

BEFORE THE COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

In the Matter of:

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

**RESPONSES AND OBJECTIONS TO VERIZON’S FIRST DATA REQUESTS TO
WINDSTREAM KENTUCKY WEST, LLC, WINDSTREAM KENTUCKY EAST, LLC**

REDACTED VERSION

Windstream Kentucky East, LLC (“Windstream East”) and Windstream Kentucky West, LLC (“Windstream West”) submit the following responses and objections to the First Data Requests served by 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. (collectively, “Verizon”):

OBJECTIONS APPLICABLE TO ALL VERIZON FIRST DATA REQUESTS

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

1. Windstream East and Windstream West object that they are alternatively regulated local exchange carriers who are statutorily exempt from this proceeding. Their submission of

these Responses is without waiver of and with express reservation of all of their rights as alternatively regulated carriers.

2. Windstream East and Windstream west object to the First Data Requests to the extent that they seek information about any activities conducted by Windstream East and Windstream West, including but not limited to the selling of particular services or bundles of services, that are outside of the Commission's jurisdiction.
3. Windstream East and Windstream West object to the First Data Requests to the extent they may be construed as calling for the disclosure of information subject to a claim of privilege or immunities including the attorney-client privilege, the attorney work product doctrine, the joint-defense privilege, or any other applicable evidentiary privilege or immunity from disclosure. The inadvertent disclosure of any information subject to such privileges or immunities is not intended to relinquish any privilege or immunity and shall not be deemed to constitute a waiver of any applicable privilege or immunity.
4. Windstream East and Windstream West object to any data request to the extent that it seeks to impose the request on parents or affiliates of Windstream East and Windstream West who are not parties to this proceeding.
5. Windstream East and Windstream West generally object to the requests to the extent that they: (a) are overly broad; (b) are impermissibly vague and ambiguous and fail to describe with reasonable particularity the information sought; (c) seek production of information that is not relevant to the subject matter at issue in this action and/or are not reasonably calculated to lead to the discovery of admissible evidence; (d) not readily maintained in the ordinary course in the form requested; and (e) impose undue burdens that outweigh any probative value the information may have in this action.

6. Windstream East and Windstream West object to the requests to the extent they seek information (*e.g.*, tariff or commission proceeding information) that is in the public domain, is available from other, more convenient sources, and/or is accessible by, if not already in the possession of, Verizon.
7. Windstream East and Windstream West object to the requests to the extent they purport to impose a burden of ascertaining information that is not in their possession, custody, control, or personal knowledge, or that cannot be found in the course of a reasonable search.
8. Windstream East and Windstream West object to the requests to the extent they purport to impose upon them obligations greater than or different from those authorized by the Rules of Civil Procedure - including those imposing a reasonable limitation on the amount of discovery that may be served on a party, particularly when considering voluminous discovery conducted in the by AT&T reflected in the incorporated record in this proceeding. As provided under the Rules, each party may propound a maximum of thirty (30) interrogatories and thirty (30) requests for admission, and the Rules expressly provide that each subpart of an interrogatory or request shall be counted as a separate interrogatory or request. Windstream East and Windstream West should not be harmed by excessive discovery which is in addition to the harm they already are suffering from the violation of their rights as alternatively regulated carriers.
9. Windstream East and Windstream West object to the requests to the extent that they seek information that is more than five years old as such information is no longer relevant.

RESPONSES

Windstream East and Windstream West do not waive and fully preserve all of the foregoing objections, which are incorporated fully herein. Any information provided herein is made on the basis of the best information available to Windstream East and/or Windstream West at the time of gathering responsive materials or information, within the limits of, and subject to the general and specific objections set forth herein. Windstream East and Windstream West have attempted to locate responsive information through an investigation of sources from which such information might reasonably be expected to be found, but by means of responses and objections to the Requests for Information or in subsequent testimony or other filings, Windstream East and Windstream West reserve the right to supplement or modify their responses and objections if additional information becomes available.

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

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

1. Please identify the last time your Kentucky intrastate switched access rates were changed and the proceeding in which they were changed. If the change was pursuant to a tariff filing and not a formal proceeding, please identify the tariff filing. If your Kentucky intrastate switched access rates have remained constant since initially being established, please identify the date and the proceeding in which they were established.

RESPONSES:

i. Windstream East objects to this data request because Verizon has already sought and been provided such information. Please see Windstream East's response to Verizon Data Request No. 36 in the incorporated record in this proceeding.

ii. Windstream West objects to this data request because Verizon has already sought and been provided such information. Please see Windstream West's response to Verizon Data Request No. 36 in the incorporated record in this proceeding.

Windstream East / Windstream West Respondent: Cesar Caballero

2. Please identify all of the rate elements in your current Kentucky intrastate switched access rates, including but not limited to any Carrier Common Line (“CCL”) rate element.

RESPONSES:

- i. Windstream East objects to this data request because Verizon has already sought and been provided such information. Please see Windstream East’s response to Verizon Data Request No. 6 in the incorporated record in this proceeding.
- ii. Windstream West objects to this data request because Verizon has already sought and been provided such information. Please see Windstream West’s response to Verizon Data Request No. 6 in the incorporated record in this proceeding.

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3. Please identify your intrastate and interstate rate associated with each rate element identified in Request No. 2.

RESPONSES:

i. Windstream East objects to this data request on the ground that it seeks publicly-available information. Without waiving this objection, with regard to Windstream East's intrastate access tariffs, please see Windstream East's Tariff P.S.C. Ky. Nos. 8 and 9, also filed on December 20, 2010 in this proceeding. With regard to Windstream East's interstate access tariff, Windstream East directs Verizon to the Windstream Telephone System Tariff F.C.C. No. 6 (Windstream East is an issuing carrier), which is available in the Federal Communications Commission's Electronic Tariff Filing System, as well as on Windstream's website at: <<http://www.windstream.com/tariffs/INTL/Tariff%20FCC%20No.%206.pdf>>.

ii. Windstream West objects to this data request on the ground that it seeks publicly-available information. Without waiving this objection, with regard to Windstream West's intrastate access tariff, please see Windstream West's Tariff P.S.C. Ky. Nos. 8 and 9, also filed on December 20, 2010 in this proceeding. With regard to Windstream West's interstate access tariff, Windstream West directs Verizon to the Windstream Telephone System Tariff F.C.C. No. 6 (Windstream West is an issuing carrier), which is available in the Federal Communications Commission's Electronic Tariff Filing System, as well as on Windstream's website at: <<http://www.windstream.com/tariffs/INTL/Tariff%20FCC%20No.%206.pdf>>.

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4. Please identify the interstate and intrastate tariffs supporting the rates identified in Request No. 2.

RESPONSES:

- i. Please see Windstream East's response to Verizon Data Request No. 3.
- ii. Please see Windstream West's response to Verizon Data Request No. 3.

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5. [a] Please identify whether your Kentucky intrastate switched access rates contain any charges or other recovery for any Non-Traffic Sensitive Revenue Requirement (“NTSRR”). [b] If so, please identify the rate or amount of your NTSRR charges, [c] fully describe how they are assessed (e.g., on a monthly or per minute basis), and [d] identify the intrastate switched access rate elements containing or reflecting any NTSRR charges or recovery.

RESPONSES:

a.

i. Windstream East objects to this subpart of this data request because Verizon has already sought and been provided such information and such information is publicly-available. Please see Windstream East’s response to Verizon Data Request Nos. 13 and 44, among others, in the incorporated record in this proceeding as well as Windstream East’s Tariff P.S.C. Ky. Nos. 8 and 9, also filed on December 20, 2010 in this proceeding.

ii. Windstream West objects to this subpart of this data request because Verizon has already sought and been provided such information and such information is publicly-available. Please see Windstream West’s response to Verizon Data Request Nos. 13 and 44, among others, in the incorporated record in this proceeding as well as Windstream West’s Tariff P.S.C. Ky. No. 5, also filed on December 20, 2010 in this proceeding.

b.

i. Windstream East objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream East’s response to Verizon Data Request No. 44 in the incorporated record in this proceeding.

ii. Windstream West objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream West’s response to Verizon Data Request No. 44 in the incorporated record in this proceeding.

c.

i. Windstream East objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream East’s response to Verizon Data Request No. 13 in the incorporated record in this proceeding, as well as Windstream East’s Tariff P.S.C. Ky. Nos. 8 and 9, also filed on December 20, 2010 in this proceeding.

ii. Windstream West objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream West’s response to Verizon Data Request No. 13 in the incorporated record in this proceeding, as

well as Windstream West's Tariff P.S.C. Ky. No. 5, also filed on December 20, 2010 in this proceeding.

d.

i. Windstream East objects to this data requests because it seeks publicly-available information. Without waiving this objection, please see Windstream East's Tariff P.S.C. Ky. Nos. 8 and 9.

ii. Windstream West objects to this data requests because it seeks publicly-available information. Without waiving this objection, please see Windstream West's Tariff P.S.C. Ky. No. 5.

6. Please identify what percentage of your total Kentucky intrastate switched access revenues for each of 2008, 2009 and 2010 were derived from NTSRR charges or recovery.

RESPONSES:

i. Windstream East

2008 – Windstream East objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream East’s response to Verizon Data Request No. 8(xviii) in the incorporated record in this proceeding.

2009 – ■■■

2010 – ■■■

ii. Windstream West

2008 – Windstream West objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream East’s response to Verizon Data Request No. 8(xviii) in the incorporated record in this proceeding.

2009 – ■■■

2010 – ■■■

Windstream East / Windstream West Respondent: Cesar Caballero

7. Please identify what percentage of your total Kentucky intrastate revenues for each of 2008, 2009 and 2010 were derived from intrastate switched access charges.

RESPONSES:

i. Windstream East objects to this data request because it seeks revenue information that is outside of the Commission's jurisdiction. Without waiving this objection, Windstream East provides the following information:

2008 – Windstream East objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream East's response to Verizon Data Request No. 8 in the incorporated record in this proceeding.

2009 – [REDACTED]

2010 – [REDACTED]

ii. Windstream West objects to this data request because it seeks revenue information that is outside of the Commission's jurisdiction. Without waiving this objection, Windstream West provides the following information:

2008 – Windstream West objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream West's response to Verizon Data Request No. 8 in the incorporated record in this proceeding.

2009 – [REDACTED]

2010 – [REDACTED]

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8. Please identify what percentage of your total revenues for each of 2008, 2009 and 2010 were derived from (i) intrastate switched access charges and (ii) interstate switched access charges.

RESPONSES:

i. Windstream East objects to this data request because it seeks revenue information that is outside of the Commission's jurisdiction.

ii. Windstream West objects to this data request because it seeks revenue that is outside of the Commission's jurisdiction.

Windstream East / Windstream West Respondent: prepared by counsel

9. Please identify what percentage of your total revenues for each of 2008, 2009 and 2010 were derived from the federal universal service fund.

RESPONSES:

i. Windstream East objects to this data request because it seeks revenue information that is outside of the Commission's jurisdiction.

ii. Windstream West objects to this data request because it seeks revenue information that is outside of the Commission's jurisdiction.

Windstream East / Windstream West Respondent: prepared by counsel

10. Please identify the rate(s) you charge for basic local exchange service, as that term is defined by KRS 278.541(1).

RESPONSES:

i. Windstream East objects to this data request because it seeks publicly-available information. Windstream East directs Verizon to its Tariff P.S.C. Ky. No. 7, which is available in the Commission's public files, on the Commission's website (at <http://psc.ky.gov/Home/Library?type=Tariffs&folder=Telecommunications/Telecommunications_N-Z/Windstream%20Kentucky%20East,%20Inc>), and on Windstream's website (at <<http://www.windstream.com/tariffs/KY/219lcl.pdf>>).

ii. Windstream West objects to this data request because it seeks publicly-available information. Windstream West directs Verizon to its Tariff P.S.C. Ky. No. 4, which is available in the Commission's public files, on the Commission's website (at <http://psc.ky.gov/Home/Library?type=Tariffs&folder=Telecommunications/Telecommunications_N-Z/Windstream%20Kentucky%20West,%20Inc>), and on Windstream's website (at <<http://www.windstream.com/tariffs/KY/219lcl.pdf>>).

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11. Please identify the total number of access lines you had in Kentucky as of December 31, 2008, December 31, 2009, and December 31, 2010.

RESPONSES:

i. Windstream East

December 31, 2008 – Windstream objects to this subpart of this data request because Verizon has already sought and been provided such information. Without waiving this objection, please see Windstream East’s response to Verizon Data Request No. 10 in the incorporated record in this proceeding.

December 31, 2009 – Windstream objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream East’s response to Verizon Data Request No. 40(v) in the incorporated record in this proceeding.

December 31, 2010 – [REDACTED]

ii. Windstream West

December 31, 2008 – Windstream objects to this subpart of this data request because Verizon has already sought and been provided such information. Without waiving this objection, please see Windstream West’s response to Verizon Data Request No. 10 in the incorporated record in this proceeding.

December 31, 2009 – Windstream objects to this subpart of this data request because Verizon has already sought and been provided such information. Please see Windstream West’s response to Verizon Data Request No. 40(v) in the incorporated record in this proceeding.

December 31, 2010 – [REDACTED]

Windstream East / Windstream West Respondent: Cesar Caballero

Respectfully submitted,

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