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**PUBLIC SERVICE  
COMMISSION**

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**MCI COMMUNICATIONS SERVICES, INC., BELL )  
ATLANTIC COMMUNICATIONS, CIN., NYNEX LONG )  
DISTANCE COMPANY, TTI NATIONAL, INC., )  
TELECONNECT LONG DISTANCE SERVICES & )  
SYSTEMS COMPANY AND VERIZON SELECT )  
SERVICES, INC. )**

**Complainants**

**) CASE 2007-00503**

**v.**

**WINDSTREAM KENTUCKY WEST, INC., )  
WINDSTREAM KENTUCKY EAST, INC. – LEXINGTON )  
AND WINDSTREAM KENTUCKY EAST, INC. – LONDON )**

**Defendants**

**DIRECT TESTIMONY  
OF  
CESAR CABALLERO  
- PUBLIC REDACTED VERSION -**

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**ON BEHALF OF WINDSTREAM KENTUCKY EAST, LLC AND  
WINDSTREAM KENTUCKY WEST, LLC**

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Dated July 14, 2010

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**DIRECT TESTIMONY OF CESAR CABALLERO**

**I. BACKGROUND AND PURPOSE OF TESTIMONY**

**Q. Please state your name and business address.**

A. My name is Cesar Caballero. My business address is 4001 Rodney Parham Road, Little Rock, Arkansas 72212.

**Q. By whom are you employed and in what capacity?**

A. I am employed by Windstream Communications, Inc. as Vice President – Regulatory Strategy and am authorized in this capacity to testify on behalf of Windstream Kentucky West, LLC (“Windstream West”) and Windstream Kentucky East, LLC (“Windstream East”) (collectively for purposes of this testimony, “Windstream”). In this capacity, I support the reform efforts by Windstream before the Federal Communications Commission (“FCC”), including oversight of wholesale access, universal service programs, interconnection services and policy reform.

**Q. Please describe your experience in the telecommunications industry.**

A. I have been employed with Windstream Communications since its inception on July 17, 2006 and formerly was with Alltel Communications since 1992. For over the past decade, I have held several positions in the wholesale billing and access tariff departments as well as federal regulatory advocacy and compliance.

**Q. What is the purpose of your testimony in this proceeding?**

A. The purpose of my testimony is to demonstrate as a threshold procedural matter that Windstream West and Windstream East are alternatively regulated carriers in the Commonwealth, pursuant to KRS 278.541 et seq., and statutorily exempt from this rate complaint proceeding. In fact, those statutory provision state that a carrier such as Windstream’s intrastate switched access rates are deemed to be just and reasonable,

1 without potential for subsequent interpretation, and their intrastate switched access rates  
2 are deemed by Kentucky law to be just and reasonable. Further, I will demonstrate that,  
3 as the moving parties in this complaint case, MCI Communications Services, Inc., Bell  
4 Atlantic Communications, CIN., NYNEX Long Distance Company, TTI National, Inc.,  
5 Teleconnect Long Distance Services & Systems Company, and Verizon Select Services,  
6 Inc. (collectively, “Verizon”), these long distance carriers have failed to meet their  
7 burden of proof. Specifically, Verizon’s petition is legally without merit, particularly to  
8 the extent that it alleges that the intrastate switched access rates of Windstream West and  
9 Windstream East are unjust and unreasonable for the reason that they do not mirror the  
10 switched access rates of AT&T Kentucky. Finally, I explain why Verizon’s petition is  
11 without merit from a public policy perspective. Rather than serving the public interest,  
12 reducing intrastate switched access rates in the manner proposed by Verizon would only  
13 serve to significantly harm the Windstream companies, their customers, and employees  
14 without any significant corresponding benefit other than expense reductions for Verizon  
15 (and the other interexchange carrier intervenors). Proper intrastate switched access  
16 reform must include appropriate transitions and meaningful revenue replacement  
17 opportunities.

1                                   **II.    THRESHOLD PROCEDURAL ISSUE**

2   **Q.    Is this complaint proceeding procedurally appropriate?**

3   A.    No, it is not. The Windstream companies have been and continue to be significantly  
4        harmed by being denied their statutory rights to be exempt from this type of a rate  
5        complaint proceeding.

6   **Q.    Can you please explain why Windstream believes this proceeding is not**  
7        **procedurally appropriate?**

8   A.    This procedural issue is a strictly legal issue involving interpretation of the Kentucky  
9        alternative regulation statutes. Although I am an attorney, I am not testifying in this  
10       proceeding as an attorney and defer the detailed legal discussions to the attorneys  
11       representing the parties for briefs. I can state, however, that both Windstream West and  
12       Windstream East elected to operate under the alternative regulation provisions of KRS  
13       278.541, et seq. on or about July 12, 2006 when the statutes took effect. As set forth in  
14       more detail in the corresponding court appeals on this procedural issue, KRS 278.543(6)  
15       expressly states that an electing utility's rates, charges, earnings and revenues "shall be  
16       deemed just and reasonable under KRS 278.030 and administrative regulations  
17       promulgated thereunder upon election." Windstream's legal arguments before the courts  
18       on this threshold procedural issue are incorporated herein by reference and will be  
19       addressed in more detail in the parties' legal briefs. I should note, however, that the  
20       Kentucky Legislature granted certain rights under those statutes in recognition that  
21       wireline carriers like the Windstream companies need to be able to focus their resources  
22       on competitive issues just as their competitors do instead of regulatory rate-making  
23       proceedings.

24   **Q.    Why did you include this procedural issue in your testimony?**

1 A. It is my understanding that one of the issues currently pending before the courts is the  
2 Commission's claim that this threshold procedural issue should have been appealed by  
3 Windstream after the conclusion of the entire proceeding. While Windstream and the trial  
4 court disagreed with that position, if the appellate court were to overrule the trial court's  
5 decision on that point, then Windstream needs to ensure that the record in this case  
6 preserves this issue in the event of a subsequent appeal. The issue of Windstream's rights  
7 as an alternatively regulated carrier is vital to the Windstream companies and extends  
8 beyond the issues in this proceeding, so we want to adequately preserve all of our rights.

9 **Q. Why is it so important to Windstream West and Windstream East that they**  
10 **preserve their statutory rights as alternatively regulated carriers?**

11 A. As I noted above, by granting certain statutory rights to carriers in Kentucky, the  
12 Legislature recognized that, to be able to survive and thrive in today's competitive  
13 marketplace, wireline carriers like Windstream East and Windstream West must be  
14 permitted to devote their resources to competitive issues – not regulatory ratemaking  
15 proceedings – just as their competitors are permitted to do. To require traditionally-  
16 regulated wireline carriers to continue to be subject to these types of regulatory  
17 ratemaking proceedings while also expecting them to fully compete in today's  
18 marketplace results in significant harm to the wireline carriers and places them at a  
19 significant disadvantage over their competitors.

20 **Q. Have Windstream West and Windstream East encountered this type of harm as a**  
21 **result of being denied their statutory rights in this proceeding?**

22 A. Yes. While it may sound somewhat innocuous that these proceedings simply strive to  
23 give a complainant its "day in court," such an approach overlooks the significant

1 resources that traditionally regulated wireline carriers must devote to each one of these  
2 types of regulatory proceedings. For example, the Windstream companies estimate that  
3 just to provide the more than two thousand data request responses in this proceeding, they  
4 had several employees internally devoted to expending extraordinary amounts of time to  
5 gather and compile the information. We estimate roughly that the discovery responses  
6 alone comprised well over four hundred hours of work for just the business contacts  
7 compiling and reviewing the information. Put another way, this is the equivalent of one  
8 employee working a 40-hour work week doing nothing other than working on regulatory  
9 discovery responses for 10 weeks or 10 employees being consumed by this regulatory  
10 proceeding for an entire week. Either way, in this type of competitive industry it is vital  
11 that employees concentrate on competitively-focused initiatives and not traditional  
12 regulatory proceedings. Additionally, I would also estimate that in-house counsel for the  
13 Windstream companies expended substantial resources helping to coordinate just the  
14 discovery responses discussed above. In turn, that means that the hours spent by  
15 Windstream's in-house attorneys on this case was time that they could not spend  
16 reviewing numerous customer business sales contracts, new promotional tariffing ideas,  
17 and proposals for new product initiatives. These are significant and critical resources that  
18 have been concentrated only on this regulatory proceeding at the risk of other vital  
19 competitive projects, including meaningful participation in federal reform initiatives.  
20 This is a luxury that our competitors have over traditionally-regulated wireline carriers  
21 like Windstream East and Windstream West and arguably one reason that the Legislature  
22 attempted to level the competitive parity playing field.

1                   **III.    VERIZON’S PETITION IS LEGALLY WITHOUT MERIT**

2   **Q.    Setting aside the threshold procedural issue discussed above and assuming that this**  
3       **ratemaking proceeding is procedurally appropriate, is it your understanding that**  
4       **Windstream East and Windstream West have the burden to prove that their**  
5       **intrastate switched access rates are just and reasonable?**

6    A.    No. Assuming for argument sake that this proceeding were procedurally proper, it is my  
7       understanding that, as the moving complaining party in this proceeding, Verizon has the  
8       burden to prove that the intrastate switched access rates of Windstream East and  
9       Windstream West are unjust and unreasonable. As discussed in detail below, Verizon has  
10      not satisfied its burden, and its petition is wholly unsubstantiated.

11   **A.    VERIZON’S INCOMPLETE INTRASTATE ACCESS RATE COMPARISON IS**  
12       **FLAWED.**

13   **Q.    Has Verizon set forth allegations sufficient to lay the groundwork for its claims that**  
14       **Windstream’s intrastate switched access rates are not just and reasonable?**

15    A.    No, Verizon has not. To the contrary, the crux of Verizon’s allegations is that the  
16       intrastate switched access rates of Windstream East and Windstream West are unjust and  
17       unreasonable for the reason that they do not mirror the intrastate switched access rates of  
18       AT&T Kentucky.<sup>1</sup> Verizon does not explain why AT&T Kentucky’s rates are the just and  
19       reasonable rates for Windstream East and Windstream West. Verizon’s petition, instead,  
20       focuses on dubious claims that the long distance market in Kentucky is harmed by  
21       Windstream while also acknowledging that the same long distance market is competitive.

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<sup>1</sup> Verizon’s petition requests in numerous places that the Windstream rates be reduced to the levels of AT&T Kentucky’s intrastate switched access rates. Yet, in its prayer for relief on page 14 of its petition, Verizon requests that Windstream East and Windstream West mirror the “CALLS-level rates that BellSouth already maintains.” Those CALLS rates refer to AT&T Kentucky’s interstate switched access rates. It is unclear, therefore, exactly what rates Verizon is proposing that the Windstream companies mirror.



1 Verizon suggests incorrectly that because Windstream East and Windstream West charge  
2 rates higher than AT&T Kentucky, that that fact skews competition in the long distance  
3 market. For this reason, Verizon suggests that Kentucky law should be ignored and  
4 Windstream East and Windstream West's intrastate switched access rates should be  
5 lowered. This makes no sense and contradicts other claims made by Verizon in its  
6 petition.

7 **Q. Why does Verizon's argument concerning the supposed skewing of long distance**  
8 **competition make no sense and contradict other statements in Verizon's petition?**

9 A. At the same time that Verizon's petition alleges that the Windstream intrastate switched  
10 access rates are unjust and unreasonable, Verizon's petition also establishes that the long  
11 distance market is highly competitive (even with interexchange carriers ("IXCs") like  
12 Verizon paying Windstream's existing intrastate switched access rates). In particular, on  
13 page 9 of its petition, Verizon states, "Indeed, there is no debate that Kentucky's long-  
14 distance market is competitive, which by definition means that Kentucky consumers will  
15 benefit as carriers respond to improving conditions." If the long distance market is  
16 already competitive as Verizon agrees that it is, then there should be no doubt that the  
17 existing switched access rates paid by the long distance carriers to compete in that market  
18 are just and reasonable. This single contradiction in Verizon's petition alone is sufficient  
19 to defeat Verizon's allegations. The Windstream rates simply cannot be unjust and  
20 unreasonable if the long distance carriers paying those rates, including Verizon, Sprint,  
21 and AT&T, are successfully competing in the marketplace.

1 **Q. Is there evidence beyond the blatant contradiction in Verizon’s petition as discussed**  
2 **above that suggests that Verizon’s complaint is not just an issue as to the**  
3 **reasonableness of Windstream’s rates?**

4 A. Yes. Verizon’s petition asserts that this is a case regarding the unreasonableness of the  
5 Windstream switched access rates and the supposed effect of such allegedly unreasonable  
6 rates on the structure of the long distance market as a result of payments that long  
7 distance providers unaffiliated with Windstream pay, but Verizon nevertheless refused to  
8 answer discovery designed to fully examine the switched access rates paid by Verizon in  
9 Kentucky. Windstream East and Windstream West sought discovery from Verizon and  
10 the intervening IXC’s to compare the level of access minutes that the IXC’s are terminating  
11 in the Windstream territories with the minutes the IXC’s are terminating in the territories  
12 of other Kentucky RLECs – many of whom have access rates higher than those of the  
13 Windstream companies. The intervening IXC’s answered the discovery questions,  
14 although Verizon – the complaining party with the burden of proof in this case and the  
15 party asserting that this is a case about rates – did not answer the discovery. Windstream  
16 West and Windstream East believe that the Verizon data may have shown that the  
17 Verizon IXC is actually terminating more access minutes in other Kentucky rural local  
18 exchange carrier (“RLEC”) territories at higher access rates. Therefore, if Verizon is  
19 terminating more access minutes in the territories of other Kentucky ILECs that have  
20 higher rates than those of the Windstream companies, then Verizon’s suggestion that the  
21 Windstream rates are unjust and unreasonable is wholly without merit. This case cannot  
22 be, as Verizon suggests, merely an issue of the Windstream rates being too high if  
23 Verizon and the other IXC’s are shown to be doing more business in other locations where

1 they are paying higher switched access rates. Nevertheless, Verizon opposed  
2 Windstream's discovery and argued that this comparison of the RLEC rates/minutes to  
3 those of the Windstream companies is somehow irrelevant. Because the Commission  
4 denied Windstream's motion to compel and the opportunity for Windstream East and  
5 Windstream West to explore these critical facts, Verizon was not required to provide the  
6 information. The result is that Windstream East and Windstream West are unable to fully  
7 develop the factual record on this issue. In any event, the partial discovery response that  
8 was provided by the intervening interexchange carriers ("IXCs") generally fails to  
9 contradict that the result may be exactly as Windstream suggests – that this proceeding  
10 has nothing to do with the reasonableness of the intrastate switched access rates of  
11 Windstream East and Windstream West. Rather, the data may very likely have proven  
12 that Verizon's petition is strictly about Verizon desiring to garner expense reductions to  
13 bolster its national business interests without the corresponding revenue replacement  
14 considerations that typically accompany switched access reform efforts.

15 **Q. Other than the contradictory allegations discussed above, does Verizon set forth any**  
16 **basis for its claim that the intrastate switched access rates of Windstream West and**  
17 **Windstream East are not just and reasonable?**

18 A. Verizon's petition and its discovery responses in this matter present no sufficient factual  
19 allegations on this point. Instead, the crux of Verizon's allegations is a simple rate  
20 comparison between the intrastate switched access rates of Windstream East and  
21 Windstream West and the switched access rates charged by AT&T Kentucky. Based on  
22 that incomplete comparison, Verizon concludes erroneously that the Windstream  
23 intrastate switched access rates are not just or reasonable. In making this incomplete

1 comparison, Verizon sets forth that interstate switched access rates have fallen  
2 dramatically, that AT&T Kentucky has mirrored its interstate switched access rates and  
3 that the Windstream companies have not done so. Additionally, Verizon makes  
4 unsubstantiated assertions regarding the impact of Windstream's intrastate switched  
5 access rates on the long distance market and how reducing those rates to the levels  
6 charged by AT&T Kentucky would somehow be beneficial to Kentucky's long distance  
7 customers. Yet, when asked in discovery to provide facts supporting these broad  
8 assertions, Verizon produced no meaningful details.

9 **Q. Although incomplete, is Verizon's comparison of the Windstream rates to the**  
10 **switched access rates of AT&T Kentucky otherwise accurate?**

11 A. No, it is not. Most remarkably, Verizon's petition (page 12) suggests AT&T Kentucky's  
12 rates as a reasonable benchmark for the reason that they "have been subject to the closest  
13 regulatory scrutiny and the strictest economic discipline." Verizon further states the  
14 Commission previously reduced AT&T Kentucky's switched access rates in 1995 which  
15 resulted in a \$9.9 million reduction in AT&T Kentucky's annual switched access  
16 revenues, and Verizon states on page 6 of its petition that to its knowledge "Windstream  
17 has made no significant access reductions." Verizon is in error. As I will discuss later in  
18 my testimony, Windstream East's Verizon ILEC predecessor made switched access rate  
19 reductions between 2000 and 2001 which yielded more than a \$30 million reduction in  
20 intrastate switched access revenues. These substantial reductions resulted in reduced  
21 switched access tariffed rates for Windstream East's predecessor, which rates the  
22 Commission ordered Windstream East to adopt when it acquired the Kentucky properties

1 in 2002. The key allegations, therefore, set forth by Verizon's are erroneous and fatal to  
2 its petition.

3 **Q. Does a more complete comparison of all ILECs in Kentucky reveal that the ILECs**  
4 **do not charge the same intrastate switched access rates?**

5 A. Yes. It is interesting that Verizon's petition is lacking in a complete comparison of the  
6 Windstream rates to all carriers in Kentucky. A complete comparison (to the extent such  
7 a comparison is even relevant) reveals that the intrastate switched access rates of  
8 Windstream West and Windstream East differ among those two companies, differ from  
9 the rates charged by AT&T Kentucky, and also differ from the rates charged by other  
10 RLECs and CLECs in the Commonwealth. In fact, the complete comparison of  
11 Kentucky's switched access rates shows that the Windstream intrastate switched access  
12 rates are lower than those charged by the other RLECs in the Commonwealth. Verizon  
13 also fails to take into account in its incomplete rate comparison that the Commission's  
14 records show that one of the last ILECs in Kentucky to undergo substantial (*i.e.*, in the  
15 tens of millions of dollars) of reductions in intrastate switched access rates was  
16 Windstream East's predecessor as I mentioned above.

17 **Q. Is there any precedent in Kentucky establishing that because one company's rates**  
18 **do not mirror those of a wholly separate, unaffiliated company that the applicable**  
19 **rates may be deemed unjust and unreasonable?**

20 A. I am certainly not aware of any. In fact, I am aware of precedent in Kentucky establishing  
21 just the opposite. Several years ago, the Commission decided to set the payphone rates of  
22 several of the Commonwealth's larger ILECs pursuant to the FCC's New Services Test.  
23 However, despite using a common approach to establishing the rates among the three

1 companies, that process still did not result in the Commission establishing identical  
2 payphone rates for the three companies. Verizon's notion, therefore, that the intrastate  
3 switched access rates of Windstream East and Windstream West are unjust and  
4 unreasonable merely because they do not mirror the switched access rates of AT&T  
5 Kentucky is unfounded.

6 **Q. By comparison, do all ILECs charge the same interstate switched access rates?**

7 A. No. For instance, with respect to those carriers subject to price-cap regulation, the FCC  
8 established three different target rates depending on the size of the ILEC. For rate-of-  
9 return regulated companies, the FCC determined that those companies charge their  
10 individual switched access rates or the NECA pool rates if the companies are members of  
11 the NECA pool. Therefore, even in the interstate jurisdiction, there is no support for  
12 Verizon's rate comparison rationale it has used in this proceeding.

13 **Q. Based on the foregoing, is Verizon correct in asserting that the intrastate switched  
14 access rates of Windstream West and Windstream East are not just and reasonable  
15 because they are higher than those charged by AT&T Kentucky?**

16 A. No. In fact, using Verizon's rationale, the Commission should conclude that the  
17 Windstream rates are undoubtedly just and reasonable for the reason that they are lower  
18 than all other RLECs in the Commonwealth and were already the subject of extensive  
19 prior rate reductions. Contrary to Verizon's baseless allegations, LECs maintain different  
20 intrastate and interstate switched access rates. In truth, the FCC has never required any  
21 ILEC to mirror the switched access rates of another ILEC and, to my knowledge, neither  
22 the FCC nor this Commission has ever deemed any carrier's switched access rates unjust  
23 or unreasonable simply because they differ from another carrier's rates.

1 **B. VERIZON CANNOT SEEM TO DECIDE WHETHER WINDSTREAM'S RATES**  
2 **SHOULD BE COST-BASED OR MERELY SET AT ANOTHER CARRIER'S**  
3 **RATES WITHOUT REGARD TO COST.**

4 **Q. Has Verizon suggested in this proceeding that the intrastate switched access rates of**  
5 **Windstream West and Windstream East should be cost-based?**

6 A. It appears so. Verizon's petition establishes merely that the Commission need only  
7 compare the intrastate switched access rates of the Windstream companies to the  
8 switched access rates of AT&T Kentucky to find the Windstream rates unjust and  
9 unreasonable. At the same time, however Verizon also later seems to suggest that the  
10 intrastate switched access rates of Windstream West and Windstream East should be  
11 cost-based in order to be shown to be just and reasonable. Verizon fails to reconcile the  
12 fundamental inconsistency of its position – *i.e.*, the Windstream rates cannot be  
13 established according to the costs of the Windstream companies if they are merely  
14 established by mirroring the rates of a wholly separate company (AT&T Kentucky).  
15 Additionally, Verizon overlooks that none of the rates for Windstream East were ever  
16 established according to its costs for the reason that when Windstream East acquired the  
17 Kentucky assets from Verizon's ILEC affiliate in 2002, the Commission ordered  
18 Windstream East to adopt the existing tariffed rates of its Verizon ILEC predecessor.

19 **Q. What do you believe is the implication of Verizon's discovery questions asking**  
20 **whether Windstream East and Windstream West intend to introduce a cost study**  
21 **supporting their switched access rates?**

22 A. The implication of Verizon's discovery question seems to be that Verizon believes that,  
23 despite the law deeming the rates to be just and reasonable, Windstream East and  
24 Windstream West have the burden to prove that their rates are just and reasonable and  
25 should do so through submission of a cost study. Verizon is mistaken. Verizon is the

1 complaining party in this proceeding and bears the burden of proof – not Windstream.  
2 Further, the intrastate switched access rates of Windstream East and Windstream West  
3 are not only deemed just and reasonable as a matter of law but further were initially  
4 tariffed and approved by the Commission and remain capped at those previously  
5 approved levels. Additionally, when Verizon’s ILEC affiliate sold its Kentucky assets to  
6 Windstream East in 2002, those rates were ordered to be adopted by Windstream East  
7 without regard to Windstream East’s particular costs as I discussed above.

8 **Q. Are the rates of alternatively regulated companies like Windstream East and**  
9 **Windstream West required to be cost-based?**

10 A. No. Alternative regulation breaks the linkage between costs and rates. As alternatively  
11 regulated companies, Windstream East and Windstream West are not required to  
12 maintain switched access rates that are cost-based.

13 **Q. Please explain a bit further the significance of electing alternative regulation on**  
14 **Verizon’s indication that Windstream East and Windstream West should submit a**  
15 **cost-study to support the reasonableness of their intrastate switched access rates.**

16 A. When a carrier elects alternative regulation, it chooses to have its rates governed by price  
17 caps, which, after the election, do not necessarily track costs. The whole point of such  
18 regulation is to offer an alternative to traditional ratemaking jurisdiction and to create  
19 incentives for carriers to operate efficiently in a competitive marketplace. At the same  
20 time, the carrier bears the risk of costs increasing, particularly on a per-minute basis.  
21 This was part of the regulatory bargain created by the Legislature and precisely why the  
22 statutes deem the rates of Windstream East and Windstream West to be just and  
23 reasonable without reference to costs. It is worth mentioning again, that with particular



1 respect to Windstream East, the break between costs and rates was actually accomplished  
2 at least in 2002 prior to the time that it elected alternative regulation in 2006 at the time  
3 that the Commission required Windstream East to adopt the tariffed rates of its Verizon  
4 ILEC predecessor. Those rates had no relationship to the actual costs of Windstream East  
5 and may not have reflected the costs of its much larger predecessor.

6 **Q. Are AT&T Kentucky's intrastate switched access rates cost-based?**

7 A. No they are not. In fact, AT&T Kentucky acknowledged that fact in its Data Request  
8 Response to Windstream's First Set of Data Request No. 2.

9 **Q. Based on the foregoing, what are the conclusions reached as a result of Verizon's**  
10 **incomplete rate comparison and its suggestion that the Windstream rates must be**  
11 **cost-based?**

12 A. Verizon's flawed analysis seems to be that (i) not only are the Windstream intrastate  
13 switched access rates unjust and unreasonable for the reason merely that they do not  
14 mirror the switched access rates of AT&T Kentucky but further that (ii) the only way to  
15 support that the previously approved Windstream rates are just and reasonable is to show  
16 that they are cost-based despite the Commission establishing in 2002 that the rates of  
17 Windstream East could not be cost-based and further despite that AT&T Kentucky's rates  
18 themselves are not even established pursuant to AT&T Kentucky's own costs. Verizon's  
19 analysis on these points is irrational. Indeed, the only logical conclusions to be reached  
20 are that the Windstream rates are just and reasonable, that IXCs including Verizon are  
21 successfully competing at those existing rates, and that this proceeding is not about just  
22 and reasonable rates at all but rather about targeted expense reductions for Verizon  
23 without corresponding access reform considerations.

1 **C. VERIZON'S FACTUAL CLAIMS ABOUT THE NTSSR ARE INCORRECT AND**  
2 **ITS RELATED POLICY ARGUMENTS ARE UNPERSUASIVE.**

3 **Q. Does Verizon complain in particular about certain Windstream intrastate switched**  
4 **access rate elements?**

5 A. Yes. Verizon's petition in particular calls out Windstream's assessment of the NTSRR.

6 **Q. What is the NTSRR and what it is meant to recover?**

7 A. The Non-Traffic Sensitive Revenue Requirement ("NTSRR") is a per-line tariffed charge  
8 applied on a per-minute basis that is intended to recover for certain intrastate common  
9 line (or loop) functions. In an order released May 6, 1991 in Administrative Case No. 323  
10 (page 28), the Commission stated that the NTSRR "is the sum of interLATA and  
11 intraLATA carrier common line revenues, ULAS [Universal Local Access Service]  
12 revenues, and the revenue impact of changing interLATA access service rates and  
13 intraLATA toll services rates to mirror current interstate access service rates." In other  
14 words, assessment of the NTSRR charge is intended in part to recover for functions  
15 associated with the loop which itself is used to provide intrastate switched access service  
16 to IXC's like Verizon.

17 **Q. Does the assessment of the NTSRR by Windstream East and Windstream West**  
18 **differ from AT&T Kentucky?**

19 A. Yes, but as I mentioned previously there has never been a requirement that the switched  
20 access rates of ILECs be identical, and the NTSRR, in fact, was developed based on  
21 revenue streams received by the individual ILECs. Therefore, the resulting NTSRR  
22 assessments reflected those individual ILEC revenue streams. If Verizon, nevertheless,  
23 wants to compare companies' assessment of the NTSRR, then it is notable that the  
24 majority of the RLECs in Kentucky assess the NTSRR. Therefore, it is more accurate

1 that, with respect to assessment of the NTSRR, Windstream West and Windstream East  
2 are more comparable to the majority of the ILECs in the Commonwealth and that AT&T  
3 Kentucky is the outlier. With respect to the Windstream ILECs and AT&T Kentucky, the  
4 primary difference in these companies' intrastate switched access rates is the application  
5 of the NTSRR rate. Windstream West and Windstream East have lawful rates in their  
6 tariffs for the NTSRR, and AT&T Kentucky no longer assesses this charge.

7 **Q. Is the NTSRR element recovering for network functions performed by Windstream**  
8 **East and Windstream West?**

9 A. Yes. Contrary to Verizon's incorrect assertion that the NTSRR is "an anachronistic  
10 charge, which was imposed over 15 years ago as a mechanism to help transition to 'equal  
11 access' and a competitive intraLATA toll market", the NTSRR is a rate element designed  
12 to recover loop functions, which loops again are used to provide switched access service.  
13 In fact, in its separate access petition, AT&T Kentucky also recognized that the NTSRR  
14 recovers non-traffic sensitive costs, *i.e.* loop functions, and is not intended solely to  
15 recover for functions associated with implementing equal access.

16 **Q. Therefore, is Verizon correct that the NTSRR is an out-dated charge meant only to**  
17 **recover equal access conversion costs?**

18 A. No. As I discuss above, the NTSRR recovers for a much broader set of functions,  
19 including functions associated with the loops which are used to provide intrastate  
20 switched access service to IXC's like Verizon.

21 **Q. Do the interstate access tariffs of Windstream East and Windstream West contain a**  
22 **charge similar to the NTSRR?**

1 A. No, currently they do not. Previously, Windstream East and Windstream West assessed a  
2 carrier common line (“CCL”) charge out of their interstate access tariffs. However, the  
3 FCC, as part of its interstate switched access reform efforts, phased out implicit subsidies  
4 associated with the CCL charge and replaced them with explicit funding. Later in my  
5 testimony I will explain in more detail the access reform efforts implemented by the  
6 FCC, but it is important to note here that the FCC allowed ILECs to recover the revenues  
7 previously derived from the CCL charge from reasonable end user price increases and the  
8 implementation of new universal service mechanisms. More importantly, contrary to  
9 what Verizon would have this Commission believe, the FCC never found that the CCL  
10 charges were unjust or unreasonable. Instead, the FCC simply concluded that the rate  
11 element contained implicit subsidies that should be recovered through other explicit  
12 revenue recovery mechanisms.

13 **Q. What conclusions can be drawn with respect to Verizon’s allegations regarding the**  
14 **NTSRR?**

15 A. Verizon’s suggestion that Windstream East and Windstream West should simply  
16 eliminate their assessment of the NTSRR is without merit. Verizon misrepresents the  
17 purpose and origin of the NTSRR. Additionally, Verizon continues its inadequate rate  
18 comparison and overlooks the fact that assessment of the NTSRR is actually more in line  
19 with all other RLECs in the Commonwealth and that AT&T Kentucky is an exception.  
20 Finally, Verizon’s misrepresentation that the NTSRR should be simply ceased for the  
21 same reason that the FCC eliminated the CCL charges ignores the extensive work the  
22 FCC did to not simply eliminate the charge but rather to replace implicit subsidies with  
23 explicit revenue replacement mechanisms. Once again, Verizon merely suggests the

1 simplest path to achieve its targeted expense reductions – reduce rates without any  
2 meaningful consideration of actual reform mechanisms. The issue is not that the NTSRR  
3 should be eliminated as Verizon suggests but more accurately that the rate may contain  
4 implicit subsidies that, if removed and made explicit, must be done in a meaningful and  
5 rational manner.

6 **D. WINDSTREAM EAST AND WINDSTREAM WEST'S INTRASTATE**  
7 **SWITCHED ACCESS RATES HAVE BEEN HELD BY COMMISSION TO BE**  
8 **JUST AND REASONABLE AND SINCE DEEMED BY STATUTE TO BE JUST**  
9 **AND REASONABLE.**

10 **Q. How were the intrastate switched access rates of Windstream East and Windstream**  
11 **West established?**

12 A. Verizon's attempts in this proceeding to paint Windstream's switched access rates as  
13 unjust and unreasonable are based on inaccurate factual allegations and are unpersuasive,  
14 self-serving, and disingenuous. Verizon's allegations not only overshadow the fact that  
15 Verizon and other IXCs are successfully operating at those rates, but the allegations  
16 further overlook the genesis of how the Commission itself established the rates in  
17 question. For example, as I mentioned previously, when Windstream East acquired  
18 certain Kentucky assets from its Verizon ILEC predecessor, the Commission ordered  
19 Windstream East to adopt the tariffed rates of the Verizon ILEC, including the intrastate  
20 switched access rates in effect at the time of the purchase. There were no adjustments in  
21 those rates to reflect Windstream East's costs, and those rates already reflected millions  
22 of dollars in intrastate switched access rate reductions. As for Windstream West, its rates  
23 were established pursuant to Commission rules like other RLECs in the Commonwealth.  
24 Windstream East and Windstream West's intrastate switched access rates are included in  
25 lawful tariffs previously reviewed and approved by the Commission, were not the subject

1 of rate complaints by IXCs before the companies elected alternative regulation in 2006,  
2 and are capped according to Kentucky statutes.

3 **Q. Did Windstream East's Verizon ILEC predecessor reduce its intrastate switched**  
4 **access rates prior to the 2002 acquisition?**

5 A. Yes, as I stated above, the rates were previously significantly reduced by tens of millions  
6 of dollars by Windstream East's Verizon ILEC predecessor between 2000 and 2001.  
7 Windstream's records show that the reductions to switched access may have been  
8 approximately \$34 million, including in particular elimination of the RIC in 2000  
9 (approximately \$5.6 million) and decreases in the NTSRR in 2001 (approximately \$10  
10 million).

11 **Q. Were the intrastate switched access rates of Windstream East considered just and**  
12 **reasonable at the time of Windstream East's acquisition of the Verizon ILEC**  
13 **properties in 2002?**

14 A. Yes, according to the Commission which found the rates of the Verizon ILEC  
15 predecessor to be so just and reasonable that it ordered Windstream East to adopt the  
16 rates.

17 **E. VERIZON'S ARGUMENTS CONCERNING LONG DISTANCE COMPETITION,**  
18 **PARTICULARLY THOSE RELATING TO WINDSTREAM'S LONG DISTANCE**  
19 **AFFILIATE, ARE NONSENSICAL.**

20 **Q. Does Verizon's petition include assertions regarding Windstream Communications,**  
21 **Inc.?**

22 A. Yes, and like the other allegations noted previously, Verizon's allegations on this point  
23 are also without merit and do not support its contention that Windstream East and  
24 Windstream West's switched access rates are unjust and unreasonable. For instance,

1 around page 7 of its petition, Verizon implies that it is troubled from a “competitive  
2 standpoint” that Windstream Communications, Inc. (“WCI”) has benefited in ways that  
3 other IXCs like Verizon have not. Verizon’s allegations are unfounded.

4 **Q. Is the long distance market in which Verizon and WCI compete highly competitive?**

5 A. Yes. Despite Verizon’s allegations that Windstream East and Windstream West should be  
6 required to reduce their intrastate switched access rates to long distance carriers, all  
7 parties to this proceeding appear to agree that the IXCs are successfully competing in the  
8 long distance market at existing rates. It is indisputable that the long distance market has  
9 a multitude of national facilities-based providers like AT&T, Verizon, Sprint and Qwest,  
10 among others. The market also encompasses a significant number of resellers that cater  
11 primarily to regional areas of the nation. In addition, wireless national plans also have  
12 been a formidable competitor to the traditional long distance carriers. In fact, long  
13 distance providers like Verizon and Sprint continue to develop new calling plans with  
14 expanded foot prints, expanded minutes and, in some cases, “all you can eat” plans for a  
15 fixed monthly price which are designed primarily to compete with the national plans  
16 offered by wireless providers. With the elimination of incremental long distance charges  
17 on wireless usage more than ten years ago and these dramatic decreases in per-minute  
18 wireless rates, wireline long distance (and switched access) minutes have declined  
19 dramatically.

20 **Q. Does WCI compete with Verizon and other long distance carriers in the**  
21 **Commonwealth?**

22 A. Yes.

1 **Q. Does WCI provide some of the calling plans and extended foot prints discussed**  
2 **above?**

3 A. Yes as noted in Windstream's responses to Verizon's first set of data requests (questions  
4 1-4).

5 **Q. Given its affiliate relationship with Windstream West and Windstream East, does**  
6 **WCI receive any price benefit over other IXC's like Verizon or Sprint?**

7 A. No, WCI pays the same tariffed switched access rates that other IXC's are charged.

8 **Q. Is Verizon correct on Page 6 of its petition that "Windstream has the unfair**  
9 **advantage of recovering a substantial amount of its costs from competing**  
10 **interexchange carriers rather than its own long distance customers"?**

11 A. Absolutely not. The intrastate switched access charges of Windstream East and  
12 Windstream West at issue in Verizon's petition recover for functions associated with the  
13 deployment and maintenance of the Windstream East and Windstream West local  
14 networks in the Commonwealth. None of the costs recovered through switched access  
15 charges are related to WCI's long distance network and, therefore, are not recovered from  
16 WCI's long distance customers.

17 **Q. Is Verizon correct when it asserts that WCI has benefited from AT&T Kentucky's**  
18 **access rate reductions and that allowing Windstream West and Windstream East to**  
19 **charge their established switched access rates raises competitive concerns?**

20 A. No, and Verizon's assertions are nonsensical. To begin, WCI pays the appropriate  
21 tariffed switched access charges when it terminates traffic to Windstream West or  
22 Windstream East just as it does when it terminates traffic to AT&T Kentucky or any  
23 other ILEC. Further, WCI is not a facilities-based long distance provider and therefore



1 resells long distance service provided by national facilities-based long distance carriers  
2 like Sprint. WCI is assessed by the underlying long distance carriers for all switched  
3 access charges assessed by the ILECs, including Windstream West or Windstream East.  
4 Thus, WCI pays the same access charges as any other long distance provider, and  
5 Verizon's suggestion otherwise is in error.

6 **Q. Verizon also takes issue with certain WCI long distance offers that are available**  
7 **only to Windstream West and Windstream East customers. Are these types of offers**  
8 **unusual?**

9 A. No. These types of offerings are quite common and important to remaining competitive  
10 with the offers and promotions delivered by wireless and cable companies. For example,  
11 Insight Communications, a key competitor of Windstream in the Commonwealth, offers  
12 bundled telephony and video services to all of its customers. Similarly, Verizon's ILEC  
13 affiliates also provide these type of bundled offers with their Verizon IXC affiliate to  
14 remain relevant in the market place as does AT&T Kentucky in conjunction with its  
15 wireless and long distance affiliates. It is illogical for Verizon to suggest that these types  
16 of competitive bundled offerings among affiliates provide any justification for Verizon's  
17 erroneous assertion that the intrastate switched access rates of Windstream West and  
18 Windstream East are unreasonable. These affiliate offerings do not support the  
19 allegations in Verizon's petition with respect to the Windstream switched access rates  
20 and, in fact, are arguably wholly irrelevant to such claims.

21 **F. CONCLUSIONS ABOUT THE LEGAL INVALIDITY OF VERIZON'S**  
22 **PETITION.**

23 **Q. Based on the foregoing discussions, what conclusions can you draw about the**  
24 **validity of Verizon's allegations that the Windstream rates are unreasonably high?**

1 A. Based on the inconsistencies and erroneous allegations I have discussed above, Verizon's  
2 petition is wholly without merit. The crux of Verizon's petition focuses on its claim that  
3 the Windstream switched access rates must be unjust and unreasonable because they do  
4 not mirror those of AT&T Kentucky. There is no precedent supporting that carriers must  
5 maintain identical rates, and history demonstrates quite the opposite. Further, Verizon's  
6 rate comparison is incomplete and ignores critical facts such as that the Windstream rates  
7 are lower than all other RLECs in Kentucky and that the rates of Windstream East were  
8 previously subjected to substantial decreases similar to that of the AT&T Kentucky rates  
9 which Verizon uses as the benchmark. Further, Windstream West and Windstream East  
10 need not produce a cost study to prove that their tariffed rates, previously approved by the  
11 Commission, are just and reasonable (and in fact deemed just and reasonable under  
12 Kentucky law). In fact, the Commission itself broke the link between rates and costs for  
13 Windstream East in 2002 (four years prior to it electing alternative regulation) when it  
14 ordered Windstream East to adopt the rates of its Verizon ILEC predecessor, which rates  
15 bore no relation to Windstream East's actual costs. Moreover, the particular switched  
16 access rate difference between AT&T Kentucky and the Windstream companies  
17 ("NTSRR") about which Verizon complains is not an out-dated charge as suggested by  
18 Verizon and continues to be assessed by the majority of RLECs in the Commonwealth  
19 for loop functions. The Commission's establishment and approval of the switched access  
20 rates for Windstream West and Windstream East further attest to their legitimacy and  
21 reasonableness. Finally, Verizon's attempts to support its allegations with vague claims  
22 regarding its "competitive troubles" regarding packages bundled with WCI also provide

1 no support for its petition. All things considered, Verizon fails to satisfy its burden in this  
2 matter, and its petition legally is without merit.

1           **IV. VERIZON’S PETITION IS NOT IN THE PUBLIC INTEREST**

2   **Q. Should Verizon’s petition also fail as a matter of public policy?**

3   A. Yes. Even if one disregards the legal flaws discussed in the previous section of my  
4   testimony, Verizon’s petition amounts to nothing more than targeted expense reductions  
5   and sets forth bad policy for the Commonwealth. For example, although its petition  
6   boasts that the requested rate reductions will somehow benefit end user customers,  
7   Verizon’s petition and its discovery responses do not provide any firm commitment or  
8   factual explanation of how expense reductions will be flowed through by Verizon to end  
9   users. Further, despite its unsubstantiated rhetoric like that at page 14 of its petition where  
10   it suggests that Verizon is proposing to “rationalize rate structures,” there is nothing  
11   rationale or prudent about Verizon’s requested relief. To the contrary, Verizon proposes  
12   merely that “Windstream [may] undertake any rate rebalancing it may deem appropriate  
13   after access rates are reduced” and may do so by exercising retail pricing flexibility for  
14   nonbasic rates and toll rates. These rates, to be clear, are now deemed so competitive in  
15   Kentucky that they are completely deregulated which also means that the markets likely  
16   would not sustain the associated levels of rate rebalancing. There is nothing rational  
17   about Verizon’s proposed “relief” which is nothing more than targeted expense  
18   reductions thinly disguised as “access reform.”

19   **A. VERIZON PROPOSAL, UNLIKE THE FCC’S PRIOR CALLS AND MAG**  
20   **INTERSTATE SWITCHED ACCESS REFORM EFFORTS, IS**  
21   **UNREASONABLY MYOPIC.**

22   **Q. Is it appropriate or even prudent for Verizon to request such extensive rate**  
23   **reductions in this proceeding without discussing or understanding the FCC’s**  
24   **switched access rate reform efforts?**

1 A. Not at all. Windstream East and Windstream West have expressed repeatedly that, in  
2 addition to acknowledging the Kentucky statutes for alternatively regulated carriers, any  
3 proceeding regarding switched access rates also should explore meaningful,  
4 comprehensive access reform such as that conducted by the FCC. Curiously, although  
5 Verizon has opposed such efforts to explore meaningful access reform, at the same time,  
6 Verizon's petition appears to suggest that its requested relief is warranted in some  
7 respects because the Commission has not previously conducted widespread reform of  
8 such intrastate switched access rates. To be clear, the type of "relief" Verizon advocates  
9 in this proceeding in no way resembles the type of meaningful reform undertaken by the  
10 FCC.

11 **Q. Do you agree with assertions in Verizon's petition that interstate switched access**  
12 **rates have fallen dramatically since the 1990s?**

13 A. Yes.

14 **Q. Why have interstate switched access rates declined over this time period?**

15 A. With the passage of the Telecommunications Act of 1996, the FCC became obligated to  
16 make implicit subsidies explicit. As a result, the FCC over a period of time removed  
17 implicit subsidies inherent in interstate switched access rates and made them explicit.  
18 These extensive efforts by the FCC resulted in lower interstate switched access rates and  
19 increased end user rates (through increases in the federal subscriber line charge or  
20 "SLCs"). Additionally, such efforts resulted in increased federal universal service support  
21 to carriers reducing their interstate switched access rates. The difference between  
22 interstate and intrastate switched access rates is the result of careful and rational access  
23 reforms efforts undertaken by the FCC. However, those efforts did not involve, as

1 Verizon has suggested in this proceeding, that switched access rates be reduced with  
2 carriers left to make up any revenue recovery through increases to nonbasic rates, which  
3 are deemed so competitive in the Commonwealth that the Legislature determined that  
4 they should be completely deregulated for all carriers in Kentucky. Put another way,  
5 these nonbasic rates are so competitive that it is unlikely that any carrier, including  
6 Windstream East or Windstream West, would be able to increase them to levels sufficient  
7 to make up for any displaced intrastate switched access rate revenues.

8 **Q. Specifically, what reform efforts did the FCC undertake in order to avoid the very**  
9 **scenario Verizon proposes in this proceeding?**

10 A. The FCC conducted separate interstate access reform proceedings for price-cap carriers  
11 (“CALLS”) and rate-of-return carriers (“MAG”). I will first discuss the CALLS  
12 proceeding in which the FCC established three target rates for interstate switched traffic  
13 sensitive access services. The Regional Bell Operating Companies (“RBOCs”) like  
14 AT&T Kentucky and the former GTE companies had a target rate of \$0.0055 per minute  
15 of use. The most rural price-cap companies had a target rate of \$0.0095, and the  
16 remaining price-cap companies had a target rate of \$.0065. The FCC also provided for  
17 increases in the residential and single line business SLC rate from \$3.50 per line per  
18 month to a new cap of \$6.50 and increases in multi-line business SLCs from \$6.00 to  
19 \$9.20. The SLC increases took place over a three-year period to minimize impacts to end  
20 user customers. The FCC also provided for reductions in the CCL charge (equivalent to  
21 the NTSRR in Kentucky) and established a new universal service support mechanism to  
22 replace the implicit subsidies in the CCL charge not recovered through the allowed SLC  
23 increases. This new mechanism is called Interstate Access Support, or IAS. Based on the

1 foregoing, it is readily apparent that the FCC's brand of access reform was  
2 comprehensive and took into account the impact to carriers from removing implicit  
3 subsidies. The FCC did not, however, simply order rate reductions and leave it to carriers  
4 to try to recover the displaced revenues from the most highly competitive of all their  
5 service offerings which is exactly what Verizon has proposed to do to Windstream East  
6 and Windstream West in this proceeding.<sup>2</sup>

7 **Q. As part of CALLS, did the FCC require price-cap carriers to immediately reduce**  
8 **their traffic sensitive rates to the established target rates as Verizon has suggested**  
9 **that Windstream East and Windstream West do in this proceeding?**

10 A. No. Price-cap carriers continued to use the FCC's price-cap formulas to reduce their  
11 traffic sensitive rates. Depending on their starting interstate switched access rates, some  
12 companies may take close to five years to reach their target rates.

13 **Q. As part of CALLS, did the FCC require price-cap carriers to immediately eliminate**  
14 **their non-traffic sensitive rates?**

15 A. No. These rates also were reduced in accordance with the price cap formulas established  
16 in the CALLS plan, and some carriers took several years to eliminate these charges.

17 **Q. As part of CALLS, did the FCC look at the costs of price-cap carriers such as**  
18 **AT&T Kentucky before moving forward with access reform?**

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<sup>2</sup> As an aside, I should explain that Verizon's proposal is based on its recognition that the Kentucky statutes cap the basic and access rates of alternatively regulated carriers like Windstream East and Windstream West. While recognizing such rate caps, Verizon nevertheless ignores the corresponding rate-making exemptions granted to alternatively regulated carriers. The illogical result, therefore, is that Verizon asserts that intrastate switched access rates should be reduced, and the Windstream companies may simply try to recover the displaced revenues through increases to nonbasic rates which are the only remaining rates not capped by the Legislature. Verizon ignores the fact that the nonbasic rates were not capped because the Legislature recognized that they were subject to natural caps occurring as a result of the market being highly competitive.

1 A. No. The FCC had previously approved the tariffed switched access rates, and such rates  
2 were deemed just and reasonable and lawful by the FCC very similar to the case with  
3 intrastate switched access rates in Kentucky. The FCC, as well as price cap carriers,  
4 recognized that interstate switched access rates contained implicit subsidies that needed  
5 to be made explicit. As a result, the FCC allowed price cap carriers to increase their SLCs  
6 and provided additional explicit support (IAS) to recover the implicit subsidies  
7 previously recovered through interstate switched access rates.

8 **Q. Did GTE in Kentucky (Windstream East's ultimate predecessor operating in**  
9 **Kentucky at the time CALLS was implemented) and AT&T Kentucky's predecessor**  
10 **receive any support from the FCC's IAS mechanism?**

11 A. Yes. According to USAC filings from the first quarter of 2001 with the FCC, GTE  
12 received approximately \$9.2 million annually from the fund, approximately \$16.57  
13 annual per line support at that time. Further, AT&T Kentucky's predecessor received  
14 approximately \$8.8 million annually, approximately \$7.05 annual per line support at that  
15 time. In other words, the interstate CALLS switched access rates of AT&T Kentucky that  
16 Verizon now suggests should be mirrored by Windstream West and Windstream East  
17 without any true access reform considerations were actually the result of meaningful  
18 reform including millions of dollars of revenue replacement mechanisms. Nevertheless,  
19 Verizon would have this Commission believe that implicit subsidies in intrastate  
20 switched access rates should be removed without any similar considerations.

21 **Q. Do Windstream East as GTE's ultimate successor and AT&T Kentucky similarly**  
22 **continue receiving support from the IAS fund in return for the implicit subsidies**  
23 **previously removed from their predecessors' interstate switched access rates?**



1 A. Yes. Based on USAC's third quarter 2010 reports, Windstream East will receive  
2 approximately \$5.7 million annually (\$14.82 per line), and AT&T Kentucky will receive  
3 approximately \$5.6 million annually (\$8.86 per line) in recognition of the prior interstate  
4 switched access rate reductions made by their Kentucky predecessors. Yet, Verizon  
5 would have this Commission ignore all such meaningful access reform considerations  
6 and simply reduce the Windstream rates to the rates of a separate company merely to  
7 achieve its targeted expense reductions.

8 **Q. Why has the level of federal support for Kentucky carriers which reduced their**  
9 **interstate switched access rates been declining since the inception of the CALLS**  
10 **plan?**

11 A. The declining level of federal support is attributed to the increase in competition in the  
12 Commonwealth. According to the 2001 USAC reports, when the CALLS plan was  
13 established, Windstream East's predecessor served over half of a million access lines  
14 (approximately 555,000) and AT&T Kentucky's predecessor served approximately 1.26  
15 million access lines. In 2010, however, Windstream East now serves 393,502 access  
16 lines, and AT&T Kentucky serves approximately 638,000 access lines. In addition,  
17 competitive eligible telecommunications carriers have been receiving support from the  
18 IAS fund, which, dramatically reduced per-line IAS receipts on an increasing basis until  
19 the FCC relatively-recently "froze" CETC receipts, but still left in place past significant  
20 reductions in the pool of IAS funds available to ILECs. To summarize, then, the FCC  
21 provided for comprehensive revenue replacement mechanisms for CALLS companies in  
22 return for the required interstate switched access rate reductions, and the levels of the

1 declining replacement revenues evidences the increased levels of competition in the  
2 Commonwealth.

3 **Q. What were the FCC's efforts undertaken in the MAG proceeding?**

4 A. The FCC's MAG proceeding affected carriers operating under rate-of-return regulation in  
5 the interstate jurisdiction like Windstream West. In the MAG proceeding the FCC  
6 concluded that carrier common line charges were an implicit subsidy which should be  
7 eliminated and replaced with explicit funding mechanisms. To allow rate-of-return  
8 carriers to recover the displaced revenues, the FCC increased the SLC caps to the levels  
9 established in the CALLS plan and also established a new federal universal service  
10 support mechanism (Interstate Common Line Support, or ICLS) to provide recovery on a  
11 revenue neutral basis to rate-of-return carriers like Windstream West.

12 **Q. In summary, what are the key components of the FCC's access reform efforts with  
13 respect to interstate switched access rates?**

14 A. The main goal of the FCC was to remove implicit subsidies in interstate switched access  
15 rates and make them subject to explicit funding mechanisms. Specifically, the FCC  
16 reduced interstate switched access rates and allowed carriers a meaningful opportunity to  
17 recover the revenues displaced from the removal of the implicit subsidies through  
18 increases in the SLC rates and establishment of new federal universal service  
19 mechanisms. In addition, the FCC provided reasonable transitions to minimize impacts to  
20 end user customers and to allow carriers to adapt their business plans.

21 **Q. Is Verizon's requested "relief" in this proceeding similar to the FCC's access reform  
22 efforts?**

1 A. Verizon's proposal is a far cry from the comprehensive, rationale approach employed by  
2 the FCC to reform interstate switched access rates. In contrast to the FCC's efforts,  
3 Verizon has proposed an immediate reduction in the intrastate switched access rates of  
4 Windstream West and Windstream East to the level of AT&T Kentucky's switched  
5 access rates without any rational basis for using a wholly separate company's rates as a  
6 baseline. Further, Verizon proposes such immediate rate decreases without any  
7 meaningful opportunity for Windstream East or Windstream West to recover any of the  
8 displaced revenues resulting from Verizon's proposed switched access rate reductions.  
9 Indeed, Verizon proposes to launch such reductions without the slightest regard for the  
10 fact that Kentucky law deems the existing Windstream rates to be just and reasonable. At  
11 the same time, however, Verizon all too willingly recognizes that the Kentucky law does  
12 not allow for increases to certain rates capped under the statutes. Thus, Verizon merely  
13 suggests that all rate rebalancing may be done by increasing nonbasic rates which are so  
14 competitive the Legislature already determined that the market would control the rates  
15 and not likely result in significant rate increases. Simply put, Verizon proposes such  
16 drastic measures not only without proposing any meaningful reform but further without  
17 any allegation sufficient to suggest that the existing rates even merit such drastic  
18 decreases. Verizon's proposal is nothing more than an effort on its part to garner  
19 extensive expense reductions for its operations without regard to the corresponding  
20 impacts to Windstream East, Windstream West, the customers they serve or communities  
21 in which they operate.

1 **B. THE FCC'S NATIONAL BROADBAND PLAN CONTINUES THE AGENCY'S**  
2 **TRADITION OF CONSIDERING MEANINGFUL OPPORTUNITIES TO**  
3 **RECOVER REVENUE, UNLIKE VERIZON'S IRRATIONAL PROPOSAL TO**  
4 **THE COMMONWEALTH.**

5 **Q. Are you familiar with the FCC's National Broadband Plan ("NBP")?**

6 A. I am, and it encompasses the FCC's current efforts to further reform intercarrier  
7 compensation including intrastate switched access rates. Specifically, the FCC, at the  
8 request of Congress, developed a plan to deploy broadband service to the unserved areas  
9 of the country and to increase broadband subscription rates. The NBP is a comprehensive  
10 set of recommendations to be implemented by the FCC through various rulemakings. The  
11 FCC already has issued a schedule outlining the dates in which the various proceedings  
12 will begin and to date, the FCC has adhered to its published schedule.

13 **Q. Is intercarrier compensation reform a key component of the NBP?**

14 A. Yes, it is. The FCC recognized that the current intercarrier compensation mechanism was  
15 not established to promote broadband investment. The NBP also recognized that the  
16 current intercarrier compensation mechanism includes implicit subsidies and recognizes  
17 that the rate differentials create significant arbitrage opportunities. Furthermore, the FCC  
18 recognized that intercarrier compensation revenues perpetuated by the implicit subsidies  
19 are critical to some carriers.

20 **Q. How is the FCC addressing intercarrier compensation reform?**

21 A. The FCC proposes to reduce intrastate switched access rates to carriers' corresponding  
22 interstate rate levels over a reasonable transitional period. Furthermore, the NBP states  
23 that "the FCC also should provide carriers the opportunity for adequate cost recovery."  
24 (Recommendation 8.7). Similar to the FCC's prior access reform actions, the NBP seeks  
25 increases in the federal SLCs and additional universal service to offset the corresponding

1 intrastate switched access rate reductions. The NBP supports the establishment of a local  
2 rate benchmark to ensure affordability and also to ensure that universal service is not  
3 supporting unreasonably low local rates.

4 **Q. Does the NBP encourage states to address intercarrier compensation?**

5 A. Yes, but in a very rational and limited way. The NBP simply states that “[t]he FCC  
6 should also encourage states to complete rate rebalancing of local rates to offset the  
7 impact of lost access revenues.” It is apparent from even the most cursory review of the  
8 FCC’s extensive prior interstate access reform efforts, its current comprehensive  
9 switched access reform proposals, and Verizon’s petition in this proceeding that the type  
10 of so-called “reform” being pitched by Verizon in no way rises to the level of meaningful  
11 and comprehensive reform advocated by the FCC to be considered by the states.

12 **Q. Can you provide examples of ways in which the proposed FCC reforms are**  
13 **inconsistent with Verizon’s petition?**

14 A. For starters, the FCC recommends reasonable transitions and adequate recovery of  
15 displaced intrastate switched access revenues. Furthermore, the FCC protects consumers  
16 from unreasonable rate increases by recommending a local rate benchmark that  
17 encourages carriers to recover a certain portion of their lost intercarrier revenues from  
18 their end users but sets a reasonable level beyond which a carrier is not expected to raise  
19 its retail rates. These are just a few ingredients missing from Verizon’s requested “relief.”

20  
21 In fact, granting Verizon’s petition would be completely at odds with the FCC’s national  
22 goals, not to mention against the public welfare of the Commonwealth. The FCC was  
23 specific about the role it is asking the states to play, and nowhere does the FCC

1 encourage state commissions to do what Verizon proposes in this proceeding. Similarly,  
2 nowhere does the FCC encourage state commissions to permit carriers to recover  
3 displaced revenues in the form of increases to nonbasic rates or to ignore service  
4 affordability. Clearly, Verizon's petition strays significantly from what the FCC has done  
5 in its prior reform proceedings and with what the FCC has encouraged states to do.  
6 Verizon's petition in no way sets forth any sort of meaningful reform. Granting Verizon's  
7 petition would produce exactly the kind of result that the FCC is seeking to prevent.

8 **C. VERIZON'S PETITION WOULD HAVE DIRE CONSEQUENCES FOR THE**  
9 **COMMONWEALTH.**

10 **Q. If Verizon's petition were to be granted, what would Windstream expect the result**  
11 **to be?**

12 A. As I mentioned at the onset of my testimony, Windstream East and Windstream West  
13 have already suffered significant harm resulting from Verizon wholly disregarding the  
14 Kentucky statutes and pursuing this petition seeking targeted expense reductions.  
15 However, those impacts would be minimal compared to the impacts that would result if  
16 even portions of Verizon's requested relief were actually granted. Ultimately, Verizon's  
17 petition requests that the Windstream rates mirror the rates of AT&T Kentucky. As a  
18 transitional alternative, Verizon proposes that the intrastate switched access rates of  
19 Windstream East and Windstream West mirror the companies' corresponding interstate  
20 switched access rates without any alternative regulation considerations or meaningful rate  
21 rebalancing and support mechanisms. The consequences of Verizon's proposal would be  
22 dire.

23 **Q. Before describing such consequences, can you please describe the Windstream East**  
24 **and Windstream West properties?**

1 A. Collectively, the Windstream companies serve approximately 400,000 lines throughout  
2 the Commonwealth. The majority of their customers are located in rural areas where the  
3 costs of providing service are arguably higher. Windstream's density is approximately 36  
4 lines per square mile. As the carriers of last resort, Windstream East and Windstream  
5 West provide high quality voice services to any requesting customer within their  
6 franchised areas. Collectively, they serve a total of 97 exchanges in the Commonwealth  
7 of which 76% have less than 5,000 lines, 15% have between 5,000 and 10,000 lines and  
8 just 8% have more than 10,000 lines. In addition, Windstream East and Windstream West  
9 have deployed broadband to almost 80% of their customers.

10 **Q. What is Windstream East and Windstream West's presence in the Commonwealth?**

11 A. Windstream East and Windstream West together employ approximately 640 people in the  
12 Commonwealth. Further, Lexington serves as the headquarters for Windstream corporate  
13 eastern operations. Total compensation paid by the Windstream companies in the  
14 Commonwealth totaled approximately \$\_\_\_\_(Confidential Information) in 2009.  
15 Windstream East and Windstream West pay a total of \$\_\_\_\_(Confidential Information) in  
16 state and local taxes, and their capital expenditures in the Commonwealth are  
17 approximately \$\_\_\_\_(Confidential Information). All in all, they maintain an extensive  
18 presence in the Commonwealth, which is the only state in which they are licensed to and  
19 do in fact operate.

20 **Q. What are Windstream East and Windstream West's total intrastate revenues, and  
21 what percentage are derived from intrastate switched access services?**

22 A. In 2009, Windstream East and Windstream West generated approximately  
23 \$\_\_\_\_(Confidential Information) in intrastate revenues of which \$\_\_\_\_(Confidential

1 Information), or \_\_\_\_ (Confidential Information), were derived from switched access  
2 charges.

3 **Q. What do you estimate would be the revenue reduction if Windstream East and**  
4 **Windstream West were forced to reduce their intrastate switched access rates to**  
5 **their own interstate switched access rates which Verizon proposes as a mere**  
6 **“transitional alternative” to mirroring the rates of AT&T Kentucky?**

7 A. The estimated result would be an annual reduction of approximately \$ \_\_\_\_ (Confidential  
8 Information) or \_\_\_\_ (Confidential Information) of the Windstream companies’ intrastate  
9 switched access revenues.

10 **Q. What would be the corresponding result of rate reductions without Windstream**  
11 **East and Windstream West being afforded a meaningful opportunity to recover the**  
12 **displaced revenues?**

13 A. Windstream East and Windstream West would have to reduce operating expenditures,  
14 capital expenditures, or a combination of both. A reduction of \$ \_\_\_\_ (Confidential  
15 Information) in combined revenues represents \_\_\_\_ (Confidential Information) of total  
16 Windstream East and Windstream West capital expenditures and \_\_\_\_ (Confidential  
17 Information) of their payroll in the Commonwealth.

18 **Q. Would reductions in operating and capital expenditures affect the ability of**  
19 **Windstream East and Windstream West to adequately perform their carrier of last**  
20 **resort obligations?**

21 A. Yes, that is likely. If Windstream East and Windstream West were relegated to reducing  
22 their operating and capital expenditures to make up for displaced intrastate switched  
23 access revenues, then network improvements and upgrades would have to be delayed or



1 canceled affecting rural consumers in the Commonwealth. For example, on May 2, 2010,  
2 torrential rains flooded Windstream East's central office in Olive Hill (population 1,800).  
3 Approximately 5,200 lines were out of service. Windstream East employees in the  
4 Commonwealth worked around the clock to replace the central office and restore service  
5 to these customers within seven days; typically, it usually takes approximately six months  
6 to replace a 5,000 line switch. If Windstream East's switched access revenues were  
7 reduced without a meaningful opportunity for recovery as proposed by Verizon, however,  
8 then Windstream East likely would not have been able to respond in such a fashion due to  
9 the likely reductions in human and capital resources.

10 **Q. Should Verizon be familiar with these types of considerations?**

11 A. Yes, I would expect so. In late March 2010, Verizon's operations announced that it was  
12 terminating approximately 250 jobs in its Lexington, Kentucky call center due to cited  
13 decline in call volumes. (The related press article is attached hereto as Attachment A.)  
14 Windstream East and Windstream West empathize with these types of difficult  
15 operational decisions that are exacerbated by today's competitive marketplace. Those  
16 concerns, however, would be compounded exponentially if Verizon's petition were to be  
17 granted.

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**V. CONCLUSION**

**Q. Please summarize your testimony.**

A. Verizon's Petition is not only procedurally inappropriate but also legally without merit. It proposes drastic rate decreases to intrastate switched access rates of Windstream East and Windstream West based on inconsistent and erroneous allegations that do not support that the existing rates are unjust or unreasonable. Further, the drastic rate reductions are proposed to be accomplished in an irrational manner that is contrary not only to the FCC's advocated reform efforts but also to the public interests of communities and customers in the Commonwealth. The Commission should recognize Verizon's petition for what it actually is – merely a request for targeted expense reductions without regard to the impacts to the rural customers or communities which Verizon's ILEC predecessor chose to vacate in 2002 – and deny the requested relief. The single and undeniable fact remains that Verizon and other IXCs are successfully competing in Kentucky's long distant market at the existing rates about which they now complain. This fact alone is fatal to Verizon's petition which is otherwise unfounded and ill-advised. Given the fatal flaws in Verizon's petition, if the Commission is going to take any action in this proceeding it should be to stay the entire matter pending the FCC's current actions to reform intercarrier compensation including intrastate switched access rates.

**Q. Does this conclude your testimony at this time?**

A. Yes.

AFFIDAVIT

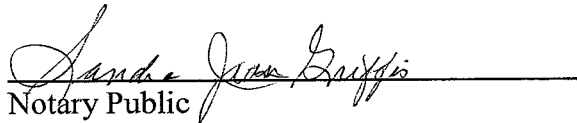
STATE OF ARKANSAS :  
: SS  
COUNTY OF PULASKI :

Cesar Caballero, being duly sworn according to law, deposes and says that he is Vice President, Regulatory Strategy; that he is authorized to and does make this Affidavit for Windstream Kentucky East, Inc. and Windstream Kentucky West, Inc.; and that the facts set forth in the foregoing Testimony are true and correct to the best of his knowledge, information and belief.



Cesar Caballero

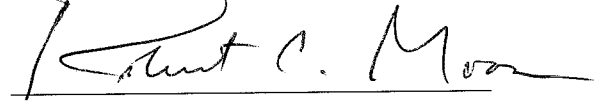
Sworn to and subscribed before me this 14th day of July, 2010.

  
Notary Public

My Commission Expires: September 1, 2011

Date: July 15, 2010

Respectfully submitted,



Robert C. Moore  
HAZELRIGG & COX, LLP  
415 West Main Street, 1<sup>st</sup> Floor  
P. O. Box 676  
Frankfort, Kentucky 40602-0676  
(502) 227-2271

And

Kimberly K. Bennett  
Windstream Communications  
4001 Rodney Parham Road  
Little Rock, AR 72212-2442

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon Douglas F. Brent and C. Kent Hatfield, Stoll, Keenon Ogden, PLLC, 2000 PNC Plaza, 500 West Jefferson Street, Louisville, Kentucky 40202, Dulaney L. O’Roark III, Vice President and General Counsel - Southern Region, Verizon, 5055 North Point Parkway, Alpharetta, Georgia 30022, John N. Hughes, 124 West Todd Street, Frankfort, Kentucky, 40601, Mary K. Keyer, General Counsel/AT & T Kentucky, 601 West Chestnut Street, Room 407, Louisville, Kentucky, 40203, Mr. Douglas C. Nelson, Sprint Nextel, 3065 Akers Mill Rd., SE, Mailstop GAATLD0704, Atlanta, GA 30339, by placing same in the U.S. Mail, postage pre-paid, and by hand delivery upon Tiffany Bowman, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602-0615, this the 15<sup>th</sup> day of July, 2010.



Robert C. Moore

# VERIZON COMMUNICATIONS INC

(VZ:NYSE)

The McClatchy Company 01/13/2010 9:24 AM ET

## **Nearly 250 Verizon workers to lose jobs: LEXINGTON CALL CENTER WILL CLOSE MARCH 27 [The Lexington Herald-Leader, Ky.]**

Jan. 13--Verizon told employees Monday at its call center on Harrodsburg Road that it intends to close the facility in March, putting nearly 250 people out of work.

The call center, which provides directory assistance, employs 225 hourly workers and 16 managers, said Verizon spokesman Harry Mitchell. It's become a victim of rapidly expanding technology, he said.

"Call volumes for directory assistance have decreased significantly due to alternatives that people have like free Internet sites through your PC or wireless devices or free 411 directory assistance options available out there," Mitchell said.

It might also be driven by the company's decision to sell a network switch near Fort Wayne, Ind., that transferred operator assistance calls to Lexington, said Joey McCarty, president of the Communications Workers of America Local 3372, which represents hourly workers there.

"Whenever that deal goes through, they would have to spend the money to get a backbone through another switch," he said.

Mitchell acknowledged Verizon is selling certain operations in several states but said the decline in call volumes is the predominant reason.

Workers will be offered two types of severance packages under their union contract, McCarty said, though he declined to go into detail about the types of compensation that will be given.

The facility's final day of operation will be March 27, Mitchell said. He added that employees would not be able to transfer to other facilities because there aren't any near Lexington and others are also suffering from low call volumes.

**ATTACHMENT** A

The call center began operations in Lexington about 1993, when the company was still GTE. The building, near Turfland Mall, dates from before that time. As recently as 2001, it employed about 600.

McCarty said the union has spoken with the state Cabinet for Economic Development and asked whether tax incentives could be used "to change Verizon's mind."

"That's going to be a big, big impact on not just our 230 people out there faced with losing their jobs and insurance but also for the state as a whole," he said. "These were \$14-, \$15-, \$16-an-hour jobs that had good benefits with them.

"Those are hard to replace in today's economy."



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Monday, Feb 8, 2010

Posted on Wed, Jan. 13, 2010

## Nearly 250 Verizon workers to lose jobs

### LEXINGTON CALL CENTER WILL CLOSE MARCH 27

By Scott Sloan  
ssloan@herald-leader.com

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Reach Scott Sloan at (859) 231-1447 or 1-800-950-6397, Ext. 1447.

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## Verizon call center closing, 250 jobs to be terminated

by Joann Dickson

Posted on January 13, 2010 at 5:03 PM

\*\*\*\*\*

(WHAS11) - 250 Lexington workers will soon be looking for new jobs after Verizon has decided to close a call center.

The company told the employees this week and says it will close March 28th.

The facility has 230 hourly workers represented by Communications Workers of America and about a dozen managers.

The workers will be offered severance packages.

**Add another comment**

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**FOX41.com**

## Verizon closing Lexington call center

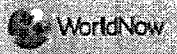
Nearly 250 Lexington workers will be losing their jobs when Verizon closes its call center there in March.

The company told employees at the center about its plans on Monday. Communications Workers of America Local 3372 President Joey McCarty says the facility has 230 hourly workers represented by CWA and about a dozen managers.

McCarty says workers will be offered two types of severance packages under their contract. He says the facility's final day of operation will be March 28.



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Updated: 11:28 AM Feb 5, 2010

## Lexington call center closing, leaving hundreds without a job

Verizon will close its call center on Harrodsburg Road in March.

Posted: 6:31 PM Jan 12, 2010

Hundreds of people will be losing their jobs when a Lexington call center closes its doors.

Verizon plans to shut down its Harrodsburg Road facility in March.

230 people who work there will be laid off.

Union officials say they were told Verizon is closing the call center as part of reorganization within the company.

**Find this article at:**

<http://www.wkyt.com/home/headlines/81275462.html>

Check the box to include the list of links referenced in the article.

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