

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE TRAFFIC )  
DISPUTE BETWEEN WINDSTREAM )  
KENTUCKY EAST, LLC, BRANDENBURG ) CASE NO. 2008-00203  
TELEPHONE COMPANY AND MCIMETRO )  
ACCESS TRANSMISSION SERVICES, LLC )  
D/B/A VERIZON ACCESS )

O R D E R

On June 2, 2008, via letter, Dan Logsdon, on behalf of Windstream Kentucky East, LLC ("Windstream"), informed the Commission that as of 9:00 a.m. on June 2, 2008, Windstream had blocked the transmission of traffic from Brandenburg Telephone Company ("Brandenburg") to MCIMetro Access Transmission Services, LLC d/b/a Verizon Access ("Verizon Access").<sup>1</sup> Windstream alleged that Brandenburg was intentionally misusing Windstream's Elizabethtown end office to route the traffic and that Brandenburg should route the traffic through AT&T Kentucky, Inc.'s tandem in Louisville. Windstream alleged that Brandenburg could easily resolve this issue.

Verizon Access provides service to America Online's ("AOL") dial-up customers. The effect of Windstream's blocking of Brandenburg's traffic to Verizon Access is that AOL dial-up customers located in Brandenburg's area are not able to access their Internet service provider ("ISP").

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<sup>1</sup> A copy of the letter is appended hereto as Appendix A and is incorporated into the record.

On June 4, 2008, counsel for Verizon Access sent a letter to the Commission's Executive Director, requesting that the Commission issue an emergency order to stop the blocking of Internet access traffic by Windstream.<sup>2</sup>

On June 5, 2008, representatives from Brandenburg, Verizon Access, and Windstream participated in a teleconference with Commission Staff.<sup>3</sup> The parties discussed their relative positions. Windstream claimed that the traffic from Brandenburg to Verizon Access should be routed through AT&T Kentucky, Inc.'s tandem, and not through Windstream's end office, and refused to cease blocking the traffic. Brandenburg and Verizon Access claimed that they were currently negotiating an interconnection agreement that would resolve the traffic dispute. Commission Staff informed the parties that Staff would recommend to the Commission that an emergency hearing be convened on June 6, 2008.

Later on June 5, 2008, Commission Staff informed the parties that the Commission had tentatively scheduled a hearing for 10:00 a.m. on June 6, 2008. Through a series of e-mails on the evening of June 5, 2008, Windstream agreed to cease blocking the traffic and asked that the Commission cancel the emergency hearing.<sup>4</sup> Windstream agreed to cease blocking the traffic, but still maintained that it had the right to block the traffic if Brandenburg and Verizon Access did not reach

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<sup>2</sup> A copy of the letter is appended hereto as Appendix B and is incorporated into the record.

<sup>3</sup> A copy of the informal conference memorandum is appended hereto as Appendix C and is incorporated into the record.

<sup>4</sup> Copies of the e-mails are appended hereto as Appendix D and are incorporated into the record.

agreement regarding the exchange of the traffic. Commission Staff informed the parties that the hearing had been cancelled.

On June 18, 2008, Windstream sent an e-mail to all parties and Commission Staff.<sup>5</sup> In the e-mail, Windstream informed the parties that, if the issues had not been resolved by July 3, 2008, it would again block the traffic from Brandenburg to Verizon Access. Windstream requested that the Commission force Brandenburg to take all steps necessary to cease the improper use of Windstream's facilities.

On June 20, 2008, Verizon Access informed the Commission that it had proposed a 50/50 split of the total expense for interconnection and a bill-and-keep arrangement for the traffic originating from Brandenburg's customers in Radcliff.<sup>6</sup> Verizon Access stated that Brandenburg had refused the offer.

Subsequently, on June 20, 2008, Brandenburg informed Commission Staff that Brandenburg and Verizon Access had been unable to resolve the traffic dispute. Brandenburg informed Verizon Access that if a traffic exchange agreement was signed by July 3, 2008, Brandenburg would begin routing the traffic from its customers to Verizon Access in accordance with the local routing number.<sup>7</sup> The effect would be that Brandenburg's customers' calls to Verizon Access would now be treated as toll calls, since the calls would now be routed through AT&T Kentucky, Inc.'s Louisville tandem.

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<sup>5</sup> A copy of the e-mail is appended hereto as Appendix E and is incorporated into the record.

<sup>6</sup> A copy of the e-mail is appended hereto as Appendix F and is incorporated into the record.

<sup>7</sup> A copy of the e-mail is appended hereto as Appendix G and is incorporated into the record.

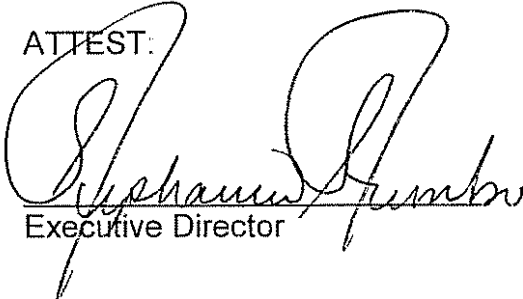
The current state of affairs between the parties, absent a traffic exchange agreement between Verizon Access and Brandenburg by July 3, 2008, will lead to either the disruption of service by Windstream or additional costs to AOL customers due to Brandenburg's proposed rerouting. Based on the forgoing, the Commission finds that an investigation should be established to determine the relative rights of all parties and the actions, if any, that should be taken to remedy the traffic dispute. Therefore, pursuant to KRS 278.260, KRS 278.280, and KRS 278.542(1)(a) and (b), the Commission opens this investigation into this dispute among Windstream, Brandenburg, and Verizon Access.

IT IS THEREFORE ORDERED that:

1. The traffic arrangements, as they exist on June 30, 2008, shall continue in their current form until this dispute is resolved.
2. All parties shall keep accounts of the traffic exchanged in order to determine amounts owed, if any, for the exchange and transmission of traffic.
3. Pursuant to 807 KAR 5:001, Section 4(4), the parties shall appear for an informal conference on July 9, 2008 at 1:30 p.m., Eastern Daylight Time, in Conference Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 1st day of July, 2008.

By the Commission

ATTEST:  
  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008



Windstream Communications, Inc.  
130 West New Circle Road  
Suite 170  
Lexington, KY 40505

Daniel E. Logsdon, Jr.  
Vice President, State Government Affairs  
[daniel.logsdon@windstream.com](mailto:daniel.logsdon@windstream.com)  
ofc 859-357-6125  
fax 859-357-6163

June 2, 2008

**RECEIVED**

JUN 02 2008

PUBLIC SERVICE  
COMMISSION

**Via Hand Delivery**

Stephanie Stumbo  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

Dear Director Stumbo:

The purpose of this letter is to provide a courtesy notice to the Commission that as of 9:00 a.m., Monday, June 2, 2008, Windstream Kentucky East, LLC ("Windstream") ceased the misuse of its Elizabethtown end office by Brandenburg Telephone ("Brandenburg" or the "ILEC") to route ISP traffic that otherwise should have been routed through AT&T's Louisville tandem. Further, as Brandenburg is aware, the level of traffic was at a DS3 level (*i.e.*, well in excess of a DS1 level), although Brandenburg did not establish a direct connection for delivery of the traffic. Windstream, to no avail, repeatedly attempted to work with Brandenburg regarding this traffic.

The calls in question arose when Brandenburg's end users accessed the Internet by calling dial-up ISPs served by Verizon Business. The traffic had no impact on local, long-distance, or EAS traffic flowing between the ILEC and Windstream, including no impact to 911 calls which are routed over separate facilities.

Upon information and belief, Brandenburg appears to have routed the traffic through Windstream's Elizabethtown end office instead of establishing a business relationship with Verizon Business for the termination of this ISP traffic. Brandenburg also denied reimbursement to Windstream for the use of Windstream's network to deliver the traffic. Brandenburg is aware that the NPA-NXX used by Verizon Business is homed behind the Louisville tandem. Therefore, Brandenburg should have routed the traffic from its tandem to the Louisville tandem. Instead, Brandenburg continued to route the traffic to Windstream's end office in Elizabethtown.

To remedy the situation, Brandenburg may perform approximately 15 minutes of translations coding to route the ISP traffic destined for Verizon Business through the Louisville tandem, or Brandenburg may establish a direct connection to Verizon Business for delivery of the traffic. However, Brandenburg may not use Windstream's Elizabethtown end office to deliver the DS3 level of ISP traffic to Verizon Business, which is homed behind the Louisville tandem.

Please contact me at 859.357.6125 with any questions regarding this issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Logsdon', with a long horizontal flourish extending to the right.

Daniel Logsdon

cc: Allison Willoughby, Brandenburg Telephone Company

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008





STOLL · KEENON · OGDEN  
PLLC

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500 West Jefferson Street  
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Fax: (502) 333-6099  
[www.skofirm.com](http://www.skofirm.com)

DOUGLAS F. BRENT  
502-568-5734  
[douglas.brent@skofirm.com](mailto:douglas.brent@skofirm.com)

June 4, 2008

**HAND DELIVERY—EMERGENCY ACTION REQUESTED**

**RECEIVED**

JUN 04 2008

PUBLIC SERVICE  
COMMISSION

Ms. Stephanie L. Stumbo  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

***RE: Brandenburg Telephone Co. dispute with Windstream Kentucky East—Call Blocking affecting Local Service Customer of Verizon Access—Request for Emergency Hearing***

Dear Ms. Stumbo:

We are counsel to Verizon Access, a competitive local exchange carrier. *Verizon Access requests an immediate emergency order by the Commission to stop the improper blocking of Internet access traffic by Windstream. Windstream has taken this action in connection with a billing dispute with Brandenburg Telephone Company. This blocking has severe and immediate adverse effects on third parties by preventing America Online customers in Brandenburg's service territory from connecting with the Internet through their chosen provider, AOL.*

This morning I received a copy of Daniel Logsdon's letter to you dated June 2, 2008. That letter alleges "misuse" of a Windstream end office by Brandenburg Telephone Company. It appears that rather than first bringing the dispute to the Commission<sup>1</sup>, Windstream chose to block traffic in an effort to force Brandenburg Telephone Company to pay a disputed bill for transit service. This has created an urgent, customer-affecting situation. Verizon Access asks that the Commission convene an emergency hearing to consider the issues raised by Mr. Logsdon's letter.

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<sup>1</sup> The Commission has made clear that a carrier considering disconnection over an inter-carrier dispute should bring the matter to the Commission well before any action which could interfere with the service of an end user. See *Customer Billing and Notice Requirements*, Case No. 2002-00310, Order at 7-8 (May 20, 2003).

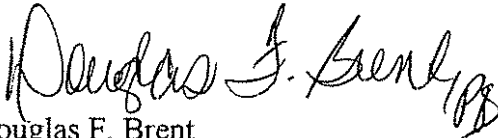
Ms. Stephanie L. Stumbo  
Page 2

Regardless of the merits of the dispute between these incumbent providers, the Commission should understand the immediate customer effects of what Windstream has done and what, so far, Brandenburg Telephone Company has failed to remedy. Brandenburg Telephone Company customers who use America Online ("AOL") as their Internet service provider are currently unable to access the Internet via a local call to the AOL dial-up number which serves them (via a number associated with the Elizabethtown rate center). That dial-up number is provided by Verizon Access. Brandenburg Telephone Company customers unable to access the Internet are likely to attribute the network problem to AOL. Brandenburg Telephone Company is also a direct competitor to AOL for Internet access service.

In its letter Windstream claims that Brandenburg could "remedy the situation" in approximately 15 minutes by routing the affected traffic to AT&T Kentucky's Louisville tandem. Given the ease at which this blocking could be ended, Verizon Access asks that the Commission exercise its powers under KRS 278.040 to enforce KRS 278.520 and issue an immediate emergency order to cease the blocking of traffic. Verizon Access also asks the Commission to promptly convene an emergency hearing at which Windstream could explain why it knowingly blocked the traffic of another carrier without first contacting the Commission. At that hearing Brandenburg could explain why it has not taken immediate action to restore the ability of its local customers to reach their Internet service provider of choice.

Please indicate receipt of this filing by your office by placing a file stamp on the extra copy and returning to me.

Sincerely yours,

  
Douglas F. Brent

cc: Daniel Logsdon, Jr.  
Cesar Caballero  
John E. Selent  
Richard Severy  
Robert Davis  
De' O'Roark  
David Samford  
Virginia Smith

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

**TO:** Main Case File 2008-00203

**FROM:** J.E.B. Pinney, Staff Attorney

**DATE:** July 1, 2008

**SUBJECT:** Case No. 2008-00203, An Investigation Into the Traffic Dispute Between Windstream Kentucky East LLC, Brandenburg Telephone Company and MciMetro Access Transmission Services, LLC, d/b/a Verizon Access

On June 5, 2008 Commission Staff and representatives from Windstream Kentucky East, Inc. ("Windstream"), Brandenburg Telephone Company ("Brandenburg") and Verizon Access ("Verizon") participated in a telephonic conference. The participants are as follows:

Commission Staff

J.E.B. Pinney  
Jim Stevens  
Tiffany Bowman  
Kyle Willard  
Amy Dougherty

Windstream

Dan Logsdon  
Mark Overstreet  
Kimberly Bennett  
Kerry Smith  
Cesar Caballeros

Verizon

John Monroe  
Doug Brent  
Delaney O'Roark

Brandenburg

John Selent  
Tip Depp

The conference concerned Windstream's blocking of certain Internet Service Provider ("ISP") bound traffic from Brandenburg to Verizon that was transiting over Windstream's Elizabethtown end office. The blocking of the traffic resulted in the disruption of service for dial-up customers of America Online ("AOL") located in Brandenburg's territory. The stated purpose of the conference was to address the quick restoration of service to these customers.

Commission Staff inquired as to Windstream's basis for the disconnection. Windstream stated that it did not consider it to be a disconnection, merely a blocking of traffic. Windstream stated that it was caught in the middle of a dispute between Brandenburg and Verizon. Windstream stated that it did not consider providing the

carrying of the traffic a "service" and thus did not need to notify the Commission of the blocking.

Brandenburg stated that it disagreed with Windstream's analysis of the issues. Brandenburg considered this a matter regarding transit traffic. Brandenburg noted that it was in the process of negotiating an interconnection agreement with Verizon that would alleviate the problems of which Brandenburg complained. Brandenburg requested that Windstream cease blocking the traffic for an additional 7 to 14 days in which time a new interconnection would likely be executed.

Windstream encouraged reaching an agreement but disputed Brandenburg's claim that the issue dealt with transit traffic. Windstream alleged that the traffic should always have been routed between AT&T Kentucky's Louisville tandem and never through Windstream's end office.

Verizon stated that it provided service to AOL and it was receiving numerous complaints because of the service outage. Verizon asserted that no technical restrictions prevented the traffic from being routed to it through Windstream.

Windstream, in response to a Commission Staff inquiry, stated that it had been aware of the routing for approximately 30 days and claimed that Brandenburg had represented to Windstream that the problem would be fixed shortly.

After a while, sensing no possible resolution to the issues, Commission Staff advised the participants that it would recommend to the Commission that an emergency hearing be held as quickly as possible. Commission Staff informed the participants that they would contact them if and/or when a hearing was scheduled.

The call then ended.

APPENDIX D

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008

**Pinney, Jeb (PSC)**

---

**From:** Brent, Douglas [Douglas.Brent@skofirm.com]  
**Sent:** Thursday, June 05, 2008 10:44 PM  
**To:** Samford, David S (PSC); Selent, John; Pinney, Jeb (PSC); Overstreet, Mark R.; Bowman, Tiffany J (PSC); Stumbo, Stephanie (PSC)  
**Cc:** Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)  
**Subject:** RE: Emergency Hearing 10am Friday, June 6, 2008

David,

Thank you for letting us know.

Doug Brent

---

**From:** Samford, David S (PSC) [mailto:DavidS.Samford@ky.gov]  
**Sent:** Thu 6/5/2008 10:37 PM  
**To:** Selent, John; Pinney, Jeb (PSC); Overstreet, Mark R.; Bowman, Tiffany J (PSC); Brent, Douglas; Stumbo, Stephanie (PSC)  
**Cc:** Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)  
**Subject:** RE: Emergency Hearing 10am Friday, June 6, 2008

Counsel:

Tomorrow's hearing will be postponed until further notice. Please contact Jeb Pinney in the morning if you have any questions.

David Samford  
General Counsel

---

**From:** Selent, John [mailto:SELENT@DINSLAW.com]  
**Sent:** Thu 6/5/2008 10:09 PM  
**To:** Pinney, Jeb (PSC); Overstreet, Mark R.; Bowman, Tiffany J (PSC); Brent, Douglas; Stumbo, Stephanie (PSC); Clay, John (PSC)  
**Cc:** Samford, David S (PSC); Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)  
**Subject:** RE: Emergency Hearing 10am Friday, June 6, 2008

I hit the send button too soon. (I am a computer illiterate ) So let me continue. Brandenburg Telephone Company will be in Frankfort tomorrow if the Commission so directs. And, in all events, Brandenburg Telephone Company desires to continue its discussions with Windstream in order to resolve both this matter and the matter in which an informal conference is scheduled next week. Thank you.

---

**From:** Pinney, Jeb (PSC) [mailto:Jeb.Pinney@ky.gov]  
**Sent:** Thursday, June 05, 2008 8:00 PM  
**To:** Overstreet, Mark R.; Bowman, Tiffany J (PSC); Selent, John; Brent, Douglas; Stumbo, Stephanie (PSC); Clay, John (PSC)  
**Cc:** Samford, David S (PSC); Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)  
**Subject:** RE: Emergency Hearing 10am Friday, June 6, 2008

Thank you, Mark. If this proposal receives approval from Verizon or Brandenburg, we will recommend to the Commission

6/6/08

that the hearing be canceled. We do expect that any further disputes regarding these issues will come through the Commission prior to any disconnection of service or absence of a settlement.

Sincerely,

JEB Pinney

-----Original Message-----

From: Overstreet, Mark R. [mailto:MOVERSTREET@stites.com]

Sent: Thu 6/5/2008 6:58 PM

To: Bowman, Tiffany J (PSC); SELENT, JOHN; Brent, Douglas

Cc: Samford, David S (PSC); Pinney, Jeb (PSC); Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)

Subject: RE: Emergency Hearing 10am Friday, June 6, 2008

To address the Commission's concerns about the loss of internet access by Verizon-Access AOL customers in Brandenburg's area, Windstream has taken steps to remedy the loss of such internet access occasioned by Brandenburg's unauthorized use of Windstream's facilities. All Verizon-Access AOL customers in Brandenburg's area should have had their internet access restored at 5:46 P.M. EDT, Thursday, June 5, 2008. Windstream takes this action without prejudice to, or waiver of, any of its rights, defenses or claims against any party for all damages it continues to incur as a result of this continued unlawful use of Windstream's network.

Because the need for immediate action has passed, Windstream requests that the Commission cancel the emergency hearing set for 10:00 EDT, Friday, June 6, 2008. Further, in light of Mr. Selent's statement that an interconnection agreement between Brandenburg and MCI/Metro could be entered into within 7-14 days Windstream requests that the Commission direct Brandenburg Telephone to take all steps necessary to correct its actions no later than July 3, 2008. Windstream confirms that Windstream stated that it would allow service to continue pending the completion of the Verizon/MCI Metro-Brandenburg ICA, which Windstream anticipates would be completed within 14 days, based on the statements of Brandenburg's counsel, Mr. Selent, during the course of today's telephonic informal conference.

Mark R. Overstreet  
Stites & Harbison PLLC  
421 West Main Street  
P.O. Box 634  
Frankfort, Kentucky 40602-0634  
Phone: (502) 223-3477  
Facsimile: (502) 223-4387  
E-Mail: moverstreet@stites.com

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6/6/08



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From: Bowman, Tiffany J (PSC) [mailto:TiffanyJ.Bowman@ky.gov]  
Sent: Thursday, June 05, 2008 6:20 PM  
To: Overstreet, Mark R.; SELENT, JOHN; Brent, Douglas  
Cc: Samford, David S (PSC); Pinney, Jeb (PSC); Dougherty, Amy E (PSC);  
Willard, Kyle (PSC); Stevens, Jim (PSC)  
Subject: Emergency Hearing 10am Friday, June 6, 2008  
Importance: High

Mark:

Based on our conversation at or around 5:30pm today, Windstream states that it agrees to restore service to the Verizon-Access AOL customers in Brandenburg's service area. Windstream stated that it would restore service to those customers today. Windstream has also requested cancellation of the emergency hearing scheduled to occur on Friday, June 6, 2008 at 10:00 am at Commission Office's.

Windstream stated that it would allow service to continue pending the completion of the Verizon/MCI Metro- Brandenburg ICA, which Windstream anticipates would be completed within 14 days, based on the statements of Brandenburg's counsel, Mr. Selent, during the course of today's telephonic informal conference.

Commission Staff cannot and will not make any statements indicating that the Commission would agree to any limitations on Windstream's provision of service. Only the Commission has the power to make such determinations.

Commission Staff will notify the Commission ASAP the morning of Friday, June 6, 2008 as to Windstream's position and see what further steps the Commission would like to take place.

Commission Staff will notify the Commission ASAP of Friday, June 6, 2008 that Windstream desires cancellation of the hearing as Windstream has agreed to the restoration of service.

Mark, please respond with an email to Commission Staff and to all counsel to this action confirming Windstream's positions on this matter. Please correct any statements, if needed.

Thank you.

Tiffany Bowman

Tiffany Bowman

Staff Attorney

Kentucky Public Service Commission

211 Sower Blvd.

Frankfort, KY 40602-0615

Email: TiffanyJ.Bowman@ky.gov

6/6/08

(502) 564-3940, ext. 465

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**Pinney, Jeb (PSC)**

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**From:** Selent, John [SELENT@DINSLAW.com]  
**Sent:** Thursday, June 05, 2008 10:01 PM  
**To:** Pinney, Jeb (PSC); Overstreet, Mark R.; Bowman, Tiffany J (PSC); Brent, Douglas; Stumbo, Stephanie (PSC); Clay, John (PSC)  
**Cc:** Samford, David S (PSC); Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)  
**Subject:** RE: Emergency Hearing 10am Friday, June 6, 2008

The purpose of tomorrow's hearing is to address Windstream's unlawful blocking of telephone calls originating in the service territory of the Brandenburg Telephone Company. The fact that Windstream now agrees, belatedly, to end this blocking, after having been unsuccessfully implored by the Commission staff late this afternoon to do so, is good news to Brandenburg Telephone Company and for its customers whose service Windstream disrupted for nearly a week. Whether the hearing is cancelled is within the sole discretion of the Commission; but, the cessation of blocking does not vitiate Windstream's offense. Additionally, Brandenburg Telephone Company disagrees with Windstream's characterization of of Brandenburg Telephone Company's use of "Windstream's facilities" as "unauthorized." There is therefore nothing for the Commission to order Brandenburg Telephone Company "to correct". And, Brandenburg Telephone Company has an e-mail chain, beginning several years ago, in which Windstream was a participant, and continuing through more recently, that will so demonstrate. In any event, Brandenburg Telephone Company reiterates through its legal counsel that it has been in fruitful discussions with MCI Metro with respect to both parties signing the same interconnection agreement to which MCI Metro agreed with South Central Rural Telephone Cooperative, and counsel believes that both parties have all but agreed to do so. The only issue between MCI Metro and Brandenburg Telephone Company appears to be the location of interconnection and the availability to MCI Metro of facilities from Brandenburg Telephone Company large enough to handle the traffic volume (DS3 or T1). So, as counsel said, he anticipates that an agreement seems likely quite soon. Brandenburg Telephone Company is willing to keep the Commission and other parties advised of the status of its efforts in this regard. Finally, Brandenburg Telephone Company notes that it is interested in resolving this matter with Windstream and believes that there is a relationship between this unfortunate situation and Case No. , in which there is presently scheduled an informal conference for June 10, 2009. (As the Commission is aware a joint motion has just been filed seeking to postpone this informal conference for a short time.) In conclusion, Brandenburg Telephone Company will be in Frankfort tomorrow if the Commission

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**From:** Pinney, Jeb (PSC) [mailto:Jeb.Pinney@ky.gov]  
**Sent:** Thursday, June 05, 2008 8:00 PM  
**To:** Overstreet, Mark R.; Bowman, Tiffany J (PSC); Selent, John; Brent, Douglas; Stumbo, Stephanie (PSC); Clay, John (PSC)  
**Cc:** Samford, David S (PSC); Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)  
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JEB Pinney

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Because the need for immediate action has passed, Windstream requests that the Commission cancel the emergency hearing set for 10:00 EDT, Friday, June 6, 2008. Further, in light of Mr. Selent's statement that an interconnection agreement between Brandenburg and MCI/Metro could be entered into within 7-14 days Windstream requests that the Commission direct Brandenburg Telephone to take all steps necessary to correct its actions no later than July 3, 2008. Windstream confirms that Windstream stated that it would allow service to continue pending the completion of the Verizon/MCI Metro-Brandenburg ICA, which Windstream anticipates would be completed within 14 days, based on the statements of Brandenburg's counsel, Mr. Selent, during the course of today's telephonic informal conference.

Mark R. Overstreet  
Stites & Harbison PLLC  
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P.O. Box 634  
Frankfort, Kentucky 40602-0634  
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Facsimile: (502) 223-4387  
E-Mail: moverstreet@stites.com

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---

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Cc: Samford, David S (PSC); Pinney, Jeb (PSC); Dougherty, Amy E (PSC); Willard, Kyle (PSC); Stevens, Jim (PSC)  
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6/6/08

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Windstream stated that it would allow service to continue pending the completion of the Verizon/MCI Metro- Brandenburg ICA, which Windstream anticipates would be completed within 14 days, based on the statements of Brandenburg's counsel, Mr. Selent, during the course of today's telephonic informal conference.

Commission Staff cannot and will not make any statements indicating that the Commission would agree to any limitations on Windstream's provision of service. Only the Commission has the power to make such determinations.

Commission Staff will notify the Commission ASAP the morning of Friday, June 6, 2008 as to Windstream's position and see what further steps the Commission would like to take place.

Commission Staff will notify the Commission ASAP of Friday, June 6, 2008 that Windstream desires cancellation of the hearing as Windstream has agreed to the restoration of service.

Mark, please respond with an email to Commission Staff and to all counsel to this action confirming Windstream's positions on this matter. Please correct any statements, if needed.

Thank you

Tiffany Bowman

Tiffany Bowman

Staff Attorney

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APPENDIX E

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008

**Pinney, Jeb (PSC)**

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**From:** Overstreet, Mark R. [MOVERSTREET@stites.com]  
**Sent:** Wednesday, June 18, 2008 3:40 PM  
**To:** Pinney, Jeb (PSC); tip.depp@dinslaw.com; Selent, John; Brent, Douglas  
**Subject:** Verizon-Brandenburg Negotiations

JEB:

The unauthorized use of Windstream's network continues in violation of industry routing protocols, as well as the Commission's own precedent for establishment of direct facilities for traffic exceeding a DS1 level. Brandenburg improperly continues to route a DS3 level of calls over EAS trunks to Windstream's Elizabethtown End-Office. These calls, which are not destined for Windstream's network or facilities located behind Windstream's network, can and should be immediately routed to the Louisville tandem. Windstream intends to hold all culpable parties responsible for damages with respect to the continued misappropriation of Windstream's facilities. Currently, Windstream estimates that in addition to past damages it continues to incur damages of at least \$500 per day that the unauthorized routing is allowed to continue.

Windstream is not a party to or otherwise privy to the negotiations between MCI/Metro and Brandenburg. Nevertheless, almost two weeks have elapsed since Brandenburg expressly stated on June 5, 2008 that an interconnection agreement with MCI/Metro was imminent and could be reached within 7-14 days. If an agreement is not reached by June 19, 2008 (fourteen days from June 5, 2008), Windstream requests the Commission to use its full authority, including penalties or Commission-ordered expedited mediation with MCI/Metro, to force Brandenburg to take all steps necessary to cease the improper use of Windstream's facilities no later than noon on July 3, 2008 - which is twice the length of time Brandenburg stated was necessary to finalize its agreement with MCI/Metro.

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APPENDIX F

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008

**Pinney, Jeb (PSC)**

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**From:** Brent, Douglas [Douglas.Brent@skofirm.com]  
**Sent:** Friday, June 20, 2008 11:42 AM  
**To:** Pinney, Jeb (PSC); tip.depp@dinslaw.com; Selent, John; Overstreet, Mark R.  
**Cc:** Monroe, John  
**Subject:** RE: Windstream/Verison/Brandenburg

Jeb,

After the June 5 phone conference among the carriers and the PSC staff, Verizon Business ("VZB") made a proposal to Brandenburg and sent it directly to the company by email on Friday, June 6. VZB proposed a 50/50 split of the total expense for interconnection and a bill and keep arrangement for the traffic originating from Brandenburg's customers in Radcliff. Under this proposal VZB would accept the traffic at the Windstream tandem in Elizabethtown. However, VZB has been willing to accept the traffic at the BellSouth tandem in Louisville, under the same arrangement, i.e. split of the expense for total expense for interconnection and bill and keep for the traffic.

Brandenburg rejected this proposal.

On June 5, counsel for Brandenburg had contacted me and asked that we stay in touch concerning negotiations between the companies. Accordingly, we had calls on June 12 and June 18. During both calls we discussed VZB's proposal. VZB's in-house interconnection attorney, John Monroe, participated in the call on June 12.

On June 19 counsel to Brandenburg stated that the VZB proposal was not acceptable. In addition, counsel to Brandenburg stated that in the near future Brandenburg would make changes in its network to prevent its customers from dialing the VZB numbers on a local basis. Such a change would be unlawful, and would interfere with Radcliff customers' ability to access AOL.

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STOLL · KEENON · OGDEN

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**From:** Pinney, Jeb (PSC) [mailto:Jeb.Pinney@ky.gov]  
**Sent:** Tuesday, June 17, 2008 3:34 PM  
**To:** tip.depp@dinslaw.com; Selent, John; Brent, Douglas; Overstreet, Mark R.  
**Subject:** Windstream/Verison/Brandenburg

Gentlemen,

Rather than try to schedule a teleconference, I believe it might be easier to get an update on the status of the

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dispute via email. I would appreciate it if, at your all's convenience, if you could send emails, copied to all parties, regarding the current status of the dispute and the current status of negotiations.

Thank you,

JEB

APPENDIX G

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00203 DATED JULY 1, 2008

**Pinney, Jeb (PSC)**

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**From:** Depp,Tip [tip.depp@dinslaw.com]  
**Sent:** Friday, June 20, 2008 3:56 PM  
**To:** Pinney, Jeb (PSC)  
**Cc:** Brent, Douglas; Overstreet, Mark R.; Selent, John  
**Subject:** RE: Windstream/Verizon/Brandenburg

Mr. Pinney:

We apologize for our delay in responding to your request for an update on the status of the above-referenced matter. Nonetheless, we have been working closely with MCImetro's counsel to determine whether there is a possibility of some informal resolution of the dispute regarding the delivery of Brandenburg Telephone Company's end-user traffic to MCImetro. To date, the dispute remains unresolved, and it appears that the parties may be at an impasse with respect to the following two issues.

First, MCImetro disputes Brandenburg's obligation to interconnect only within its network boundaries. Second, MCImetro has claimed that it is entitled to reciprocal compensation for ISP-bound traffic. Brandenburg has advised MCImetro that a traffic exchange agreement incorporating these principles is unacceptable, and it has advised MCImetro that its demands are inconsistent with MCImetro's existing traffic exchange agreements with other ILECs in Kentucky. (For example, MCImetro's traffic exchange agreement with South Central Rural Telephone Cooperative Corporation, Inc. ("SCRTC") contains exactly the same substantive terms as those proposed by Brandenburg. It implements a bill-and-keep compensation scheme, and it requires MCImetro to bring its facilities to SCRTC's network at no charge to SCRTC.)

To that end, Brandenburg has advised MCImetro that MCImetro must: (i) sign an appropriate traffic exchange agreement within two weeks of yesterday's date; and (ii) establish dedicated trunks to Brandenburg's network for the exchange of the more than three million (3,000,000) minutes of traffic per month at issue. Brandenburg has also advised MCImetro that, if MCImetro does not do so, Brandenburg will -- in conformity with established industry routing protocols -- begin routing traffic from its end-user customers to MCImetro in accordance with the local routing number ("LRN") (which is a 502 number located in Louisville, with which Brandenburg has no EAS calling). This, of course, means that the traffic will be routed to the AT&T Louisville tandem, which also means that the calls will have to be placed as toll calls by Brandenburg's end-user customers.

Brandenburg and MCImetro continue to try and resolve these differences, and if the parties are able to do so, we will advise the Commission promptly. Brandenburg further notes that if MCImetro will execute an appropriate traffic exchange agreement, it is likely that the issues identified in Windstream's status report (from Wednesday afternoon) may also be resolved.

Thank you, and if you have any questions, please call John or me.

-Tip

Edward T. Depp  
Dinsmore & Shohl LLP

6/25/08

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