

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

**PETITION FOR CONFIDENTIAL TREATMENT OF
THE RLECS' RESPONSES TO FIRST DATA REQUESTS**

The RLECs ¹ by counsel, and pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c), move the Public Service Commission of the Commonwealth of Kentucky (the "Commission") to afford confidential treatment to the highlighted information (the "Information") contained in the RLECs' responses to the first round of data requests. For ease of reference, this Information is located in responses (the "Responses") to the following initial data requests: (i) Verizon ² Requests 6-9, and 11; (ii) Windstream ³ Request 1; (iii) TWTC/Level3/PAETEC ⁴ Requests 1-4, 8-11, 13, and 14; and (iv) AT&T ⁵ Requests 1-7, 10-13, 15, and 22-24. Each compilation of Information within the above-referenced Responses is then subsequently attached for each RLEC behind the following tabs:

¹ Ballard Rural Telephone Cooperative Corporation, Inc., Brandenburg Telephone Company, Duo County Telephone Cooperative Corporation, Inc., Foothills Rural Telephone Cooperative, Inc., Gearhart Communications Co., Inc., Highland Telephone Cooperative, Inc., Logan Telephone Cooperative, Inc., Mountain Rural Telephone Cooperative, Inc., North Central Telephone Cooperative Corporation, Peoples Rural Telephone Cooperative, Inc., South Central Rural Telephone Cooperative Corporation, Inc., Thacker-Grigsby Telephone Company, Inc., and West Kentucky Rural Telephone Cooperative Corporation, Inc. (collectively the "RLECs").

² MCI Metro 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. (collectively, "Verizon").

³ Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (collectively, "Windstream").

⁴ tw telecom, llc, Level 3 Communications, LLC, and U.S. LEC of Tennessee L.L.C. d/b/a PAETEC Business Services (collectively, "TWTC/Level3/PAETEC").

⁵ BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky, AT&T Communications of the South Central States, LLC, BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service, and TCG Ohio (collectively, "AT&T").

- Tab1: Ballard Rural Telephone Cooperative Corporation, Inc.**
- Tab2: Brandenburg Telephone Company**
- Tab3: Duo County Telephone Cooperative Corporation, Inc.**
- Tab4: Foothills Rural Telephone Cooperative, Inc.**
- Tab5: Gearhart Communications Co., Inc.**
- Tab6: Highland Telephone Cooperative, Inc.**
- Tab7: Logan Telephone Cooperative, Inc.**
- Tab8: Mountain Rural Telephone Cooperative, Inc.**
- Tab9: North Central Telephone Cooperative Corporation**
- Tab10: Peoples Rural Telephone Cooperative, Inc.**
- Tab11: South Central Rural Telephone Cooperative Corporation, Inc.**
- Tab12: Thacker-Grigsby Telephone Company, Inc.**
- Tab13: West Kentucky Rural Telephone Cooperative Corporation, Inc.**

In support of their Petition, the RLECs state as follows.

I. Applicable Law.

807 KAR 5:001 §7(2) sets forth a procedure by which certain information filed with the Commission may be treated as confidential. Specifically, the party seeking confidential treatment of certain information must “[set] forth specific grounds pursuant to KRS 61.870 et seq., the Kentucky Open Records Act, upon which the commission should classify that material as confidential.” 807 KAR 5:001 §7(2)(a)(1).

The Kentucky Open Records Act, KRS 61.870 et seq., exempts certain records from the requirement of public inspection. See KRS 61.878. In particular, KRS 61.878(1)(c)(1) provides as follows:

[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

Id. Applying this provision to the financial information of a corporation, the Supreme Court of Kentucky has held that “disclosure of [this financial information] would unfairly advantage competing operators. The most obvious disadvantage may be the ability to ascertain the economic status of the entities without the hurdles systematically associated with acquisition of such information.” *Marina Management Servs. v. Cabinet for Tourism, Dep’t of Parks*, 906 S.W.2d 318, 319 (Ky. 1995); *see also Hoy v. Kentucky Indus. Revitalization Auth.*, 907 S.W.2d 766, 768 (Ky. 1995) (“It does not take a degree in finance to recognize that such information concerning the inner workings of a corporation is ‘generally recognized as confidential or proprietary’ and falls within the wording of KRS 61.878(1)(c).”)

II. The RLECs’ Financial Information Should Be Classified Confidential.

Read in conjunction, 807 KAR 5:001 § 7(2)(a)(1) and KRS 61.878(1)(c) provide that the Commission may classify the Information as confidential if the open disclosure of the Information “required by the [Commission] to be disclosed to it, [is] generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records” *See* KRS 61.878(1)(c). The Information contained in the RLECs’ Responses is both sensitive financial and proprietary network information that the RLECs are required to file as part of the current proceeding.

The Responses contain, among other things, revenue data, access line information, minutes of use, pricing data for network and rate elements, subscriber data, as well as federal support funds data. In addition, some of the Responses include information regarding each RLECs’ trunking facilities and switches, as well as the amount of traffic and access revenue that is associated with each. Undoubtedly, the disclosure of this highly sensitive financial and proprietary network Information would result in an unfair commercial advantage to the RLECs’

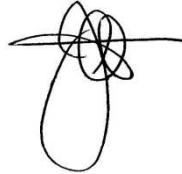
competitors, which would, likewise, result in a compromised competitive position for the RLECs. It has the potential to allow the RLECs' competitors "to ascertain the economic status of the [RLECs] without the hurdles systematically associated with acquisition of such information." *Marina Management Servs.*, 906 S.W.2d at 319.

The Information for which the RLECs seek confidential treatment is of such a sensitive nature that it is not known outside of their respective companies, and even within their respective companies it is known only by those of their employees who have a legitimate business need to know and act upon the information. "[S]uch information concerning the inner workings of a corporation is 'generally recognized as confidential or proprietary' and falls within the wording of KRS 61.878(1)(c)(2)." *Hoy*, 907 S.W.2d at 768.

III. Conclusion.

For these reasons, the Commission should classify the Information in the RLECs' Revenue Shift Filing as confidential pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c), and accordingly prevent the public disclosure of the Information.

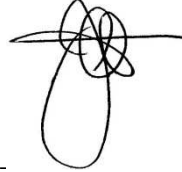
Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with Ordering Paragraph No. 5 of the Commission's Order, this is to certify that the RLECs' June 10, 2011 electronic filing is a true and accurate copy of the documents to be filed in paper medium; that the electronic filing has been transmitted to the Commission on June 10, 2011; that an original and one copy of the filing will be delivered to the Commission on June 10, 2011; and that, on June 10, 2011, electronic mail notification of the electronic filing will be provided through the Commission's electronic filing system. March 10, 2011



Counsel to the RLECs