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June 5, 2009

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PUBLIC SERVICE
COMMISSION

Mark R. Overstreet
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HAND DELIVERED

Jeff R. Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

RE: *Insight Phone of Kentucky, LLC v. Windstream Kentucky East, LLC.*, 2008-00355

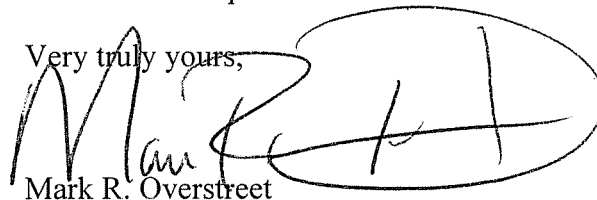
Dear Mr. Derouen:

Enclosed please find the stipulations proposed by Windstream Kentucky East, LLC and Windstream Kentucky West, LLC. They were provided to the other parties by letter dated May 21, 2009 but there has been no agreement to adopt the stipulations.

Each of the proposed stipulations was taken from the parties' pleadings or Staff's memorandum of the March 26, 2009 informal conference. An accompanying footnote identifies the source of each stipulation. Many of the proposed statements are verbatim replications of the statements in the identified pleading; others have been modified to "fit" a more traditional stipulation format.

The parties seem in agreement that this case presents only legal issues. Windstream believes these stipulations provide a reasonable basis for the parties to brief those issues.

Very truly yours,



Mark R. Overstreet

cc: Lawrence J. Zielke
Janice M. Theriot
Douglas F. Brent

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter Of:

Insight Phone of Kentucky, LLC)
)
Complainant)
)
v.)
)
Windstream Kentucky East, LLC)
)
and)
)
Windstream Kentucky West, LLC)
)
Defendants)

Case No. 2008-00335

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COMMISSION

WINDSTREAM KENTUCKY EAST, LLC AND
WINDSTREAM KENTUCKY WEST, LLC
PROPOSED STIPULATIONS

For the purposes of resolving this claims in this proceeding Windstream Kentucky East, LLC and Windstream Kentucky West, LLC stipulate to the following:

1. Windstream is an incumbent local exchange telecommunications company authorized to provide telecommunications in the Commonwealth of Kentucky.¹
2. Windstream is organized under the laws of the State of Delaware and has its primary place of business located in Little Rock, Arkansas.²
3. Insight Phone is a certified competitive local exchange telecommunications company authorized to provide local telecommunications services in the Commonwealth of Kentucky.³
4. Insight Phone and Windstream have two Interconnection Agreements with identical Section 17 language.⁴

¹ Insight Formal Complaint ¶ 1.

² Insight Formal Complaint ¶ 2.

³ Insight Formal Complaint ¶ 3.

⁴ Insight Formal Complaint ¶ 6.

5. Insight Phone provided Windstream a signed blanket LOA on January 2, 2008.⁵
6. To provide access to CPNI, Windstream has created a GUI called “Windstream Express” for use by telephone providers with authority to access CPNI.⁶
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.⁷
8. Windstream notified Insight Phone that, beginning August 1, 2008, it will require customers to provide account numbers for all ports.⁸
9. Before August 1, 2008, Windstream performed ports without account numbers.⁹
10. Insight Phone contacted Windstream to request that if Windstream requires account numbers then Windstream should make the account numbers available.¹⁰
11. Windstream has declined to provide account numbers.¹¹
12. Windstream representatives stated that requiring the customer to provide an account number would protect against slamming.¹²
13. 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.¹³
14. 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, 2008.¹⁴
15. 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.¹⁵

⁵ Insight Formal Complaint ¶ 7.

⁶ Insight Formal Complaint ¶ 11.

⁷ Insight Formal Complaint ¶ 12.

⁸ Insight Formal Complaint ¶ 17.

⁹ Insight Formal Complaint ¶ 18.

¹⁰ Insight Formal Complaint ¶ 19.

¹¹ Insight Formal Complaint ¶ 20.

¹² Insight Formal Complaint ¶ 21.

¹³ *Id.*

¹⁴ Insight Formal Complaint ¶ 22.

¹⁵ Insight Formal Complaint ¶ 25.

16. Windstream asserts in its Answer that only 11% of Insight's ports were rejected for lack of account number.¹⁶
17. Insight provided Windstream a Blanket Letter of Agency.¹⁷
18. Insight contends that it travels to each customer's home to initiate service and that if the customer had not authorized service, the customer would not allow Insight to continue initiation.¹⁸
19. Accenture acts as an agent with other carriers in the industry.¹⁹
20. On August 1, 2008, Windstream began requiring carriers to enter a customer's account number on all port requests.²⁰
21. Insight has in place procedures to send a person to each customer's house to knock on the door and physically make hardware changes to transfer service.²¹
22. Some port orders were rejected prior to August 2008.²²
23. Windstream's consumer protection practices are consistent across all Windstream affiliate states.²³
24. For the week of August 29, 2008 alone, Insight submitted 229 port requests to Windstream of which only 11% were rejected for the reason they lacked valid account numbers. Likewise, of the 53 port requests submitted by Big River for the same week, only 11% were rejected for the reason that they lacked valid account numbers. Windstream affiliates across sixteen states rejected only 10% of all orders submitted during the one-week time period for the reason that they did not contain valid account numbers.²⁴
25. Insight and Big River offer competing telephony services in the same territory as Windstream.²⁵
26. Windstream has no relationship or interconnection agreement with Accenture.²⁶

¹⁶ Insight Response to Windstream Answer ¶ 1.

¹⁷ Insight Response to Windstream Answer ¶ 4.

¹⁸ Insight Response to Windstream Answer ¶ 5.

¹⁹ Insight Response to Windstream Answer ¶ 16.

²⁰ Insight Response to Windstream Answer ¶ 20.

²¹ Insight Response to Windstream Answer ¶ 28.

²² March 26, 2009 Conference Memorandum ¶ 5.

²³ Windstream Response to Emergency Request ¶ 1.

²⁴ Windstream Response to Emergency Request ¶ 1.

²⁵ Windstream Response to Emergency Request ¶ 4.

27. Windstream Express cannot be used for marketing purposes.²⁷
28. In order to submit port requests to Windstream prior to August 1, 2008, carriers used a telephone number to access Windstream Express and checked a box verifying that they had previously obtained a valid Customer LOA.²⁸
29. Beginning on August 1, 2008, carriers have been required to provide a valid customer account number in addition to the telephone number assigned to that account in order to process port requests through Windstream Express, and now also must enter the account number to access any customer account information through Windstream Express.²⁹
30. Telephone numbers are readily publicly available through sources such as association directories, business cards, websites or phone books.³⁰
31. Accenture's operations are located mainly outside of the United States.³¹
32. Windstream's new policy was implemented across all of the Windstream ILEC territories and was not directed at any specific carrier.³²
33. Insight submitted port requests to Windstream for two Lexington customers who subsequently contacted Windstream to state that they either had not authorized or did not understand that they were authorizing Insight to change their service provider.³³
34. In one case, over a three-month period, Insight attempted to port one customer three times without the customer's permission. This customer contacted Windstream to cancel his port to Insight on February 13, 2008, after which Insight resubmitted a port request to Windstream on behalf of this same customer on February 14, 2008; the request was subsequently canceled on February 29, 2008⁷ per the customer's request...Insight resubmitted a port request for this same customer on April 10, 2008, after which the customer requested that Windstream cancel the port request on April 30, 2008.³⁴
35. Windstream received a request from Insight to port another customer on February 1, 2008. The customer contacted Windstream on February 12, 2008 stating that she did not want

²⁶ Windstream Response to Emergency Request ¶ 10.

²⁷ Windstream Response to Emergency Request ¶ 11.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Windstream Response to Emergency Request ¶ 12

³¹ Windstream Response to Emergency Request ¶ 14.

³² Windstream Response to Emergency Request ¶ 18.

³³ Windstream Response to Emergency Request ¶ 21.

³⁴ *Id.*


to port to Insight. As requested by the customer, Windstream canceled the pending port request.³⁵

36. In one instance, the carrier submitting the change request to a Windstream ILEC transposed telephone digits, which resulting in the wrong Windstream customer being converted to that carrier.³⁶

37. Many people today no longer memorize telephone numbers, including their own, and instead rely heavily on their cellular phone or Blackberry telephone directories to refresh their memories.³⁷

38. Approximately 5% of all port requests from Insight are rejected due to inadequate information being submitted and Windstream requires the same information be submitted in all 16 of the states in which it operates.³⁸

Respectfully Submitted,

By: 
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COUNSEL FOR WINDSTREAM KENTUCKY EAST,
LLC AND WINDSTREAM KENTUCKY WEST, LLC

³⁵ *Id.*

³⁶ Windstream Response to Emergency Request ¶ 23.

³⁷ Windstream Response to Emergency Request ¶ 26.

³⁸ March 26, 2009 Conference Memorandum ¶ 14.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, and e-mail transmission on this 14th day of May, 2009 upon:

Lawrence J. Zielke
Janice M. Theriot
Zielke Law Firm, PLLC
1250 Meidinger Tower
462 South Fourth Street
Louisville, Kentucky 40202-3465

Douglas F. Brent
Stoll, Keenon & Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202

A handwritten signature in black ink, appearing to read "Mark R. Overstreet". The signature is stylized, with a large, circular flourish on the right side. The name "Mark" is written in a cursive script, and "R. Overstreet" is written in a more formal, blocky cursive style.

Mark R. Overstreet