

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

**In the Matter of:**

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

**VERIZON’S RESPONSES TO WINDSTREAM’S FIRST SET OF DATA REQUESTS**

In accordance with the Procedural Schedule contained in Appendix A to the Commission’s March 10, 2011 *Order*, Verizon<sup>1</sup> hereby provides its responses to the data requests served by Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (collectively, “Windstream”) on May 2, 2011.

**GENERAL OBJECTION**

1. With reference to the definition of “you” and “your” included in Windstream’s requests, Verizon objects to these Requests to the extent that they seek information regarding Verizon’s operations in territories other than Kentucky. The question before the Commission is whether Windstream’s intrastate switched access rates in Kentucky are just and reasonable. Information regarding Verizon’s operations, particularly in other locations outside the Commission’s jurisdiction, is not relevant to that question.

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<sup>1</sup> As used herein, “Verizon” refers collectively to MCImetro Transmission Access Transmission Services LLC d/b/a Verizon Access Transmission Services, MCI Communications Services, Inc. d/b/a Verizon Business Services, Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions, TTI National, Inc., Teleconnect Long Distance Service & Systems d/b/a Telecom\*USA and Verizon Select Services, Inc.

## RESPONSES TO DATA REQUESTS

**Request No. 1:** For each year from 2006 to the present, please provide, by local exchange carrier (“LEC”) in Kentucky, the originating access minutes of use (“MOUs”) for which you compensated each LEC or, in a case where you did not remit the compensation, for which you were billed by each LEC.

**Responsible Party:** Counsel for Verizon.

**RESPONSE:** Verizon objects to this request as seeking information that is irrelevant to the issues in this proceeding. The Commission has indicated that the purpose of this proceeding is to determine whether current Kentucky intrastate switched access rates contain excessive implicit subsidies and are set at unjust and unreasonable levels.<sup>2</sup> But this request is not targeted at information relevant to the reasonableness of those intrastate switched access rates or to the underlying costs of providing switched access service. Rather, this request merely seeks information regarding how often Verizon uses switched access services. But information regarding the total number of originating access MOUs billed to or paid by Verizon would not assist the Commission in resolving the issues it has raised in this case. Knowing the number of Verizon minutes to which Windstream and other LECs applied their switched access rates does not answer the question of whether those rates are unjust and unreasonable in the first place. Nor does it further any analysis of whether those rates contain implicit above-cost subsidies.

For these reasons, the Commission already has rejected this request as seeking irrelevant information in the context of the individual complaint case that Verizon initiated challenging the reasonableness of Windstream’s intrastate switched access rates, the record of which has been

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<sup>2</sup> See, e.g., *Order* (Nov. 5, 2010) at 1-2; *Order* (Mar. 10, 2011) at 1.

incorporated into this proceeding.<sup>3</sup> Indeed, this request is copied *verbatim* from Request No. 10 in the data requests Windstream served on Verizon in the individual complaint proceeding on February 12, 2010. (The only difference between the two requests is the addition of the word “please” in the first line of the current request.) When first presented with this request in that context, Verizon objected on relevancy grounds. Windstream moved to compel, arguing that the requested information would be useful to determining the extent to which Verizon could compete in the long distance market in Kentucky while faced with current intrastate switched access rates.<sup>4</sup> The Commission rejected Windstream’s claim.

In its order denying Windstream’s motion to compel, the Commission held that “the central issue ... is not whether Verizon is competing in Kentucky’s long distance market ..., but ... [the] allegation that Windstream’s switched access rates in Kentucky are artificially high.”<sup>5</sup> Just as here, “[t]he scope of th[e] proceeding is the reasonableness of the rates.”<sup>6</sup> And because the information sought by Windstream does not address that issue, it “is not vital to the central questions” before the Commission.<sup>7</sup>

Nothing has changed since that ruling to make this Request any more relevant now. The Commission need not determine the extent to which Verizon (or any other access payor) has been competitively injured in order to determine whether the intrastate switched access rates

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<sup>3</sup> See *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, Order (May 14, 2010) (rejecting this request as seeking information irrelevant to the individual complaint case challenging the reasonableness of Windstream’s intrastate switched access rates) and Order (Nov. 5, 2010) at 3 (incorporating the record from the individual complaint case against Windstream into this proceeding).

<sup>4</sup> See *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, Windstream Motion to Compel (Apr. 9, 2010) at 4.

<sup>5</sup> See *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, Order (May 14, 2010) at 4.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.*

charged by Windstream and other LECs contain excessive subsidies or otherwise are unjust and unreasonable. Information regarding the amount of originating access MOUs various carriers have billed Verizon will not assist the Commission in determining whether their intrastate switched access rates are too high. Accordingly, just as the Commission already has held, this Request seeks information irrelevant to this proceeding.<sup>8</sup>

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<sup>8</sup> *Id.* at 5-6 (finding that this request is “not relevant to the question of the reasonableness of Windstream’s rates”).

**Request No. 2:** With respect to the originating access minutes of use (“MOUs”) that you provided in response to Data Request No. 1, please provide the corresponding amounts that you paid each carrier that you identified in your response for each year from 2006 to the present. In the case in which you did not remit the compensation to the carrier, please provide the amounts that you were billed, invoiced, or otherwise charged by the carrier.

**Responsible Party:** Counsel for Verizon.

**RESPONSE:** As this Request refers and relates to Request No. 1, Verizon hereby incorporates its objections to Request No. 1 as if set forth herein. For the same reasons, explained above, that information regarding the number of originating access MOUs is irrelevant to this proceeding, the amounts Verizon paid with respect to those originating access MOUs also are irrelevant.

**Request No. 3:** For each year from 2006 to the present, please provide, by local exchange carrier (“LEC”) in Kentucky, the terminating access minutes of use (“MOUs”) for which you compensated each LEC or, in a case where you did not remit the compensation, for which you were billed by each LEC.

**Responsible Party:** Counsel for Verizon.

**RESPONSE:** Verizon objects to this request as seeking information that is irrelevant to the issues in this proceeding. The Commission has indicated that the purpose of this proceeding is to determine whether current Kentucky intrastate switched access rates contain excessive implicit subsidies and are set at unjust and unreasonable levels.<sup>9</sup> But this request is not targeted at information relevant to the reasonableness of those intrastate switched access rates or to the underlying costs of providing switched access service. Rather, this request merely seeks information regarding how often Verizon uses switched access services. But information regarding the total number of terminating access MOUs billed to or paid by Verizon would not assist the Commission in resolving the issues it has raised in this case. Knowing the number of Verizon minutes to which Windstream and other LECs applied their switched access rates does not answer the question of whether those rates are unjust and unreasonable in the first place. Nor does it further any analysis of whether those rates contain implicit above-cost subsidies.

For these reasons, the Commission already has rejected this request as seeking irrelevant information in the context of the individual complaint case that Verizon initiated challenging the reasonableness of Windstream’s intrastate switched access rates, the record of which has been incorporated into this proceeding.<sup>10</sup> Indeed, this request is copied *verbatim* from Request No. 11

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<sup>9</sup> See, e.g., *Order* (Nov. 5, 2010) at 1-2; *Order* (Mar. 10, 2011) at 1.

<sup>10</sup> See *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, *Order* (May 14, 2010) (rejecting this request as seeking information irrelevant

contained in the data requests Windstream served on Verizon on February 12, 2010. (The only difference between the two requests is the addition of the word “please” in the first line of the current request.) When first presented with this request in that context, Verizon objected on relevancy grounds. Windstream moved to compel, arguing that the requested information would be useful to determining the extent to which Verizon could compete in the long distance market in Kentucky while faced with current intrastate switched access rates.<sup>11</sup> The Commission rejected Windstream’s claim.

In its order denying Windstream’s motion to compel, the Commission held that “the central issue ... is not whether Verizon is competing in Kentucky’s long distance market ..., but ... [the] allegation that Windstream’s switched access rates in Kentucky are artificially high.”<sup>12</sup> Just as here, “[t]he scope of th[e] proceeding is the reasonableness of the rates.”<sup>13</sup> And because the information sought by Windstream does not address that issue, it “is not vital to the central questions” before the Commission.<sup>14</sup>

Nothing has changed since that ruling to make this Request any more relevant now. The Commission need not determine the extent to which Verizon (or any other access payor) has been competitively injured in order to determine whether the intrastate switched access rates charged by Windstream and other LECs contain excessive subsidies or otherwise are unjust and unreasonable. Information regarding the amount of terminating access MOUs various carriers

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to the individual complaint case challenging the reasonableness of Windstream’s intrastate switched access rates) and Order (Nov. 5, 2010) at 3 (incorporating the record from the individual complaint case against Windstream into this proceeding).

<sup>11</sup> See *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, Windstream Motion to Compel (Apr. 9, 2010) at 4.

<sup>12</sup> See *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, Order (May 14, 2010) at 4.

<sup>13</sup> *Id.* at 5.

<sup>14</sup> *Id.*

have billed Verizon will not assist the Commission in determining whether their intrastate switched access rates are too high. Accordingly, just as the Commission already has held, this Request seeks information irrelevant to this proceeding.<sup>15</sup>

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<sup>15</sup> *Id.* at 5-6 (finding that this request is “not relevant to the question of the reasonableness of Windstream’s rates”).



**Request No. 4:** With respect to the terminating access minutes of use (“MOUs”) that you provided in response to Data Request No. 3, please provide the corresponding amounts that you paid each carrier that you identified in your response for each year from 2006 to the present. In the case in which you did not remit the compensation to the carrier, please provide the amounts that you were billed, invoiced, or otherwise charged by the carrier.

**Responsible Party:** Counsel for Verizon.

**RESPONSE:** As this Request refers and relates to Request No. 3, Verizon hereby incorporates its objections to Request No. 3 as if set forth herein. For the same reasons, explained above, that information regarding the number of terminating access MOUs is irrelevant to this proceeding, the amounts Verizon paid with respect to those terminating access MOUs also are irrelevant.

May 16, 2011

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that the electronic version of this filing made with the Commission on May 16, 2011, is a true and accurate copy of the document filed herewith in paper form, and the electronic version of the filing has been transmitted to the Commission.

A handwritten signature in black ink, appearing to read "Douglas F. Brent", with a long horizontal stroke extending to the right.

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Douglas F. Brent