law requires that Windstream disclose CPNI upon affirmative written request made by a customer to any person designated by that customer. 47 U.S.C. §222(c)(2).
9. The FCC recently affirmed that “Existing Commission rules have made clear that providers cannot unreasonably obstruct or delay the porting process, for example by demanding far more information than needed to fulfill the request.” FCC June 4, 2008, Small Entity Compliance Guide Local Number Portability, DA 08-1317.
10. The FCC also stated “Local number portability cannot be effective if the mechanisms used by providers to port numbers are so burdensome that they discourage use.” FCC June 4, 2008, Small Entity Compliance Guide Local Number Portability, DA 08-1317.
11. Also, “Entities subject to the Commission’s LNP [local number portability] obligations may not demand information beyond what is required to validate the port request and accomplish

the port.” FCC June 4, 2008, Small Entity Compliance Guide Local Number Portability, DA 08-1317.

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

13. 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.

14. 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.

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

16. Windstream representatives stated that requiring the customer to provide an account number would protect against slamming; however, slamming is not an issue with local telephone services such as the services provided by Insight Phone because in order to serve a customer, Insight Phone must physically go to the customer’s home and install wiring and equipment, something that cannot occur without the customer’s consent.

17. Applicable law contains protections against slamming and Windstream is not allowed to apply protections beyond those authorized by law when the protections place roadblocks to portability.

18. 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.

19. Upon information and belief, very few customers know their account number and they will only be able to provide it by 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.

20. Insight Phone has made every attempt to communicate its concerns to Windstream including holding a high level meeting between Windstream executives and Insight Phone executives in Louisville, Kentucky, on August 7, 2008, and subsequent negotiations through August 13, 2008, which did not result in Windstream changing its anti-competitive practices leaving Insight Phone with no recourse but to file this action.

#### MOTION FOR EMERGENCY HEARING

21. Insight has successfully conducted ports from Windstream without account numbers up until August 1, 2008, by providing Windstream with a Local Service Request (“LSR”) including customer information such as names, telephone numbers, and zip codes, but not account numbers.

22. Windstream informed Insight that it will no longer allow ports without account numbers and that it will not provide the account numbers beginning August 1, 2008, despite the fact that the Insight is authorized to obtain customer CPNI including account numbers.

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

24. Insight’s counsel has discussed the burden that requesting an account number while refusing to provide the account number would place on consumers with Windstream representatives.

25. Insight also sent a letter to Windstream explaining its position and requesting that Windstream either forgo requiring an account number or provide the account number. A copy of the letter is attached.

26. Windstream has not provided any relief to Insight and, upon information and belief, will reject ports beginning August 14, 2008, unless this Commission orders otherwise.

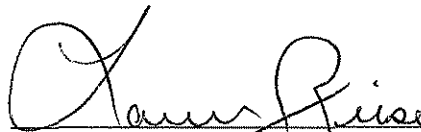
27. These issues merit direct intervention of the Commission through an emergency hearing. Windstream has both breached the ICA with Insight and violated federal law to the detriment of the consumers in Kentucky.

28. Insight requests an immediate informal conference to (1) order Windstream to continue to allow ports without an account number until this action is decided and (2) schedule an emergency hearing.

#### CONCLUSION

For the reasons set forth above, Insight request immediate action to prevent Windstream from placing undue burdens on Kentucky consumers who chose to change telephone providers as allowed under state and federal law.

Respectfully submitted,



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July 31, 2008

VIA: Electronic Mail

Mr. Daniel Logsdon  
VP External Affairs  
Windstream Kentucky LLC

[Daniel.logsdon@windstream.com](mailto:Daniel.logsdon@windstream.com)

Re: Windstream's Port Rejection Without Account Numbers

Dear Mr. Logsdon:

Thank you for your attention to my calls yesterday. I must remind you that we are on a deadline caused by Windstream unreasonable plan to reject ports that do not include account numbers while refusing to provide those account numbers. Insight Communications requires relief from this plan by the close of business today or it will have no choice but to file an action with the Public Service Commission in order to seek relief for its customers from Windstream's anti-consumer and anti-competitive actions.

It is unreasonable to burden consumers who have made a decision to change telephone service providers and expressly authorized Windstream to provide account information to Insight with the task of providing a 10-digit account number. In many cases, the customer will not be able to meet this burden.

Thousands of Windstream customers have chosen to switch their telephone services to Insight, and we can understand Windstream's frustration with that; however, requiring an account number from a customer who has already authorized Windstream to provide the account number to Insight frustrates the public policy of the Commonwealth as well as the Federal Communications Commission ("FCC"). Quite simply, it throws up a roadblock for no good reason at a time when the public policy is to remove roadblocks. Furthermore, it breaches the express terms of the Interconnection Agreement between Windstream and Insight which states at Section 17.4 as follows:

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,



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based on Insight's representation that subscriber has authorized Insight to obtain such CPNI.

The LOA expressly states "My signature below authorizes Insight Phone 2.0, or its designated agent, to access my existing account records from my local telephone company to process my order." Federal law requires that Windstream disclose customer proprietary network information upon affirmative written request made by a customer to any person designated by that customer. 47 U.S.C. §222(c)(2). And the FCC has recently affirmed that "Existing Commission rules have made clear that providers cannot unreasonably obstruct or delay the porting process, for example by demanding far more information than needed to fulfill the request." FCC June 4, 2008, Small Entity Compliance Guide Local Number Portability, DA 08-1317. Windstream is allowed to request at most four data fields for simple ports; it is not required to use all four data fields.

You told me that Windstream's decision to require account numbers without providing account numbers was based on its fear of slamming. However, slamming is not an issue here; we are porting local telephone services, not long distance. The account number should be provided on the GUI/Windstream Express interface which is not available to the general public. It is accessible only to carriers which have agreed to use the GUI/Windstream Express interface as allowed by law. In other words, if a carrier were to gain access to the interface, the carrier could not slam and if it did Windstream would have protection.

Federal law is clear, companies shall not place roadblocks in front of customers wishing to change providers. Windstream has a pattern of roadblocks blocking Kentucky's consumers from freely choosing their phone providers as allowed by law. The roadblocks include undue delay in finalizing Interconnection Agreements; removing directory listings from the agreements and refusing to accept listing information; refusing to propagate customer information into the directory assistance database; unduly delaying ports; refusing to provide freeze information contained on the CPNI with authorization from customers; and adding charges for Insight customers that are not charged to Windstream customers for directory listings.

We've worked with Windstream in each case and generally found some method of providing customer service despite the roadblocks, but I see no solution to this account number roadblock except (1) Windstream dropping the requirement for an account number or (2) Windstream keeping the requirement but making the account number available on the GUI/Windstream Express interface.

We are sure that the PSC will agree with Insight that Windstream's plan to require account numbers without making them available breaches the ICA, ignores the LOA, violates federal law and frustrates the policy of both the federal and state governments to empower consumers to freely choose their telephone providers.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurence J. Zielke", written over a circular scribble.

Laurence J. Zielke