



Mary K. Keyer  
General Attorney  
Kentucky Legal Department

AT&T Kentucky  
601 W. Chestnut Street  
Room 407  
Louisville, KY 40203

T 502-582-8219  
F 502-582-1573  
[mary.keyer@att.com](mailto:mary.keyer@att.com)

February 26, 2010

**VIA OVERNIGHT MAIL**

Mr. Jeff Derouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602

RECEIVED

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PUBLIC SERVICE  
COMMISSION

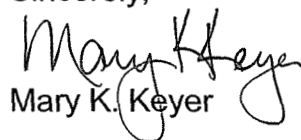
Re: Petition of Windstream Kentucky East, LLC, for Arbitration of an  
Interconnection Agreement With New Cingular Wireless PCS, d/b/a AT&T  
Mobility  
KPSC 2009-00246

Dear Mr. Derouen:

Enclosed for filing in the above-referenced case are the original and 5 (five)  
copies of AT&T Mobility's Motion to Take Depositions.

Should you have any questions, please let me know.

Sincerely,

  
Mary K. Keyer

Enclosures

cc: Parties of Record

786176

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF WINDSTREAM KENTUCKY	)	
EAST, LLC, FOR ARBITRATION OF AN	)	CASE NO.
INTERCONNECTION AGREEMENT WITH	)	2009-00246
NEW CINGULAR WIRELESS PCS,	)	
D/B/A AT&T MOBILITY	)	

**AT&T MOBILITY’S MOTION TO TAKE DEPOSITIONS**

Pursuant to KRS 278.340, New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, on behalf of itself and its wireless operating affiliates in Kentucky (“AT&T Mobility”), files its Motion to Take Depositions in the captioned matter. AT&T Mobility seeks an order from the Kentucky Public Service Commission (“Commission”), allowing AT&T Mobility to take the depositions of the witnesses that will file written testimony in support of the cost study produced by Windstream Kentucky East LLC (“Windstream”) in the captioned matter and who, if not a testifying witness, can answer in-depth questions regarding the current discovery responses that have been produced by Windstream in this case. In support of this Motion, AT&T Mobility states:

The captioned arbitration was filed by Windstream to resolve certain disputes arising from interconnection agreement negotiations between the parties. The primary dispute involves the appropriate reciprocal compensation rate that Windstream should charge for terminating AT&T Mobility traffic.

The appropriate methodology for determining Windstream’s rate is based on what is commonly referred to as “TELRIC” (Total Element Long Run Incremental Cost)

and is established by 47 U.S.C. § 252(d)(2)(A)(ii) and implementing FCC regulations. As required by FCC rules, Windstream has submitted to AT&T Mobility a cost study in support of its proposed rate, and AT&T Mobility has submitted a number of written data requests to Windstream concerning the cost study.

Written discovery, however, has limitations when applied to TELRIC cost studies. The rigid nature of questions and answers in written discovery generally precludes an in-depth exploration of issues necessary to a broad understanding of the assumptions, inputs and methodology employed by a carrier in producing a proposed TELRIC rate. Consequently, if depositions are not allowed, most discovery concerning a TELRIC cost study occurs *at the hearing itself*, because counsel must spend much time on cross-examination searching through the “weeds” of a cost study to determine underlying assumptions and inputs. Anyone who has participated in such a proceeding knows just how tedious and time-consuming such cross-examinations can be. Preliminary work of this nature can better be done in a deposition so that at the hearing, cross-examination will involve only important and relevant areas previously identified. It has been AT&T Mobility’s experience that depositions taken prior to hearing can greatly shorten cross-examination on TELRIC issues. For some issues, a discovery deposition can obviate the need for any cross-examination at all.

In addition, the taking of a deposition will almost certainly eliminate the need for further written discovery. It will also eliminate written discovery disputes, because deposing counsel has the opportunity to ask follow-up questions in a manner that gets to the “heart of the matter.” Moreover, since it is the practice in Kentucky for the Commission Staff attorneys to participate in depositions, a deposition will give the Staff

attorneys extensive insight into the major cost issues - insight that cannot be gleaned from written discovery. AT&T Mobility is willing to take the requested depositions by telephone to minimize the inconvenience and expense to all parties.

Following is a non-exclusive list of some issues that AT&T Mobility would explore if allowed to depose the witnesses whose written testimony Windstream intends to file and who will testify at the hearing in support of Windstream's cost study. The following discussion will also explain how the taking of depositions will help focus each issue, thereby facilitating a much faster and more focused hearing on the merits.

1. Usage-Sensitivity of Switch Investment and Costs -- 47 U.S.C. § 252(d)(2)(A)(ii) allows Windstream to recover only the "additional costs" of transporting and terminating AT&T Mobility traffic. The FCC has ruled that this "additional cost" standard allows carriers to recover only the "usage-sensitive" portion of switch investment and costs; *i.e.*, the portion of investment and costs that increases with the number of calls processed. A major issue in every TELRIC proceeding involves the setting of the appropriate usage-sensitive percentage for switching. The taking of depositions will allow AT&T Mobility to explore the issue in-depth and narrow cross-examination questions to a determination of the percentage claimed and the support, or lack thereof, for the percentage. If depositions are not allowed, reaching a similar point in the hearing will take significant time, depending upon the responses of the witnesses to a long line of questions.

2. Remote Switching Modules: Under FCC regulations, remote modules that do not perform switching functions are treated like loops and considered non-usage-sensitive. Their costs cannot be recovered through transport and termination rates.

AT&T Mobility would like to ask questions of Windstream's witness(es) regarding the existence of remote switching modules in Windstream's network. At the hearing, cross-examination can then focus on the data points developed at the deposition(s).

3. Maintenance Cost for Fiber versus Copper -- AT&T Mobility believes that Windstream's claimed transport costs are unreasonably high. Based on Windstream's recent responses to written discovery requests, one area that appears to contribute to overstated transport costs involves maintenance costs for fiber versus copper cable. AT&T Mobility would like to ask Windstream's witness(es) questions regarding the development of the maintenance factors used in Windstream's cost study. The savings in time at the hearing on the merits will be significant.

4. Allocation of Interoffice Cable Costs Among Transport and Non-Transport Uses -- FCC regulations require that the costs of interoffice cables be borne by and allocated among all users of the cable. Written discovery has not allowed AT&T Mobility to determine for certain how Windstream's cost study allocates costs. The taking of a deposition will allow extended investigation of this issue, thereby saving the Commission from sitting through a lengthy set of questions and answers. Such information is better gleaned through a deposition, which will then allow cross-examination at the hearing to focus on the specific data points developed.

5. Total Demand and Utilization of Transport Network -- FCC regulations require that transport costs reflect total demand measured in terms of total trunks or DS-0 equivalents. Written discovery has not allowed AT&T Mobility to ascertain the precise quantities of trunks and special circuits. A deposition will allow this issue to be explored fully. Without a deposition, counsel will be forced at the hearing to methodically

question Windstream's cost witnesses about every trunk and every special circuit in Windstream's transport system, a process better left to a deposition. Cross-examination at the hearing can then focus on the data points developed.

6. Appropriate Mix of Interoffice Cable Types -- FCC regulations require Windstream's cost study to assume the lowest cost mix of cable types to serve projected total demand. At a deposition, AT&T Mobility will ask specific questions to determine the cable mix actually assumed in the study, which cannot be determined from the cost study itself. Detailed questions will also be asked concerning the cost study's assumptions regarding underground cable and the nature of the terrain in Windstream's serving territory. Such questions will be, by nature, detailed and involved. Allowing AT&T Mobility to explore these issues in a deposition will obviate the need for such lengthy questioning at the hearing.

7. Mapping of Windstream Supporting Data to Windstream's Cost Study -- In several instances, Windstream has supplied supporting cost data that do not clearly or easily map to Windstream's cost study. Therefore, the only way to determine how the supporting data have been used in the study is a laborious process of going through each data point and asking the witness(es) where and how it is used in the study. This will be an extremely time-consuming process best performed at a deposition. There is a good chance that much of the information obtained from the process will not be involved in AT&T Mobility's critique of Windstream's study. However, there is no way to determine this without going through much of the data line-by-line. A deposition will allow the hearing to avoid this time-consuming series of questions and answers.

8. Maintenance and Cost Factors: Windstream's cost study employs a number of maintenance and cost factors that appear to involve activities unrelated to transport and termination. It is impossible to determine the exact nature of these factors without the sort of detailed questioning better left to a deposition than a hearing. If a deposition is allowed, cross-examination at the hearing will focus only upon specific factors, if any, that AT&T Mobility feels are inappropriate.

WHEREFORE, AT&T Mobility prays for an order from the Commission, allowing AT&T Mobility to take by telephone the deposition(s) of the witness(es) who will file written testimony in support of Windstream's cost study, and who, if not a testifying witness, can answer in-depth questions regarding the current discovery responses that have been produced by Windstream in this case.

Respectfully submitted,



Mary K. Keyer  
601 W. Chestnut Street, Room 407  
Louisville, KY 40203  
Telephone: (502) 582-8219  
mary.keyer@att.com

Paul Walters, Jr.  
15 E. First Street  
Edmond, OK 73034  
Telephone: (405) 359-1718  
pwalters@sbcglobal.net


COUNSEL FOR NEW CINGULAR  
WIRELESS PCS, D/B/A AT&T MOBILITY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following individuals by mailing a copy thereof via U.S. Mail, this 26th day of February 2010.

Honorable Robert C. Moore  
Attorney At Law  
Hazelrigg & Cox, LLP  
415 West Main Street  
P.O. Box 676  
Frankfort, KY 40602

Stacy Majors  
Regulatory Counsel  
Windstream Communications, Inc.  
4001 Rodney Parham Road  
Little Rock, AR 72212-2442

  
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Mary K. Keyer