

BEFORE THE COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE INTRASTATE)	ADMINISTRATIVE
SWITCHED ACCESS RATES OF ALL)	CASE NO.
KENTUCKY INCUMBENT AND COMPETITIVE)	2010-00398
LOCAL EXCHANGE CARRIERS)	

**RESPONSES AND OBJECTIONS TO AT&T’S SECOND DATA REQUESTS TO
WINDSTREAM KENTUCKY WEST, LLC, WINDSTREAM KENTUCKY EAST, LLC**

Windstream Kentucky East, LLC (“Windstream East”) and Windstream Kentucky West, LLC (“Windstream West”) submit the following responses and objections to the Second Data Requests served by BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky and AT&T Communications of the South Central States, LLC (collectively, “AT&T”):

OBJECTIONS APPLICABLE TO ALL AT&T SECOND DATA REQUESTS

The following objections apply to each data request and the accompanying directions and instructions served by AT&T:

1. Windstream East and Windstream West object that they are alternatively regulated local exchange carriers who are statutorily exempt from this proceeding. Their submission of these Responses is without waiver of and with express reservation of all of their rights as alternatively regulated carriers.
2. Windstream East and Windstream West object to the Second Data Requests to the extent that they seek information about any activities conducted by Windstream East and Windstream West, including but not limited to the selling of particular services or bundles of services, that are outside of the Commission’s jurisdiction.

3. Windstream East and Windstream West object to the Second Data Requests to the extent they may be construed as calling for the disclosure of information subject to a claim of privilege or immunities including the attorney-client privilege, the attorney work product doctrine, the joint-defense privilege, or any other applicable evidentiary privilege or immunity from disclosure. The inadvertent disclosure of any information subject to such privileges or immunities is not intended to relinquish any privilege or immunity and shall not be deemed to constitute a waiver of any applicable privilege or immunity.
4. Windstream East and Windstream West object to any data request to the extent that it seeks to impose the request on parents or affiliates of Windstream East and Windstream West who are not parties to this proceeding.
5. Windstream East and Windstream West generally object to the requests to the extent that they: (a) are overly broad; (b) are impermissibly vague and ambiguous and fail to describe with reasonable particularity the information sought; (c) seek production of information that is not relevant to the subject matter at issue in this action and/or are not reasonably calculated to lead to the discovery of admissible evidence; (d) not readily maintained in the ordinary course in the form requested; and (e) impose undue burdens that outweigh any probative value the information may have in this action.
6. Windstream East and Windstream West object to the requests to the extent they seek information (*e.g.*, tariff or commission proceeding information) that is in the public domain, is available from other, more convenient sources, and/or is accessible by, if not already in the possession of, AT&T.
7. Windstream East and Windstream West object to the requests to the extent they purport to impose a burden of ascertaining information that is not in their possession, custody,

control, or personal knowledge, or that cannot be found in the course of a reasonable search.

8. Windstream East and Windstream West object to the requests (which actually comprise the fourth set to them and not the second as they are labeled) to the extent they purport to impose upon them obligations greater than or different from those authorized by the Rules of Civil Procedure – including those imposing a reasonable limitation on the amount of discovery that may be served on a party, particularly when considering voluminous discovery conducted in the by AT&T reflected in the incorporated record in this proceeding. As provided under the Rules, each party may propound a maximum of thirty (30) interrogatories and thirty (30) requests for admission, and the Rules expressly provide that each subpart of an interrogatory or request shall be counted as a separate interrogatory or request. Windstream East and Windstream West should not be harmed by excessive discovery which is in addition to the harm they already are suffering from the violation of their rights as alternatively regulated carriers.
9. Windstream East and Windstream West object to the requests to the extent that they seek information that is more than five years old as such information is no longer relevant.

RESPONSES

Windstream East and Windstream West do not waive and fully preserve all of the foregoing objections, which are incorporated fully herein. Any information provided herein is made on the basis of the best information available to Windstream East and/or Windstream West at the time of gathering responsive materials or information, within the limits of, and subject to the general and specific objections set forth herein. Windstream East and Windstream West have attempted to locate responsive information through an investigation of sources from which such

information might reasonably be expected to be found, but by means of responses and objections to the Requests for Information or in subsequent testimony or other filings, Windstream East and Windstream West reserve the right to supplement or modify their responses and objections if additional information becomes available.

The fact that Windstream East and Windstream West are willing to provide responsive information to any particular request does not constitute an admission or acknowledgment that the request is proper, that the information sought is within the proper bounds of discovery, or that other requests for similar information will be similarly treated. Further, any and all responses provided herein are for the purpose of the above-captioned case only and are not responses for any other purpose. Similarly, they may not be used against Windstream East or Windstream West in any other proceeding unless specifically agreed to by them or so ordered by a court or commission of competent jurisdiction.

Windstream East and Windstream West reserve the right to rely on facts, documents, or other evidence, which may develop or subsequently come to its attention, to assert additional objections or supplemental responses should it discover that there is information or grounds for objections and to supplement or amend these Responses at any time.

1. In Cesar Caballero's Rebuttal Testimony filed in Case No. 2007-00503 at page 42, filed as part of his Direct Testimony in this case, he testifies that Windstream's reciprocal compensation rates are higher than \$.0007. Please provide:

- a. The average rate that Windstream East charged for termination of local traffic from wireline local exchange carriers in 2010;
- b. The average rate that Windstream East charged for termination of local traffic from wireless local exchange carriers in 2010;
- c. The average rate that Windstream West charged for termination of local traffic from wireline local exchange carriers in 2010,
- d. The average rate that Windstream West charged for termination of local traffic from wireless local exchange carriers in 2010.

RESPONSES:

Windstream East and Windstream West object to this data request as overly burdensome because it seeks information at a level of granularity that they do not maintain in the ordinary course of business, as well as requiring Windstream East and Windstream West to perform calculations. To the extent that AT&T is interested in Windstream East and Windstream West's rates for the termination of local traffic, such rates are available in their interconnection agreements on public file with the Commission. Windstream East and Windstream West also note that AT&T asks in subparts c and d for a computation based on information that AT&T already sought in AT&T First Data Request Nos. 7 and 8, data requests to which Windstream East and Windstream West made the same objections they do to this data request.

Windstream East / Windstream West Respondent: prepared by counsel

Respectfully submitted,

s/Robert C. Moore
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