

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 SECOND DATA REQUESTS**

The RLECs¹ 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 second round of data requests. For ease of reference, this Information is located in responses (the "Responses") to TWTC/Level 3/PAETEC's² August 5, 2011 data requests numbers 2 and 4. Each compilation of Information within the above-referenced Responses is then subsequently attached for each RLEC behind the following tabs:

- Tab 1: Ballard Rural Telephone Cooperative Corporation, Inc.**
- Tab 2: Brandenburg Telephone Company**
- Tab 3: Duo County Telephone Cooperative Corporation, Inc.**
- Tab 4: Foothills Rural Telephone Cooperative, Inc.**
- Tab 5: Gearhart Communications Co., Inc.**
- Tab 6: Highland Telephone Cooperative, Inc.**

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

- Tab 7: Logan Telephone Cooperative, Inc.**
- Tab 8: Mountain Rural Telephone Cooperative, Inc.**
- Tab 9: North Central Telephone Cooperative Corporation**
- Tab 10: Peoples Rural Telephone Cooperative, Inc.**
- Tab 11: South Central Rural Telephone Cooperative Corporation, Inc.**
- Tab 12: Thacker-Grigsby Telephone Company, Inc.**
- Tab 13: 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 sensitive and proprietary network information containing minutes of use data that can be used to reverse engineer highly confidential financial information about the RLECs. 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

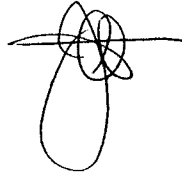
corporation is 'generally recognized as confidential or proprietary' and falls within the wording of KRS 61.878(1)(c)(2)." *Hoy*, 907 S.W.2d at 768.

Information of this same nature was accorded confidential treatment in this matter on August 26, 2011

III. Conclusion.

For these reasons, the Commission should classify the Information in the RLECs' responses to TWTC/Level 3/PAETEC's August 5, 2011 data requests numbers 2 and 4 as confidential pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c), and accordingly prevent the public disclosure of the Information.

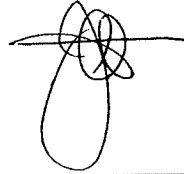
Respectfully submitted,



John E. Selent
Edward T. Depp
Stephen D. Thompson
DINSMORE & SHOHL LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
(502) 540-2300 (Telephone)
(502) 585-2207 (Facsimile)
Counsel to the RLECs

CERTIFICATE OF SERVICE

In accordance with Ordering Paragraph No. 5 of the Commission's March 10, 2011 Order, this is to certify that the RLECs' September 2, 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 September 2, 2011; that an original and one copy of the filing will be delivered to the Commission on September 2, 2011; and that, on September 2, 2011, electronic mail notification of the electronic filing will be provided through the Commission's electronic filing system.

A handwritten signature consisting of a horizontal line with a large, stylized loop and a vertical stroke extending downwards.

Counsel to the RLECs

855746v1

TAB 1

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Ballard Rural states as follows.

RESPONDENT: **Stephen Jones, Regulatory & Marketing Manager, Ballard Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Ballard Rural states as follows.

RESPONDENT: **Stephen Jones, Regulatory & Marketing Manager, Ballard Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 2

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Brandenburg Telephone states as follows.

RESPONDENT: **Randall Bradley, Controller, Brandenburg Telephone Company**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED]

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Brandenburg Telephone states as follows.

RESPONDENT: **Randall Bradley, Controller, Brandenburg Telephone Company**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 3

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Duo County states as follows.

RESPONDENT: **Daryl Hammond, VP/CFO, Duo County Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Duo County states as follows.

RESPONDENT: **Daryl Hammond, VP/CFO, Duo County Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 4

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Foothills Rural states as follows.

RESPONDENT: **Sandy Ward, Senior Accountant, Foothills Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] intrastate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Foothills Rural states as follows.

RESPONDENT: **Sandy Ward, Senior Accountant, Foothills Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 5

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Gearheart Communications states as follows.

RESPONDENT: **James Campbell, Chief Financial Officer, Gearheart Communications, Inc. d/b/a Coalfields Telephone Company**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Gearheart Communications states as follows.

RESPONDENT: **James Campbell, Chief Financial Officer, Gearheart Communications, Inc. d/b/a Coalfields Telephone Company**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 6

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Highland Telephone states as follows.

RESPONDENT: **David Crawford, Access Service Manager, Highland Telephone Cooperative, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Highland Telephone states as follows.

RESPONDENT: **David Crawford, Access Service Manager, Highland Telephone Cooperative, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 7

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Logan Telephone states as follows.

RESPONDENT: **Brian Stanley, Accountant, Logan Telephone Cooperative, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Logan Telephone states as follows.

RESPONDENT: **Brian Stanley, Accountant, Logan Telephone Cooperative, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: 

TAB 8

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Mountain Rural states as follows.

RESPONDENT: **Angela Pennington, Office Manager, Mountain Rural Telephone Cooperative Corporation**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Mountain Rural states as follows.

RESPONDENT: **Angela Pennington, Office Manager, Mountain Rural Telephone Cooperative Corporation**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 9

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, North Central states as follows.

RESPONDENT: **Johnny McClanahan, Chief Financial Officer, North Central Rural Telephone Cooperative, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate;

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, North Central states as follows.

RESPONDENT: **Johnny McClanahan, Chief Financial Officer, North Central Rural Telephone Cooperative, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 10

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Peoples Rural states as follows.

RESPONDENT: **Jodi Gabbard, CABS Coordinator, Peoples Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Peoples Rural states as follows.

RESPONDENT: **Jodi Gabbard, CABS Coordinator, Peoples Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 11

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, South Central states as follows.

RESPONDENT: **Chris Lawrence, Interim General Manager, South Central Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, South Central states as follows.

RESPONDENT: **Chris Lawrence, Interim General Manager, South Central Rural Telephone Cooperative Corporation, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 12

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Thacker-Grigsby states as follows.

RESPONDENT: **Kimberly Jones, Accounting Supervisor, Thacker-Grigsby Telephone Company, Inc.**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED]

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, Thacker-Grigsby states as follows.

RESPONDENT: **Kimberly Jones, Accounting Supervisor, Thacker-Grigsby Telephone Company, Inc.**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]

TAB 13

TWTC/Level 3/PAETEC

REQUEST NO. 2: Provide the number of your **terminating** interstate and intrastate access minutes for 2009 and for 2010 (separately).

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, West Kentucky Rural states as follows.

RESPONDENT: **Marty Clift, Regulatory Manager, West Kentucky Rural Telephone Cooperative**

RESPONSE: For 2010 intrastate data, *see* Response to May 2, 2011 TWTC/Level 3/PAETEC Request No. 4.

2009: [REDACTED] intrastate; [REDACTED] interstate

2010: [REDACTED] interstate

TWTC/Level 3/PAETEC

REQUEST NO. 4: Provide the number of your **reciprocal compensation** minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

OBJECTION: This request is unduly burdensome because the information sought can be derived from information already provided. Without waiving this objection, West Kentucky Rural states as follows.

RESPONDENT: **Marty Clift, Regulatory Manager, West Kentucky Rural Telephone Cooperative**

RESPONSE: For 2010 data, *see* Response to May 2, 2011 AT&T Request No. 7.

2009: [REDACTED]