

Further Testimony of Cesar Caballero
on Behalf of Windstream Kentucky East, LLC and Windstream Kentucky West, LLC

Administrative Case No. 2010-00398

July 8, 2011

Exhibit B

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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AUG 13 2010

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

RECEIVED

AUG 13 2010

PUBLIC SERVICE
COMMISSION

REBUTTAL TESTIMONY
OF
CESAR CABALLERO
- PUBLIC REDACTED VERSION -

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

Dated August 13, 2010

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1 **II. REBUTTAL TO VERIZON TESTIMONY**

2 **Q. Mr. Price asserts that Verizon should not be competitively disadvantaged by having**
3 **to pay excessive access rates to its competitors (page 5, line 16). Do you agree?**

4 A. No. As an initial matter, Mr. Price does not explain the nature of Verizon’s competition
5 with Windstream Kentucky East, LLC (“Windstream East”) and Windstream Kentucky
6 West, LLC (“Windstream West”) (collectively, “Windstream”) that is the subject of his
7 assertion. Verizon’s conceivable forms of competition with Windstream are through its
8 wireless affiliate, Verizon Wireless, and in the long distance market, to the extent that
9 such a distinct market really still exists, with Windstream’s long distance offerings.
10 Regardless of the type of competition to which Mr. Price refers, his assertion is incorrect.

11 **Q. Please explain why Mr. Price’s assertion that Verizon Wireless should not be**
12 **competitively disadvantaged by having to pay excessive access rates to its**
13 **competitors is incorrect.**

14 A. First of all, Verizon Wireless is not a party to this proceeding. I say this because Verizon
15 has done its best in the discovery process to hide behind such distinctions. I will discuss
16 the substance of this potential claim later in my testimony when I discuss the testimony
17 of parties that actually mentioned their wireless operations.

18 **Q. Please explain why Mr. Price’s assertion that Verizon’s long distance operations**
19 **should not be competitively disadvantaged by having to pay excessive access rates to**
20 **its competitors is incorrect.**

21 A. Mr. Price is incorrect for three reasons. First, as I explained in my direct testimony,
22 Windstream’s long distance operations fully impute the intrastate access rates of its
23 affiliated incumbent local exchange carrier (“ILEC”) operations. (Caballero Direct, page
24 24) Therefore, when consumers are choosing which long distance carrier to which to

1 subscribe, they have an apples-to-apples comparison between Windstream and
2 unaffiliated interexchange carriers (“IXCs”) such as Verizon, AT&T, or Sprint. Second,
3 for reasons discussed throughout my direct and this Rebuttal Testimony, Windstream’s
4 intrastate switched access rates are not excessive – which is the crux of what the moving
5 parties must prove in this matter and which they may not simply assert as a fact. Further,
6 even if Verizon could show that the competitors of Windstream East or Windstream West
7 were in fact somehow disadvantaged in the manner that Mr. Price suggests, this is not
8 necessarily unreasonable. Unlike Verizon, Windstream East and Windstream West are
9 ILECs that are regulated by the Federal Communications Commission (“FCC”) and
10 subject to certain continuing regulation by the Kentucky Public Service Commission
11 (“Commission”) . Such administrative regulation imposes greater costs on traditionally
12 regulated carriers like Windstream East and Windstream West than their competitive
13 counterparts which largely only face market place regulation and not a hybrid of
14 administration agency and market place regulation. Most significantly, as carriers of last
15 resort in the Commonwealth, Windstream East and Windstream West have an obligation
16 to serve any prospective customer in their service territories, a significant obligation not
17 shared by Verizon.

18 **Q. Mr. Price asserts that intrastate switched access rates are vestiges of a prior**
19 **regulatory approach that has been abandoned by regulators and policymakers**
20 **(Page 8, Line 6). Do you agree?**

21 A. No. Mr. Price seems to confuse universal service policies with intrastate switched access
22 charges. Universal service continues to be and should remain of paramount importance to
23 regulators and policymakers. Congressman Boucher recently introduced legislation to

1 reform the federal universal service support mechanisms. The FCC has an open
2 proceeding to reform and update the universal service support mechanisms. I would agree
3 with Mr. Price that the FCC and many state commissions have worked toward making
4 implicit subsidies in switched access charges explicit. However, that is not what Verizon
5 is proposing here and is clearly not what regulators have done in other states, as I discuss
6 below. In fact, that is also what this Commission has already ruled is not an issue in the
7 instant proceeding. Specifically, in its order dated March 11, 2009 denying Windstream
8 East and Windstream West's Motion to Dismiss, the Commission ruled that this case is
9 not about holistic reform and is only an issue of whether rates are too high. The simple
10 issue in this matter, therefore, has already been decided by this Commission to be
11 whether the Windstream intrastate switched access rates are unreasonably high. This is
12 merely an assertion that Verizon must prove. However, as I testified previously,
13 considering that the Windstream rates are lower than all but one other local exchange
14 carrier in the Commonwealth and that the rates of Windstream East in particular have
15 already been reduced by tens of millions of dollars, Verizon's assertion on this point is
16 wholly without merit.

17 **Q. In page 12, line 17, Mr. Price asserts that the Commission has identified a need for**
18 **access reform and that removing implicit subsidies from switched access rates is in**
19 **the public interest. Is Verizon's petition in this case consistent with the**
20 **Commission's view?**

21 A. No, and it is worth re-emphasizing that Mr. Price's testimony is out of step with what
22 Verizon has asserted previously that this proceeding is not about access reform and is a
23 matter only of Windstream rate reductions. Access reform proceedings – which notably

1 contain much more thoughtful action than mere targeted rate reductions as proposed by
2 Verizon herein – are generally conducted on a state-wide basis, include input and
3 participation by all relevant carriers, and provide reasonable transitions and a meaningful
4 opportunity to recover revenues displaced as a result of switched access rate reductions.
5 In significant contrast, Verizon’s petition selectively prosecutes only two carriers in the
6 Commonwealth, requests a flashcut reduction of their switched access rates to the levels
7 of the state’s largest and wholly unaffiliated carrier (AT&T) and does not provide
8 Windstream with a meaningful opportunity to recover the revenues displaced by the rate
9 reductions. Indeed, this proceeding has not even provided the opportunity for any
10 thorough evaluation or discovery of the status of rates and competition throughout the
11 Commonwealth necessary for Verizon to actually substantiate its fundamental assertion
12 that the Windstream rates are unreasonably high. This is not a claim which may be taken
13 merely as fact – Verizon must actually substantiate its claim. As mentioned in my direct
14 testimony, “there is nothing rational about Verizon’s proposed relief which is nothing
15 more than targeted expense reductions thinly disguised as access reform.” (Caballero
16 Direct page 28, line 16)

17 **Q. Do you agree with Mr. Price’s explanation of the FCC’s reform efforts described in**
18 **pages 15 and 16 of his direct testimony?**

19 A. No. Mr. Price has provided a conveniently myopic description of the FCC’s CALLS and
20 MAG proceeding efforts, focusing solely on the switched access rate reductions,
21 particularly with respect to the Carrier Common Line (“CCL”) charge. Although this
22 reform discussion, by Verizon’s own actions in this proceeding are not at issue, I note
23 that Mr. Price fails to explain the other critical components implemented by the FCC in

1 those proceedings. As I explained in my direct testimony, in the CALLS proceeding the
2 FCC did not require any flashcut reductions in switched access rates and established a
3 new universal service mechanism (Interstate Access Support or IAS) to allow affected
4 carriers a meaningful opportunity to recover revenues displaced by the switched access
5 rate reductions. In the MAG proceeding, the FCC eliminated the carrier common line
6 charge but permitted affected carriers to increase their subscriber line charges (“SLCs”)
7 over a period of time. Revenues not recovered by the SLC increases were recovered in
8 total by the new Interstate Common Line Support (“ICLS”) mechanism. Clearly the FCC
9 went to great efforts to ensure that (1) customers did not experience unreasonable rate
10 increases and (2) affected carriers had a meaningful opportunity to recover the displaced
11 revenues. Both ingredients are missing from Verizon’s petition.

12 **Q. In pages 18-19 of his direct testimony, Mr. Price provides examples of specific**
13 **efforts conducted by the California Public Utilities Commission (“CAPUC”),**
14 **Kansas Corporation Commission (“KCC”), Virginia State Corporation Commission**
15 **(“VSCC”), New Jersey Board of Public Utilities (NJBPU”) and Iowa Utilities Board**
16 **(“IUB”). Could you comment on these proceedings?**

17 A. Yes. Regarding the CAPUC proceeding, the CAPUC did eliminate rate elements that
18 were not based on switching and transport costs. However, the CAPUC permitted
19 affected carriers to establish a surcharge on customers’ bills ensuring revenue-neutrality.
20 *(Order Initiating Rulemaking to Review Policies Concerning Intrastate Carrier Access*
21 *Charges, Rulemaking 03-08-018, D. 17-12-20, Final Opinion Modifying Intrastate*
22 *Access Charges, at 20 (C.P.U.C. Dec. 6, 2007).*

1 In Kansas, the KCC required Embarq to lower its intrastate switched access rates to
2 interstate levels. However, the KCC also concluded that “Embarq’s loss of revenues from
3 this reduction should be paid out to Embarq from the KUSF (Kansas Universal Service
4 Fund) in a revenue-neutral manner, and the KUSF shall be increased accordingly.”
5 (*Petition of Sprint to Conduct General Investigation Into the Intrastate Access Charges of*
6 *Embarq*, Order, Docket No. 08-GIMT-1023-GIT, at 150 (Mar. 10, 2010). The KCC
7 allowed Embarq to recover the revenue loss from the KUSF because it found that
8 “rebalancing to Embarq’s local rates would impose too great of a burden on these rates
9 and threaten their affordability.” (*Id.* at 94) Embarq’s revenue loss from reducing its
10 intrastate switched access rate to interstate levels was calculated at \$3.8 million annually.
11 (*Id.*) As I mentioned in my direct testimony, if Windstream West were required to reduce
12 and Windstream East were required to further reduce their intrastate switched access rates
13 to their corresponding interstate levels the revenue reduction would be approximately
14 \$___ (Confidential Information) million combined annually.

15
16 In Virginia, the VSCC did, in fact, order Embarq to reduce its CCL pursuant to a May 29,
17 2010 order (*Petition of Sprint Nextel for Reductions in the Intrastate Carrier Access*
18 *Rates of Central Tel. Co. of Va. and United Tel. Southeast, Inc.*, Case No. PUC-2007-
19 00108, at 12 (May 29, 2009)(“*VSCC Embarq CCL Order*”), but Mr. Price does not tell
20 the full story. First, the VSCC adopted a phased-in approach in which Embarq was only
21 required to reduce its CCL by 50% and was given more than two years from issuance of
22 the *VSCC Embarq CCL Order* to do so. (*Id.* at 7). The Virginia legislation signed into
23 law on April 13, 2010 requires the elimination of the CCL charge no later than July 1,

1 2013, a three-year transition period, ultimately more than four years from the date of the
2 *VSCC Embarq CCL Order*. Even though Windstream does not necessarily agree with the
3 outcomes in Virginia, it is important to note that both the VSCC and the legislature
4 allowed for transitions and did not require a flashcut reduction in rates.

5
6 In New Jersey, the NJBPU ordered Verizon’s ILEC affiliate, Embarq and Warwick
7 Valley Telephone Company to reduce their intrastate switched access rates to interstate
8 levels over a three-year period. (*In the Matter of the Board’s Investigation and Review of*
9 *Local Exchange Carrier Intrastate Exchange Access Rates*, Telecommunications Order,
10 TX-08090830, at 29-30 (Feb. 1, 2010), *appeal docketed*, No. A-2767-09T2 (N.J. Super.
11 Ct. App. Div. Mar. 2, 2010). In this proceeding, Verizon’s ILEC affiliate argued that
12 Verizon must be permitted to earn sufficient revenue from rate-regulated services to
13 cover the costs of providing those services. In essence, Verizon’s ILEC affiliate argued
14 that it would be inappropriate to recover switched access revenue reductions from
15 “competitive” services. Yet, that is precisely what the Verizon IXC in this proceeding is
16 asking this Commission to do – i.e., to flashcut Windstream’s intrastate switched access
17 rates either to AT&T’s rate levels or as an interim measure to Windstream’s interstate
18 switched access rate levels and force Windstream to attempt recovery of the lost revenues
19 from non-basic (i.e. “competitive”) services.

20
21 With regard to Iowa, Mr. Price leaves out a critical part of the story. The order cited by
22 Mr. Price left Iowa’s CCL charge intact. When Sprint filed a petition for rulemaking in
23 August of last year seeking to eliminate the CCL charge, the IUB rejected Sprint’s

1 request, concluding that the CCL is best considered as part of the IUB's notice of inquiry
2 into an intrastate universal service fund. *Elimination of Carrier Common Line Charge*
3 *[199 IAC 22.14(2) "d"]*, Docket No. RMU-2009-0007, "Order Denying Petition for Rule
4 Making" (Sept. 4, 2009); *reconsideration denied, Elimination of Carrier Common Line*
5 *Charge [199 IAC 22.14(2) "d"]*, Docket No. RMU-2009-0007, "Order Denying Motion
6 for Reconsideration" (Oct. 13, 2009)

7
8 As an overall point, I note that Verizon continues to speak out of both sides of its mouth.
9 On the one hand, it has argued to this Commission that this case is not about access
10 reform and is only a matter of whether Windstream's rates are unreasonably high. Yet, at
11 the same time, Verizon suggests that its targeted rate reduction requests are consistent
12 with its perceived "access rate reform." Nevertheless, this picture of "access reform," as
13 presented by Verizon, fails to thoroughly describe the holistic reform efforts undertaken
14 by the respective regulatory agencies. Verizon's testimony on this point should be
15 disregarded by the Commission and at best considered and thoroughly scrutinized in the
16 separate pending AT&T access complaint.

17 **Q. Have any states in which Windstream's ILEC affiliates operate engaged in access**
18 **reform efforts?**

19 A. Yes. Texas, New Mexico, Georgia and Missouri have taken steps to address access
20 reform.

21 **Q. Could you summarize the access reform efforts in each of these states?**

22 A. Yes, although I emphasize again that as the Commission has defined the issues and
23 discovery in this matter, these issues are ultimately irrelevant to the issue of whether

1 Verizon has demonstrated that Windstream's intrastate switched access rates are
2 unreasonably high. In Texas, the Texas Public Utilities Commission established a new
3 state universal service fund for the largest ILECs in the state which include AT&T,
4 Verizon, Embarq (now CenturyLink) and one of Windstream's ILEC affiliates in Texas.
5 The state fund provides support to high-cost wire centers based on forward looking costs.
6 ILECs receiving support from the fund were required to reduce their intrastate switched
7 access rates by the amount of support received. This was done on a revenue-neutral basis.
8 AT&T and Verizon's ILEC affiliates were supportive of this effort and at the time the
9 fund was established were the largest recipients of state universal service in Texas. The
10 Verizon properties included then what is now Windstream Communications Southwest,
11 an ILEC affiliate of Windstream. These proceedings in Texas are all a matter of public
12 record. (*See* Texas Public Utilities Commission Docket No. 18515).

13
14 In New Mexico, the legislature reduced intrastate switched access rates to interstate
15 levels, but it allowed local rate increases to a statewide benchmark and established a state
16 universal service fund that provided ILECs recovery on a revenue-neutral basis. (New
17 Mexico House Bill No. 776 (2005))

18
19 In Georgia, the legislature recently passed a package that would require ILECs to reduce
20 intrastate switched access rates to interstate levels over a five-year period. To recover the
21 revenue losses, the legislation permitted ILECs to increase their local rates to a
22 benchmark that will be established by the Georgia Commission and established a new

1 state universal service fund. (HB 168 (2010)) The plan is revenue-neutral for the ILECs
2 in Georgia and was supported by Verizon and AT&T affiliates in Georgia.

3
4 In Missouri the legislature did not want to establish a state universal service fund. As a
5 result, ILECs were not required to mirror interstate rates since the amount of that
6 reduction could not be recovered without the establishment of a state universal service
7 fund. (HB 750 (2010)) Consequently, ILECs in Missouri will reduce their intrastate
8 switched access rates by 6% of the difference between their interstate and intrastate
9 switched access rates for the next three years. ILECs in Missouri are permitted to
10 increase their local rates to recover the access revenue reductions.

11
12 Again, I note generally that these considerations are all more appropriately considered by
13 the Commission as part of the AT&T pending access complaint. However, we continue
14 to believe that launching an investigation at the state level at this point in time is not
15 prudent given the FCC's active investigation into intrastate switched access reform.

16 **Q. Are the reforms of these states similar to the relief sought by Verizon in this**
17 **proceeding?**

18 A. No. Again, these state commissions and legislatures provided meaningful transitions and
19 meaningful opportunities to recover access revenue reductions. Verizon's request in this
20 proceeding has been to argue that this case is not about reform, to oppose meaningful
21 discovery on the issue of rates, and at the same time to propose only an immediate
22 reduction of Windstream's switched access rates to AT&T Kentucky's level without any
23 meaningful opportunity to recover those revenues or without factual substantiation of its

1 claims that the rates are unreasonably high to begin. Verizon seeks to reduce its expenses
2 without regard to its factual burden of proof regarding Windstream's rates or the welfare
3 of Windstream's consumers in the Commonwealth.

4 **Q. Mr. Price cites to the FCC's CALLS order where the FCC found that the CCL**
5 **charge artificially suppresses demand for interstate long distance services (Page 16,**
6 **Line 5). Does this mean that ILECs should not be permitted to recover costs**
7 **associated with the CCL charge?**

8 A. No. The FCC recognized that the problem with the CCL is that it was recovered on a per-
9 minute basis, even though it represented generally non-traffic-sensitive costs. The FCC
10 therefore moved this cost recovery to a non-traffic-sensitive basis, both through SLCs
11 and IAS, the latter being expressly created as an explicit USF mechanism to recover
12 certain non-traffic-sensitive revenue recovery. That sort of decision, however, is not part
13 of this proceeding as this proceeding is limited to the reasonableness of Windstream's
14 intrastate switched access rates and whether they should be reduced to the levels charged
15 by AT&T without a meaningful opportunity to recover the displaced revenues. On this
16 last point, I note that Verizon fails to adequately address the fact that in any event
17 Windstream East's NTSRR (CCL) was previously reduced by millions of dollars, leaving
18 no justification for Verizon continuing to target Windstream East in particular in this
19 proceeding.

20 **Q. In order to support Verizon's benchmarking approach, Mr. Price asserts that this**
21 **Commission already embraced requiring intrastate access charges to mirror**
22 **interstate access charges when it required all ILECs in Kentucky to adjust their**
23 **intrastate primary interexchange carrier charge ("PIC") to interstate levels. Do you**

1 **agree this is conclusive evidence that the Commission has embraced Verizon’s**
2 **proposed benchmarking approach? (Page 17, Line 7)**

3 A. No. The PIC charge was a nominal charge assessed to customers to recover costs
4 associated with changes in long distance carriers. Access charges on the other hand, as
5 Verizon recognizes, contain implicit subsidies that support universal service policies in
6 the Commonwealth. Benchmarking Windstream’s switched access rates with those of
7 AT&T is inappropriate since they serve different territories with different cost
8 characteristics, as I discussed throughout my direct testimony and this rebuttal testimony.

9 **Q. Mr. Price claims that the FCC has used benchmarking for access charge rate-setting**
10 **purposes. Is such benchmarking relevant to this proceeding?**

11 A. No. First, the FCC’s CLEC access charge rules do not benchmark a CLEC’s access rates
12 to the access rates of the ILEC with which it competes in all circumstances. CLECs that
13 do not serve any localities with populations of 50,000 or more are permitted to charge a
14 National Exchange Carrier Association (“NECA”) rate which is much higher than most
15 price cap carriers’ rates. This “rural CLEC exception” recognizes the potentially-differing
16 cost characteristics of a carrier that serves lower-cost urban markets over which they can
17 average their higher rural costs (primarily RBOCs) and carriers focused on serving rural
18 markets. (See *Access Charge Reform, Reform of Access Charges Imposed by Competitive*
19 *Local Exchange Carriers*, Seventh Report & Order and Further Notice of Proposed
20 Rulemaking, 16 FCC Rcd 9923, ¶¶ 74-82 (2002), 47 C.F.R. § 61.26(e)). In other words,

1 the very FCC rule that Mr. Price holds up as an example of FCC benchmarking permits
2 competitors in certain circumstances to charge different interstate switched access rates.¹

3
4 Second, the focus of the FCC's order adopting the CLEC access charge rule was on head-
5 to-head competition between similar wireline carriers in the local exchange service
6 market and the local rate subsidization created when one carrier's access rates were
7 controlled by prescribed FCC limits while the other carrier's access rates could be set
8 virtually without abandon. That is not the case here as both AT&T and the Windstream
9 companies are subject to strict access pricing rules. As discussed, AT&T's rates, in
10 particular, do not serve as a reasonable benchmark for establishing rates for Windstream
11 East or Windstream West. In fact, even in its own access complaint pending before the
12 Commission, AT&T itself does not propose that other carriers in the Commonwealth,
13 including the Windstream companies, mirror AT&T's rates.

14 **Q. Do you agree with Mr. Price's assertion that Windstream's intrastate switched**
15 **access rates are significantly higher than its interstate switched access rates in large**
16 **part due to Windstream's allegedly bloated NTSRR charge? (Page 23, Line 9)**

17 A. I agree that the primary difference between Windstream's interstate and intrastate
18 switched access rates is the NTSRR charge. However, I disagree with Mr. Price's
19 characterization of the NTSRR charge as "bloated". To begin, his analysis does not
20 adequately reflect the prior reductions (over \$___ (Confidential Information)) million to
21 Windstream East's NTSRR. Additionally, as I have explained, because the FCC's access

¹ As a technical matter, FCC rules serve to mandatorily detariff nondominant carrier (such as CLECs) interstate access rates, thus requiring carrier-to-carrier negotiation, unless certain rules are filed. Because all carriers prefer to assess access charges pursuant to tariff, such rules serve, on a practical basis, to regulate CLEC interstate switched access rates.

1 reform efforts have eliminated the application of the CCL charge, which is the equivalent
2 of the NTSRR charge, Mr. Price's comparison of any company's existing NTSRR charge
3 to zero obviously would seem "bloated." However, his comparison is skewed and
4 inappropriate without a corresponding accommodation for the FCC's comprehensive
5 reform efforts that resulted in the elimination of the CCL charge along with
6 corresponding increases in USF support and SLC increases as off-sets.

7 **Q. In support of its benchmarking proposal, Mr. Price states that one would not expect**
8 **Windstream to charge switched access rates that are higher than AT&T, the**
9 **dominant provider in the Commonwealth. Do you agree? (Page 27, Line 16)**

10 A. No. First, AT&T does not provide services in the same territories as Windstream East or
11 Windstream West. Since Windstream East, Windstream West, and AT&T serve totally
12 different territories, they have unique geographic obstacles and the cost of providing
13 services are a result of those different geographies. In fact, from my cursory review of
14 intrastate switched access rates, in every case, the intrastate switched access rates of the
15 respective RBOC is lower than the intrastate switched access rates of the other ILECs in
16 that state. For example, in Florida the terminating intrastate switched access rate of
17 Verizon's ILEC affiliate is approximately 4.3 cents compared to AT&T's intrastate
18 switched access rate of approximately 1.6 cents. Two items in Florida are worth noting:
19 (1) AT&T does not have an intrastate CCL charge while Verizon's ILEC affiliate charges
20 2.5 cents per minute for intrastate CCL services; and (2) AT&T's intrastate switched
21 access rates in Florida do not mirror its interstate switched access rate. Based on this
22 cursory review alone, Verizon's claims in this proceeding that the Windstream rates must
23 be unreasonable because they are higher than the state's RBOC should be rejected. This

1 is particularly true where Verizon's ILEC affiliate in Florida maintains a CCL charge
2 (equivalent to Kentucky's NTSRR) which Verizon in this proceeding has suggested is
3 somehow a patently unreasonable charge.

4
5 Most significantly, the intrastate switched access rates of the remaining ILECs in the
6 Commonwealth are higher than the two Windstream companies as well as AT&T's rates.
7 This fact alone disproves Mr. Price's erroneous assertion.

8 **Q. Do you agree with Mr. Price's assertion that NTSRR charges are not associated**
9 **with any specific costs? (Page 29, Line 11).**

10 A. No. As I explained in my direct testimony, the NTSRR charge recovers interLATA and
11 intraLATA common line revenues, ULAS revenues and the revenue impact of changing
12 interLATA access service rates and intraLATA toll service rates to mirror the then
13 existing interstate access service rates. (Caballero Direct, page 18) In fact, in responding
14 to the same question, Mr. Price acknowledges that NTSRR was approved as a transitional
15 recovery mechanism for non-traffic sensitive costs. (Price Direct, Page 29, Lines 17-19)

16 **Q. So, are you saying that the NTSRR is, in fact, a "cost-based" rate element?**

17 A. I am saying that the NTSRR represents real costs that Windstream is entitled to recover,
18 costs that have traditionally, absent a related explicit jurisdictional universal service
19 regime, been partially recovered from IXCs. Thus, when people say that the NTSRR (or
20 similar charges in other states) are not "cost-based," I have to disagree.

21 **Q. In page 32, line 5, Mr. Price asserts that through the NTSRR Windstream has been**
22 **able to maintain the level of toll revenues it had 20 years ago. Do you agree?**

1 A. No. Mr. Price’s statement is nonsensical and contrary to the records of the Commission
2 which on their own reflect substantial reductions in Windstream East’s NTSRR between
3 2000 and 2001. Further, in my direct testimony, I explained that the NTSRR was
4 established to recover the sum of certain wholesale intrastate revenues as well as a
5 portion of intraLATA toll revenues that was estimated to be serving as intrastate loop
6 cost subsidization. Thus, only certain intrastate toll revenues were involved and, even
7 then, only a portion of such revenues. This is no different from what the FCC did when it
8 created IAS and ICLS – it examined sources of loop subsidization and created a balance
9 between end user local rates (through SLCs) and new explicit universal service
10 distributions.

11 **Q. Mr. Price asserts that Windstream objects to the removal of “implicit” subsidies in**
12 **intrastate switched access rates because it would reduce Windstream’s revenues. Do**
13 **you agree? (Page 33, Line 6)**

14 A. Not at all, although I do want to emphasize that this should not be confused with our
15 position that the Windstream companies should not be subject to the instant rate
16 investigation due to their rights under Kentucky law as alternatively regulated carriers.
17 To Mr. Price’s assertion, the Verizon witness fails to address that Windstream affiliates
18 have been active participants at the FCC and various state proceedings relative to reform
19 initiatives. Windstream East and Windstream West have been supportive of
20 comprehensive reform that provides reasonable transitions, affordable local rates and a
21 meaningful opportunity to recover the access revenue reductions. They also have
22 participated with their affiliates in filing comments with the FCC supporting
23 comprehensive intercarrier compensation reform. They were participants in the Missoula

1 group, proposed a rational plan to the FCC in October 2008 and again as part of the
2 Broadband Now coalition. Windstream affiliates, including Windstream East and
3 Windstream West, also support the FCC's efforts underway under the National
4 Broadband Plan ("NBP"). I should clarify, however, that the Windstream companies do
5 not support Verizon's brand of alleged "reform" which is nothing more than targeted
6 advocacy efforts to single out particular carriers, like Windstream, solely for the purpose
7 of reducing Verizon's expenses without regard to the well being of rural customers or the
8 companies that serve them.

9 **Q. Do you agree with Mr. Price's assertion that, as a general matter, interstate and**
10 **intrastate switched access rates have decreased dramatically over the past decade,**
11 **thus, by implication, causing Windstream to be an outlier? (page 33, line 12)**

12 A. As an initial point, Mr. Price's description of Windstream East and Windstream West as
13 outliers is not supported by the clear, irrefutable facts that the intrastate switched access
14 rates of the Windstream companies are lower than all but one other carrier in the
15 Commonwealth. His assertion also fails when one considers that the rates of Windstream
16 East in particular were previously reduced by tens of millions of dollars unlike virtually
17 all other carriers but one in Kentucky. In this respect, Windstream East may be
18 considered an outlier but only in the sense that its rates have been scrutinized more
19 heavily and are more reasonable than the rates of virtually all other carriers in Kentucky.

20
21 As a general matter, interstate switched access rates clearly have come down as a result
22 of the FCC's access reform efforts which, in replacing implicit subsidies with explicit
23 support, provided meaningful opportunity to recover lost revenue. Specifically, the FCC

1 has replaced access revenues with modest SLC increases and the establishment of new
2 universal service support mechanisms. Some states also have taken steps to reduce
3 intrastate switched access rates but have provided revenue replacement mechanisms and
4 reasonable transition paths. As I explain above, Mr. Price takes this out of context by not
5 explaining in detail the comprehensive nature of the reforms that reduced switched access
6 rates in the last decade.

7 **Q. In Page 36, Line 8 of his Direct Testimony, Mr. Price asserts that in Windstream’s**
8 **petition filed with the FCC to convert from rate-of-return regulation to price-cap**
9 **regulation, Windstream “boasted” that it had already eliminated its CCL charges in**
10 **the interstate jurisdiction and emphasized the consumer benefits of reducing**
11 **implicit subsidies and lowering access charges. Do you agree?**

12 A. No. Mr. Price takes the relevant element completely out of context. Windstream ILEC
13 affiliates did not “boast” that they had already eliminated their CCL charges, and instead
14 they were simply making a factual representation. Furthermore, as I discuss above, when
15 the FCC eliminated the CCL for rate-of-return carriers, such as the now-converted
16 Windstream properties which were making the factual representation to which Mr. Price
17 refers, the FCC, among other things, created the ICLS fund as a replacement mechanism
18 to ensure revenue neutrality. This was (and is) a very different result from what Mr. Price
19 and Verizon propose in this proceeding, therefore making Mr. Price’s analogy a bit of an
20 “apples to oranges” comparison. In their petition, the Windstream ILEC affiliates sought
21 relief from certain of the FCC’s universal service rules to ensure they could continue to
22 receive ICLS support on a per line basis (*In the Matter of Windstream Petition for*
23 *Conversion to Price Cap Regulation and for Limited Waiver Relief*, WC Docket No. 07-

1 171, FCC 08-81, at 27-34 (released March 18, 2008)(“*Windstream Petition*”). The FCC
2 granted the Windstream petition and permitted the Windstream ILEC affiliates to
3 continue receiving ICLS support on a per line basis (*Windstream Petition* at ¶ 20).

4 **Q. Do you agree with Mr. Price’s assertion that Verizon is asking for the same result in**
5 **its petition? (Page 36, Line 11)**

6 A. No. Verizon’s petition simply seeks that the intrastate switched access rates of
7 Windstream East and Windstream West be reduced to AT&T’s levels without any
8 meaningful opportunity to recover those revenues displaced by the suggested removal of
9 the implicit subsidy. That is not what the FCC did at the federal level, and it was not what
10 the Windstream ILEC affiliates requested in their petition to convert to price-cap
11 regulation.

12 **Q. Mr. Price concludes that AT&T and Windstream are comparable because they**
13 **serve the first and second largest city in the Commonwealth, both offer long**
14 **distance and broadband services as well as bundles including high-definition**
15 **television. Furthermore, Mr. Price boasts that Windstream Corporation,**
16 **Windstream’s parent company reported nearly \$2.9 billion in annual revenues in**
17 **2009 according to its 10-K filing. Could you comment with Mr. Price’s analysis?**

18 A. Such comparisons completely miss the mark with respect to the relevant issues before
19 the Commission and bring to light Verizon’s failure to meet its burden of proof with
20 respect to the relevant issue before the Commission. For example, his remarks regarding
21 Windstream Corporation’s (the parent holding company of Windstream East and
22 Windstream West) reported **\$2.9 billion** in revenues in 2009 are as relevant as the fact
23 that AT&T and Verizon’s corporate 10K filings for 2009 reported **\$123 billion** and **\$108**

1 billion in revenues, respectively. Mr. Price's comparison on this point demonstrates only
2 that as to the parties' holding companies, Windstream Corporation's revenues
3 represented a mere 2.3% and 2.7% of AT&T and Verizon's total corporate revenues. His
4 comments do nothing to substantiate Verizon's erroneous assertion that the intrastate
5 switched access rates of Windstream East and Windstream West in Kentucky are
6 unreasonably high.

7
8 Moreover, his remarks with respect to the cities served also miss the mark. The market in
9 Lexington – the largest city served by Windstream East – is so competitive that
10 Windstream East estimates that it serves only approximately ___% (Confidential
11 Information) of the residential market. This fact alone belies Verizon's assertions that
12 Windstream East is a monopoly provider in this city. Put another way, in Lexington,
13 Windstream East's allegedly "unreasonably high" intrastate switched access rates are
14 only a concern for Verizon for one fifth of the residential customers in that respective
15 city. Moreover, Mr. Price does not account for the differences in the largest cities served
16 by AT&T and Windstream East. For example, with regard to the AT&T market
17 referenced by Mr. Price, the Louisville MSA is more than twice the size of the Lexington
18 MSA. Further, Jefferson County (the county in which the city of Louisville is located)
19 has a population more than 50% larger than Fayette County (Windstream East area).
20 Interestingly, Mr. Price also does not discuss that once one gets past Louisville and
21 Lexington, the differences between AT&T and Windstream's service territories are more
22 stark. As I mentioned above, Windstream East and Windstream West have fewer lines
23 per square mile than AT&T, a significant proxy for the cost of serving a particular area.

1 As I mentioned in my direct testimony, the FCC has historically recognized these
2 differing cost of service characteristics, such as when the FCC's implementation of the
3 CALLS Plan entailed distributing to Windstream East's predecessor more IAS support
4 than AT&T, recognizing that overall Windstream East's predecessor served higher cost
5 areas. To this date, Windstream East's properties continue to receive more IAS support
6 than AT&T in the Commonwealth.

7
8 Verizon also offers an inaccurate comparison of AT&T and Windstream's service
9 offerings to conclude incorrectly that the operations of these three carriers are
10 comparable. This is hardly the case when one considers the actual facts. AT&T owns a
11 national network to deliver long distance services and provide connectivity to the
12 Internet. Windstream Communications, Inc. ("WCI") (the long distance affiliate of
13 Windstream West and Windstream East) lacks such a network. WCI operates as a long
14 distance reseller and has contracts in place with national players like AT&T, Verizon and
15 Sprint to resell those carriers' toll services and brand them under the Windstream name.
16 Verizon also asserts that Windstream East and Windstream West offer high-definition
17 television. They do not. They have a marketing agreement with DISH Network. If
18 Verizon's intent here is to compare the DISH offering to AT&T's own U-Verse product
19 or Verizon's FIOS product, then Verizon's comparison again ignores the facts and misses
20 the mark. Unlike U-Verse and FIOS which require fiber deployment closer to the
21 customer base, Windstream East and Windstream West resell DISH Network and bundles
22 that video service with their communications services. Finally, the fact that AT&T and
23 Windstream East/Windstream West offer bundles is hardly a reason to conclude the

1 carriers are similarly situated. In fact, in its Trends 2009 publications, NECA reports that
2 97% of the pool members (these would include the remaining ILECs in the
3 Commonwealth) offer broadband, 43% are deploying fiber loops in their networks, 28%
4 provide wireless voice service and 45% provide video services. Clearly all ILECs,
5 regardless of size, are offering these services to remain competitive in the marketplace.
6 This is no indication, however, that all of them are comparable as a result and should all
7 be charging identical intrastate switched access rates.

8 **Q. Mr. Price offers as support for Verizon's benchmarking proposal that Windstream**
9 **East – Lexington's interstate switched access rate is lower than AT&T's. Does this**
10 **make sense? (Page 40, Line 6)**

11 A. No. When Windstream East acquired the Verizon Kentucky assets, Windstream East
12 adopted the interstate access rate of its predecessor. Windstream East's Verizon
13 predecessor had a target rate of \$0.0055 since it was one of the largest ILECs in the
14 nation. Windstream West and its affiliates that converted to price cap regulation in 2008,
15 on the other hand, has a target rate of \$0.0065. This recognizes that Windstream West
16 and its affiliates have a different density and, therefore, a different cost structure than
17 AT&T. In fact, had Windstream East been among the ILECs that converted to price cap
18 regulation in 2008, its target rate would have been \$0.0065.

19 **Q. Do you agree with Mr. Price's assertion that the FCC has expressly held and**
20 **required ILECs to recover their costs from their own end users? (Page 41, Line 13)**

21 A. Again, Verizon only presents half of the story. While the FCC has recognized that
22 implicit subsidies must be made explicit and that end user customers should contribute to
23 such recovery, the FCC also has recognized that end user rates must remain affordable

1 consistent with the Act's universal service goals. As a result, the FCC increased SLC
2 caps for residential and single line business from \$3.50 per month to \$6.50 per month and
3 multi-line business SLCs from \$6.00 per line to \$9.20 per line. This increase took place
4 over a three-year period and the FCC established new universal service funds to
5 complement the incremental revenues derived from the SLC increases. Clearly the FCC
6 has recognized that shifting the recovery of all implicit subsidies to the end user carriers
7 is directly contrary to sound public policy. Verizon, however, continues to only consider
8 half of this balancing act.

9 **Q. Do you agree with Mr. Price that Windstream East and Windstream West can**
10 **recover the revenue displaced from the proposed switched access rate reductions by**
11 **increasing rates for non-basic services? (Page 43, Line 1)**

12 A. No. Non-basic services have been deemed so competitive in Kentucky that they are no
13 longer regulated by the Commission. Although Verizon fails to recognize other portions
14 of the Kentucky statutes, it does acknowledge the deregulated status of nonbasic services
15 under Kentucky law. To the extent rates need to be increased to recover the displaced
16 revenues, therefore, they must be increased from services over which the Commission
17 retains jurisdiction, *i.e.*, basic services. (I note in particular that this discussion in no way
18 waives the positions we have with respect to the law removing all other rates besides
19 basic rates for alternatively regulated carriers from the Commission's ratemaking
20 jurisdiction and deeming the rates just and reasonable as a matter of law.) The hole in
21 Verizon's proposal, however, is that Windstream East and Windstream West are
22 prohibited from raising those basic service rates under their alternative regulation
23 provisions. Again, while Verizon recognizes the "quid" (freeze on basic rates), it ignores

1 the corresponding “pro quo” in the law (exemption from further rate investigations).
2 Furthermore, to the extent basic rates may be raised, the Commission should continue to
3 ensure that they remain affordable just like the FCC has done at the federal level.

4
5 Significantly, the NJBPU allowed Verizon’s ILEC affiliate in New Jersey to recover
6 revenue reductions from competitive (*i.e.*, non-basic) services. (*In the Matter of the*
7 *Board’s Investigation and Review of Local Exchange Carrier Intrastate Exchange Access*
8 *Rates*, Telecommunications Order, Docket No. TX08090830 (February 1, 2010) at 6.) As
9 I mentioned above, Verizon’s ILEC affiliate adamantly opposed that effort by the NJBPU
10 asserting that it is inappropriate to recover switched access revenue reductions from
11 “competitive” services and that the NJBPU’s action amounted to an unlawful taking. Yet,
12 that is precisely what the Verizon affiliate in Kentucky (where Verizon no longer
13 operates as an ILEC) is asking this Commission to do.

14 **Q. Do you agree with Mr. Price’s conclusion with regard to Windstream’s federal**
15 **universal support analysis in page 45 of his direct testimony?**

16 A. No. Existing universal service support already is helping maintain affordable local rates
17 in addition to the implicit subsidies in intrastate switched access charges. By way of
18 example, at the time the FCC reformed interstate switched access charges, most ILECs
19 were recipients of federal universal service support, including Verizon and AT&T. When
20 the FCC made the implicit subsidies in switched access charges explicit, the FCC did not
21 include existing universal service support in the calculations. Instead, the FCC created
22 new universal service mechanisms to allow ILECs a meaningful opportunity to recover
23 displaced revenue.

1 **Q. Didn't the U.S. Department of Agriculture's Rural Utilities Service recently**
2 **announce that Windstream affiliates have been awarded \$951,000 for a broadband**
3 **buildout project in Kentucky? How should this factor into the Commission's**
4 **consideration?**

5 A. Those funds should certainly not be considered to be a partial (or any type of) substitute
6 for intrastate switched access revenue that Windstream East or Windstream West would
7 lose as a result of the Commission granting Verizon's unsubstantiated claims in this
8 proceeding. Among other things, because those funds would be used for broadband
9 buildout, they are most likely jurisdictionally interstate and legally irrelevant to the
10 Commission's consideration. Further, Windstream East or Windstream West's ability to
11 successfully apply for such scarce federal funds demonstrates both the truly high cost of
12 constructing and maintaining a network in Windstream's service territory as well as the
13 efficiency of Windstream's operations. Verizon should not be permitted to use this issue
14 to confuse the actual question before the Commission – *i.e.*, has Verizon met its burden
15 of proof in demonstrating factually that Windstream East and Windstream West's
16 intrastate switched access rates are unreasonably high.

17
18 In summary, Verizon has not met its burden, and the facts of the Windstream rates in
19 Kentucky do not support Verizon's allegations. Verizon's testimony has demonstrated
20 more clearly that this case is purely an attempt by Verizon to seek targeted expense
21 reductions which may not fairly be attributed as meaningful access "reform" and which
22 Verizon has utterly failed to show are even warranted in the first place. The irrefutable
23 facts remain that the intrastate switched access rates of Windstream East and Windstream

1 West are lower than all but one of the carriers in the Commonwealth and in the case of
2 Windstream East, have already been reduced by tens of millions of dollars unlike
3 virtually any other but one carrier in Kentucky. The facts do not support Verizon's
4 contention that the Windstream rates are unjust and unreasonable and in need of further
5 reductions.

1 A. No. At the time this order was released (1995), AT&T had market power in both
2 intrastate toll and intrastate switched access services. As I have explained, WCI does not
3 have any market power in the toll market and resells the service of the national carriers
4 such as Sprint. The level of Windstream East and Windstream West's switched access
5 rates does not have an impact on the overall long distance market. Additionally,
6 Windstream's switched access rates are capped pursuant to the companies' status as
7 alternatively regulated carriers, further mitigating any impact their switched access rates
8 could have in the overall toll market. To this end, it is also undisputed in this proceeding
9 that the long distance toll market is readily competitive. It is illogical then to suggest that
10 while the retail portion of that respective market is highly competitive, the wholesale side
11 of that same market is so egregiously monopolistic that the carriers operation in that
12 market are unduly harmed.

13 **Q. Do you agree with Mr. Appleby assertions that carriers providing cable telephony,**
14 **traditional CLEC, wireless and VoIP services are not able to compete against**
15 **Windstream as a result of the level of Windstream's intrastate switched access**
16 **rates? (Page 11, Line 1)**

17 A. No. Mr. Appleby reaches this conclusion without providing any support, and the facts
18 dictate otherwise. Wireless services are available to the vast majority of Windstream East
19 and Windstream West customers and also offer the same national calling plans to
20 customers not located in the Windstream territories. Cable is also a formidable
21 competitor. Approximately ___% (Confidential Information) of Windstream East and
22 Windstream West's customers have access to cable broadband service, and ___%
23 (Confidential Information) have access to cable voice service. Since June 2007,

1 Windstream East has lost a significant number of its customers in the Lexington area
2 alone to a cable voice provider. Furthermore, cable telephony and traditional CLEC
3 providers also assess access charges when long distance providers terminate traffic to
4 their customers. The telecommunications landscape is very competitive, and the level of
5 Windstream's intrastate switched access rates cannot fairly be said to affect the
6 competition levels in the Commonwealth. However, a drastic reduction in Windstream
7 East and Windstream West's intrastate switched access rates without a meaningful
8 opportunity to recover the revenues displaced by the removal of the implicit subsidies,
9 however, will have detrimental impact for rural consumers in the Commonwealth.

10 **Q Do you agree with Mr. Appleby's description of the access reform efforts conducted**
11 **in the states of New Jersey, Georgia, Illinois, Michigan and Kansas? (page 12, line**
12 **14)**

13 A. No. According to Mr. Appleby, the state commission in the above five states decided that
14 intrastate switched access rates needed to mirror their interstate levels and did not apply
15 to just the largest ILECs in those states but to all. Like Mr. Price, Mr. Appleby fails to
16 reveal the entire picture of the reform efforts in these states. I already have explained
17 above the reform efforts in New Jersey, Georgia and Kansas. Below I will explain the
18 efforts in Illinois and Michigan.

19
20 The Illinois Commerce Commission did require phased down reductions in intrastate
21 switched access rates to interstate levels. However, rural carriers were permitted to draw
22 from a state universal service fund.

23

1 In Michigan, the legislation required ILECs to mirror their intrastate switched access
2 rates to interstate levels but it created a new Access Rate Restructuring Mechanism (new
3 USF) that will provide revenue replacement to the affected ILECs. The newly established
4 fund will sunset after 12 years. This legislation was a compromise between AT&T and
5 the ILECs in Michigan.

6 **Q. Do you agree with Mr. Appleby's assertion that comparing intrastate switched**
7 **access rates to the interstate switched access rate provides a good indication of what**
8 **a reasonable rate would be? (Page 14, Line 19)**

9 A. Not without taking into consideration the reform efforts undertaken by the FCC. As
10 described in my direct testimony and in this rebuttal testimony, the FCC reduced
11 interstate switched access rates, but provided meaningful opportunities to the affected
12 ILECs to recover the displaced revenues. Specifically, the FCC permitted modest
13 increases in SLC caps over a period of time and also established two new universal
14 service mechanisms. Comparing the interstate and intrastate switched access rates
15 without taking into account the comprehensive reform undertaken by the FCC is
16 meaningless. I note again that the Commission has already determined that this
17 proceeding does not encompass reform issues and that the issue is only whether Verizon
18 has demonstrated whether the Windstream intrastate switched access rates are unjust and
19 unreasonable. While Verizon has not and cannot meet its burden on this issue, I have
20 discussed these comprehensive reform efforts only to demonstrate the appropriate action
21 that should be undertaken by this Commission in the event that Verizon were somehow
22 able to substantiate its claims.

1 **Q. Mr. Appleby also appears to argue that the difference between AT&T's intrastate**
2 **switched access rates and those of Windstream supposedly demonstrates the alleged**
3 **unreasonableness of Windstream's rates. What is your response to Mr. Appleby's**
4 **claim and underlying reasoning? (Page 16, Lines 1-16)**

5 A. I discussed the reasons why AT&T and Windstream's costs should and do differ in my
6 direct testimony. I would like, however, to respond to a particular line of reasoning used
7 by Mr. Appleby – that AT&T and Windstream's "teledensities" in Kentucky are
8 supposedly comparable and therefore the two carriers should have "similar economics."
9 First, while I believe that teledensity, the number of access lines served per square mile
10 of service territory, is, indeed, an important proxy for network costs, it is not always a
11 complete measure. Further, AT&T has far greater buying power. Regardless,
12 Windstream's teledensity, as reported by Mr. Appleby, is still substantially lower than
13 AT&T's. This means that when AT&T and Windstream deploy a network over a typical
14 square mile, AT&T's cost per customer is measurably lower than Windstream's because
15 AT&T has more customers per square mile. The money to fund the difference between
16 building a network building out to serve fewer customers per square mile than AT&T has
17 to come from somewhere. The NTSRR, at least in part, represents this operational
18 recovery.

19 **Q. Do you agree with Mr. Appleby's assertion that Windstream must mirror its**
20 **interstate switched access rates and rate structure now and in the future? (Page 17,**
21 **Line 17)**

22 A. Setting aside the alternative regulation concerns in Kentucky, I do not agree with his
23 assertion which ignores incorporation of a comprehensive reform effort (which

1 unfortunately is not part of the instant proceeding) and provision of a meaningful
2 opportunity to recover the displaced revenues. Furthermore, the Commission must
3 analyze the reform efforts undertaken by the FCC before requiring mirroring now or in
4 the future. As explained above, it is inappropriate to require mirroring without affording
5 affected carriers similar revenue replacement opportunities provided by the FCC.

6 **Q. Mr. Appleby asserts that NTSRR costs are incurred by Windstream’s retail**
7 **customer when he or she orders retail service from Windstream, therefore those**
8 **costs should be recovered from Windstream’s end users. Do you agree? (Page 18,**
9 **Line 3)**

10 A. No. It may very well be true that end users are technically the “cost-causers” of loop cost
11 and therefore, if one were to consider only this single issue in isolation, economic
12 efficiency might suggest that end users bear the entire amount of intrastate loop costs, no
13 matter how high. Regulators, however, should not consider such issues in isolation from
14 all others. Until the Commission creates explicit support mechanisms, the status quo
15 should be maintained.

16 **Q. Do you agree with Mr. Appleby’s assertion that because Windstream has not**
17 **claimed that its interstate access rates are non-compensable, Windstream must**
18 **therefore consider such rates to be, in fact, compensable and therefore a reasonable**
19 **basis for setting Windstream’s intrastate rates? (Page 19, Line 8)**

20 A. No. This question was asked by AT&T in discovery and Windstream East and
21 Windstream West responded that their interstate switched access rates were not
22 compensable without the incremental revenues derived from the SLC rate increases and
23 the incremental universal service support provided during the CALLS and MAG

1 proceedings. In fact, a key component of Windstream’s petition when converting from
2 rate-of-return regulation to price-cap regulation was the retention of ICLS support
3 provided in MAG. The FCC agreed with the Windstream affiliates and permitted them to
4 continue receiving ICLS support.

5 **Q. Mr. Appleby asserts that Windstream now provides long distance, broadband, video**
6 **and should include those revenues to recover the costs of the local network**
7 **connection. Do you agree? (Page 21, Line 14, 21)**

8 A. No. Mr. Appleby is mismatching revenues and costs. First, Windstream East and
9 Windstream West do not provide video services over their local facilities. They resell
10 DISH Network and bundle it with their communication services. Second, a Windstream
11 affiliate (WCI) is the primary long distance service provider. WCI has its own revenues
12 and costs, and as mentioned above, it pays the same tariffed switched access rates as any
13 other long distance provider. Finally, Windstream East and Windstream West have spent
14 millions of dollars in capital investment to deploy broadband to their customers in the
15 Commonwealth. If one were to hypothetically agree with Mr. Appleby that broadband
16 revenues must be included, then all costs incurred to provide broadband service must be
17 included as well. The legality of including broadband service revenues in an analysis of
18 appropriate rates for the Windstream intrastate services is highly questionable given the
19 jurisdictionally interstate nature of broadband service.

20 **Q. Do you agree with Mr. Appleby’s explanation that Windstream will attempt “to**
21 **explain it needs to generate the same amount of revenue that the high access rates**
22 **have provided”?** (Page 26, Lines 8-10)

1 **A.** No, I do not. Mr. Appleby has either chosen to ignore or has not been paying attention to
2 Windstream’s long-consistent approach that access reform is necessary, that rate
3 reduction transition timeframes should be reasonable and that providers should have a
4 reasonable and meaningful opportunity to recover the lost revenues.

5
6 Windstream affiliates, however, have paid attention to Sprint’s advocacy regarding
7 reforms of wholesale matters at both the federal and state levels, and we note that Sprint’s
8 advocacy has been consistent. Sprint has frequently claimed at both federal and state
9 levels that all wholesale service providers in the telecommunications industry should be
10 subject to greater regulation and forced to lower their rates to the benefit of Sprint whose
11 competitive and financial positions continue to be difficult at best. However, the issues
12 surrounding rate reforms of wholesale services are more about the simple fact that these
13 rates are required to be just and reasonable, and not about providing a financial bailout or
14 windfall for Sprint. This requirement must ensure that high-quality, affordable
15 telecommunications services remain available not only in urban densely populated areas,
16 but in rural, higher-cost markets as well.

17
18 The fact that Sprint goes on further in an attempt to somehow link the annual dividend
19 and associated yield to Windstream’s shareholders is further proof that it has become
20 desperate and is grasping at any financial lifeline it can find.

1 IV. REBUTTAL TO AT&T TESTIMONY

2 Q. Did you review Dr. Aron's testimony?

3 A. I did.

4 Q. Could you summarize her testimony?

5 A. Dr. Aron describes the history of switched access charges, explains the implicit subsidies
6 in such rates to maintain basic local service rates to meet the FCC's universal service
7 goals. Dr. Aron also explains the difference between interstate, intrastate and reciprocal
8 compensation rates. She further explains that implicit subsidies contained in switched
9 access rates and the different rates assessed to different classes of traffic is no longer
10 sustainable and is harming competition in the Commonwealth. Dr. Aron also describes
11 the arbitrage opportunities inherent in the current intercarrier compensation system.

12 Q. What is Dr. Aron's recommendation to the problems discussed above?

13 A. In page 62, Line 22 of her direct testimony, Dr. Aron recommends that Windstream's
14 intrastate switched access rates be reduced to interstate levels.

15 Q. How does Dr. Aron propose that this reduction be accomplished?

16 A. Dr. Aron believes that access rates reductions should be part of a holistic approach that
17 would provide Windstream an opportunity to recover the displaced revenues from end
18 user rate increases and, if necessary from a state universal service fund, thus rejecting a
19 myopic focus purely on the level of Windstream's intrastate switched access charges
20 (Page 67, Line 3). As a result, Dr. Aron recommends that the Commission adopt the
21 AT&T proposal included in AT&T witness Dr. Ola Oyefusi's direct testimony.

22 Q. Have you reviewed AT&T's proposal included in Dr. Oyefusi's direct testimony?

23 A. I have.

1 **Q. Is AT&T's proposal consistent with the relief sought by Verizon which is the subject**
2 **of this proceeding?**

3 A. No. AT&T's proposal and related testimony are more appropriately considered in its
4 pending access complaint proceeding before the Commission and transcend the issues
5 presented in Verizon's complaint in this case. Verizon's petition seeks an immediate
6 reduction of Windstream's intrastate switched access rates to the levels charged by
7 AT&T. Verizon offers no reasonable substantiation for its claim that the Windstream
8 rates are unjust and unreasonable and skips ahead to its suggestion that Windstream East
9 and Windstream West must reduce their rates and can possibly try to recover the
10 displaced revenues by increasing the rates of their non-basic services. Verizon's petition,
11 which presents no real reform proposal, is silent as to whether a state fund may be
12 appropriate. Unfortunately, this proceeding has been determined to not be about
13 comprehensive and holistic access reform as Dr. Aron recommends. Largely at Verizon's
14 doing, this proceeding has been determined to be about the reasonableness of
15 Windstream's intrastate switched access rates and whether they should be reduced to the
16 levels charged by AT&T without a meaningful opportunity to recover the displaced
17 revenues.

18 **Q. Dr. Oyefusi asserts that implicit subsidies are no longer needed because consumers**
19 **have so many alternative options for retail services. Do you agree? (Page 12, line 14)**

20 A. Assuming this were even a relevant line of questioning for this proceeding, I think Dr.
21 Oyefusi is asking the wrong question. The real question is whether some form of subsidy
22 is still needed to ensure customers in high cost areas continue to have access to quality
23 telecommunications services at affordable prices. The answer to this question is clearly

1 yes. Contrary to Dr. Oyefusi's conclusion, customers in rural areas of the nation still
2 don't have access to the myriad of retail alternatives he mentions. In fact, they depend on
3 Windstream for their voice and broadband services. Regrettably, because the scope,
4 discovery, and participants in this proceeding were not established to include these issues,
5 there is really not a factual foundation established herein to fully address many of the
6 issues raised by Dr. Oyefusi.

7 **Q. Does Dr. Oyefusi recognize the need for subsidies to ensure customers in high cost**
8 **areas have access to quality telecommunications services at affordable rates?**

9 A. Yes. In page 13, beginning on line 3 Dr. Oyefusi states that "there is nothing wrong with
10 providing support for truly high cost areas or for low income consumers." A couple of
11 lines down Dr. Oyefusi states that such subsidies should be made explicit in accordance
12 with AT&T's proposed plan. Unfortunately as I mentioned above, this proceeding is not
13 about AT&T's plan. It is about targeting Windstream East and Windstream West and
14 reducing their intrastate switched access rates to AT&T's levels because this is where
15 Verizon apparently believes it may garner its desired expense reductions.

16 **Q. Do you agree with Dr. Oyefusi that VoIP originated traffic is not subject to switched**
17 **access charges and instead pay reciprocal compensation rates? (Page 19, Line 22)**

18 A. I do not. Windstream East, Windstream West, and every other ILEC apply the
19 appropriate switched access rate or reciprocal compensation rate depending on the
20 jurisdiction of the call terminating to the network regardless of the technology used to
21 originate such call. I do agree with Dr. Oyefusi that some VoIP providers are disputing
22 these charges and several carriers have asked the FCC to deem these charges for VoIP
23 traffic as inappropriate. The FCC has not yet issued such a decision.

1 **Q. Dr. Oyefusi states that “consumers are best served when prices reflect underlying**
2 **cost and all competitors compete on a level playing field.” Do you agree? (Page 24,**
3 **Line 10)**

4 A. In an absolute market-based, unregulated world yes. However, Windstream East and
5 Windstream West have carrier of last resort obligations and are required to provide
6 service to any customer within their exchange boundaries. Wireless carriers do not have
7 this obligation. Neither do long distance carriers or cable voice providers or VoIP
8 providers. These carriers can pick and choose which customers to serve to maximize
9 profits. Windstream East and Windstream West cannot. So the level playing field cannot
10 be limited to prices, it needs to include regulatory treatment as well.

11 **Q. In page 24, line 19 and other places in his direct testimony, Dr. Oyefusi states that**
12 **the current system encourages arbitrage and describes one such scheme know as**
13 **“traffic pumping”. Could you comment on this ?**

14 A. I agree with Dr. Oyefusi that arbitrage opportunities are unfortunately plentiful in the
15 current intercarrier compensation mechanism. It is not clear whether Dr. Oyefusi is
16 implying incorrectly that the Windstream companies are engaged in “traffic pumping” as
17 the need to explain in detail this form of arbitrage. To dispel any concerns or
18 misconceptions presented by Dr. Oyefusi, I can confirm that Windstream East and
19 Windstream West have never engaged in and have been vocal opponents of “traffic
20 pumping”. In fact, on April 30, 2007, Windstream and a group of ILECs filed a letter
21 with the FCC opposing “traffic pumping” (Attached hereto as Exhibit CC1). More
22 telling, in June 2007, some Windstream affiliates removed themselves from the NECA
23 pool and established their own interstate switched access rates. The new interstate access

1 tariff was suspended and set for investigation by the FCC with a number of other tariffs
2 to address alleged “traffic pumping” concerns. AT&T and Verizon filed letters of support
3 on behalf of the Windstream affiliates with the FCC requesting that the Windstream tariff
4 be excluded from the FCC’s investigation (letter of Henry Hultquist from ATT and
5 Donna Epps from Verizon attached hereto as Exhibits CC2 and CC3). This should
6 remove any misperception as to whether Windstream East and Windstream West engage
7 in “traffic pumping”. Any concerns this AT&T witness may have about companies
8 “traffic pumping” should be discussed in a separate rulemaking but have no bearing on
9 the issue in this proceeding.

10 **Q. Do you agree with Dr. Oyefusi’s assertion that Windstream’s intrastate switched**
11 **access rates are not just and reasonable because Windstream has conceded that**
12 **access reform is necessary? (Page 25, Line 17)**

13 A. No. Windstream East and Windstream West have been supportive generally of federal
14 access reform efforts because they believe that implicit subsidies need to be made
15 explicit. The FCC accomplished this without ever finding that interstate switched access
16 rates were not just or reasonable. The FCC concluded that there was a better structure to
17 recover costs. The FCC’s new structure provided for modest increases in SLCs,
18 reductions in switched access charges and the establishment of new universal service
19 mechanisms. Windstream East and Windstream West still believe this type of
20 comprehensive holistic federal reform as Dr. Aron describes is in the public interest.
21 Unfortunately, the Verizon petition, and thus the issues before the Commission in this
22 proceeding, are not about comprehensive holistic reform and also fail to take into account
23 the reform already set forth by the Legislature when it established a mechanism to cap

1 certain rates in return for certain lessened regulatory treatment for alternatively regulated
2 carriers.

3 **Q. In pages 25-32 of his direct testimony, Dr. Oyefusi describes the benefits of AT&T's**
4 **plan. Could you comment?**

5 A. While I don't support every element of AT&T's proposed plan and emphasize again that
6 the issue is really irrelevant to what the Commission has determined is the subject of this
7 proceeding, I do believe that AT&T's proposal is a much more comprehensive attempt at
8 meaningful reform than what Verizon has put forth in this proceeding. I also believe,
9 however, that the best course of action is for the Commission to defer to the FCC's
10 current reform efforts.

11 **Q. Dr. Oyefusi asserts that Windstream has supported having unified interstate and**
12 **intrastate switched access rates. Do you agree? (Page 32, line 17).**

13 A. Yes. However, the ex parte letter filed with the FCC referenced in Dr. Oyefusi's direct
14 testimony was part of a comprehensive holistic plan Windstream affiliates proposed to
15 the FCC, and Dr. Oyefusi chose to only mention the unification of access rates portion of
16 the plan. The plan also proposed modest increases in the SLC rate and additional
17 universal service not recovered by the incremental revenues generated by the SLC.
18 Again, this is not what this instant proceeding is about.

19 **Q. Do you agree with Dr. Oyefusi that if Windstream's intrastate switched access rates**
20 **are reduced to interstate levels the resulting rates will be above cost because**
21 **Windstream has never shown that its interstate rates are below cost? (Page 37, Line**
22 **14)**

1 A. No. In discovery AT&T asked whether Windstream East and Windstream West believed
2 that their interstate switched access rates were above cost. They responded that they were
3 only compensatory when one considers the associated SLC increases and incremental
4 universal service support provided in the MAG and CALLS proceedings. Dr. Oyefusi is
5 being disingenuous with his response by purposefully omitting a portion of the
6 Windstream companies' response. (Attached hereto is Windstream's response as Exhibit
7 CC4).

8 **Q. Do you agree with Dr. Oyefusi's conclusion that the FCC has set a local**
9 **interconnection rate of \$0.0007 and that the FCC found that this rate is sufficient to**
10 **recover cost? (Page 38, Line 2)**

11 A. No. First of all, the FCC has never set a local interconnection rate of \$0.0007. This is a
12 rate that the FCC established for compensation of dial-up ISP-bound traffic. If ILECs
13 wished to pay at this rate for dial-up ISP traffic then the ILEC had to use this rate as its
14 default local interconnection rate. Neither Windstream East nor Windstream West has
15 elected this rate and continues to assess its reciprocal compensation rate in accordance
16 with the FCC's pricing methodology. The reciprocal compensation rates of Windstream
17 West and Windstream East are higher than the \$0.0007 mentioned by Dr. Oyefusi.

18
19 Second, it is improper to compare switched access rates and local interconnection rates to
20 conclude that local interconnection rates are sufficient to recover costs. The FCC requires
21 that local interconnection rates only recover the transport and termination of the call.
22 *Implementation of the Local Competition Provisions in the Telecommunications Act of*
23 *1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio*

1 *Service Providers*, First Report & Order, 11 FCC Rcd 15499, at ¶ 1057
2 (1996)(*subsequent history omitted*). This means only transport and switching functions
3 are recovered via the local interconnection trunk. Switched access rates on the other hand
4 also recovered functions associated with the local loop (like the NTSRR or CCL). The
5 FCC excluded loop functions from the local interconnection rate because those functions
6 were already being recovered through local, interstate switched and intrastate switched
7 access charges. Further, the U.S. Supreme Court has held that the pricing standards of
8 Section 252(d) of the Communications Act of 1934, as amended (“Act”) differ from the
9 “just and reasonable” standard of Section 201 of the Act used to set, among other things,
10 interstate access rates² (and even more specifically, price cap-based interstate access
11 rates³). Therefore, comparing local interconnection rates and switched access rates to
12 determine cost recovery is wholly inappropriate.

13 **Q. So, even if \$0.0007 is not the relevant local traffic termination rate (i.e., reciprocal**
14 **compensation rate) to use in any sort of comparison, are you saying that local traffic**
15 **termination rates are generally irrelevant to determining just and reasonable**
16 **switched access rates?**

17 Yes. To the extent that Windstream East and Windstream West’s intrastate switched
18 access rates are not automatically deemed just and reasonable by Kentucky statute, which
19 Windstream believes they are, the relevant statutory standard is KRS 278.030(1), which
20 requires rates to be “fair, just and reasonable rates,” language very similar to Section 201
21 of the Act. As I discussed above, the U.S. Supreme Court has observed that the language

² *Verizon Communications Inc. v. FCC*, 535 U.S. 467, 489 (2002). I am not necessarily stating whether TELRIC is or is not an appropriate method of determining exchange access rates or how the actual results of pricing using the principles of Sections 252(d) and 201 of the Act compare.

³ *Id.* at 487.

1 of Section 201 has often been applied in a manner different from how the FCC requires
2 components of reciprocal compensation rates to be determined.

3 **Q. In pages 38-51 of Dr. Oyefusi's direct testimony, he describes and explains the**
4 **benefit of a local rate benchmark. Could you comment?**

5 A. In the context of comprehensive holistic access reform, Windstream ILEC affiliates have
6 been supportive of a local rate benchmark. However, the benchmark in this case is a
7 component of AT&T's access reform plan that is not a part of Verizon's complaint or this
8 proceeding. Windstream East and Windstream West will comment on the appropriateness
9 of a local rate benchmark when and if the Commission establishes a proceeding to
10 comprehensively review and reform intrastate switched access charges.

11 **Q Do you agree with Dr. Oyefusi that the Commission should order Windstream to**
12 **reduce or eliminate its NTSRR since Windstream already has pricing flexibility for**
13 **the majority of its retail service? (Page 52, Line 16)**

14 A. No. Dr. Oyefusi implies that Windstream East and Windstream West have the ability to
15 recover the NTSRR revenues from non-basic services. As I mentioned before, this is not
16 good policy and Verizon's ILEC affiliates have taken the opposite view. Reductions in
17 regulated services, such as switched access charges, must be recovered from other
18 regulated services and not from deregulated services (*i.e.*, non-basic services) which are
19 already subject to significant market regulation. However, Windstream East and
20 Windstream West are prohibited from raising basic rates under their alternative
21 regulation plans. Notwithstanding this prohibition, the Commission must ensure that
22 basic rates remain affordable to customers in high-cost areas of the Commonwealth.

23

1 In summary, with respect to the AT&T testimony, I note generally that the issues raised
2 fall well outside the scope of this proceeding as it has been determined by the
3 Commission. The issues presented by AT&T are more appropriately considered by the
4 Commission as part of the AT&T pending access complaint and are not at all consistent
5 with what Verizon has requested in its Petition. Consequently, in addition to having been
6 denied their rights as alternatively regulated carriers, Windstream West and Windstream
7 East further have been placed at an unfair advantage by having to address and respond to
8 significantly more issues than what are presented in Verizon's petition and what other
9 parties will be addressing later in AT&T's access complaint.

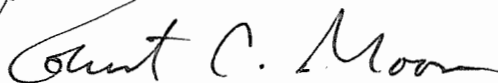
10 **V. CONCLUSION**

11 **Q. Does this conclude your rebuttal testimony?**

12 **A.** Yes, at this time.

Date: August 13, 2010

Respectfully submitted,



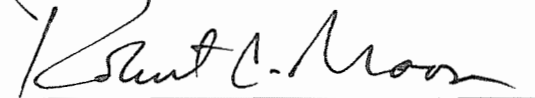
Robert C. Moore
HAZELRIGG & COX, LLP
415 West Main Street, 1st Floor
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Frankfort, Kentucky 40602-0676
(502) 227-2271

And

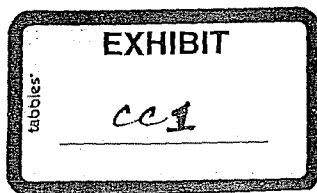
Kimberly K. Bennett
Windstream Communications
4001 Rodney Parham Road
Little Rock, AR 72212-2442

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 13th day of August, 2010.



Robert C. Moore



April 30, 2007

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission

The Honorable Michael J. Copps
Commissioner
Federal Communications Commission

The Honorable Deborah Taylor Tate
Commissioner
Federal Communications Commission

The Honorable Jonathan Adelstein
Commissioner
Federal Communications Commission

The Honorable Robert M. McDowell
Commissioner
Federal Communications Commission

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Martin and Commissioners Copps, Adelstein, Tate and McDowell:

As executives of local exchange companies, we are concerned about recent reports of a very limited number of carriers unreasonably attempting to exploit perceived loopholes in the current access charge regime. We believe that schemes such as “access pumping” pose a serious threat to the integrity of the existing inter-carrier compensation system and urge you to take swift action to address this practice.

The Commission’s existing rules were designed, appropriately, to allow rural local exchange carriers flexibility when leaving the NECA pool to establish their own cost-based rates at potentially lower levels without the extensive costs associated with traditional tariff filings. It was expected that these carriers’ cost and demand data would not fluctuate greatly over time and thus the use of historical information to develop tariffs would be a reasonable surrogate for the period after leaving the pool. In addition, any increased efficiencies benefit the carrier’s access customers through lower rates when it files its subsequent tariffs. The rules did not anticipate schemes whereby carriers leaving the pool would simultaneously enter into agreements solely designed to increase minutes by several times historical levels.

However, carriers engaged in these access pumping schemes are doing precisely that by filing tariffs based upon very low historical minutes, while entering into agreements with free chat lines, international calling platforms, or similar high-volume customers to deliver calls in

exchange for a portion of the access charges collected by the carrier. In other words, these carriers are filing tariffs with access rates based on historical low minutes of use in full knowledge that their actual minutes of use will be many times higher, resulting in an unreasonable windfall in profits. The sole incentive for carriers engaged in this scheme is to generate as many minutes as possible during the two year window before jumping back into the NECA pool.

It is important for the Commission to understand that it is only a very small number of companies that are taking advantage of these improper access pumping practices. The vast majority of rural companies take their filing requirements seriously. But we are very concerned that schemes designed to inappropriately inflate access revenues irreparably diminish the integrity of the access charge system. As you know, we have expressed similar concerns in the past about schemes to inappropriately avoid paying access charges.

While we recognize the need for changes to the existing inter-carrier compensation regime, those changes should not be an overreaction to isolated bad acts, but must instead reflect a rational, practical transition that recognizes the different needs of all parts of the industry. In particular, the flexibility provided by section 61.39 remains a valuable option for rural carriers operating within the original intent of that rule—but that flexibility is being placed at risk through abuse by a few bad actors. For this reason, we believe it is critically important that the Commission move swiftly to investigate and shut down these potentially de-stabilizing schemes.

We appreciate your consideration on this very important matter.

Sincerely,

/s/Trent Boaldin

Trent Boaldin
President
EpicTouch Co.

/s/Arne (Skip) Haynes

Arne (Skip) Haynes
President & CEO
The Rainier Group

/s/Gary Gilmer

Gary Gilmer
President
Southwest Texas Telephone

/s/David Zesiger

David Zesiger
Senior Vice President, Regulatory Policy
& External Affairs
Embarq

/s/Marty Rubin

Marty Rubin
CEO & President
Smart City

/s/Eric Einhorn

Eric Einhorn
Vice President, Federal Government Affairs
Windstream

/s/Jack Keen
Jack Keen
President & CEO
Western New Mexico Telephone Co.

/s/Albert H. Kramer
Albert H. Kramer
Senior Vice President, Operations
D&E Communications, Inc.

/s/Michael Shultz
Michael Shultz
Vice President - Regulatory & Public Policy
Consolidated Communications

/s/Ron B. McCue
Ron B. McCue
Vice President
Silver Star Communications

/s/Walter Arroyo
Walter Arroyo, Esq.
Director, Regulatory Affairs Department
Puerto Rico Telephone Co., Inc.

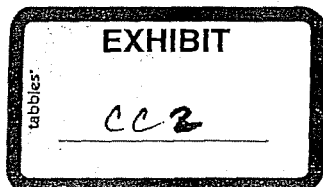
/s/D. Michael Anderson
D. Michael Anderson
Vice President, External Affairs and Marketing
Iowa Telecom

/s/Robert Hunt
Robert Hunt
Vice President, Regulatory Affairs
Guadalupe Valley Telephone Cooperative, Inc.

/s/Michael R. Coltrane
Michael R. Coltrane
President and CEO
CT Communications, Inc.

/s/Steven Oldham
Steven Oldham
President & CEO
Surewest Communications

cc: Daniel Gonzalez
Michelle Carey
Ian Dillner
Scott Deutchman
Barry Ohlson
Scott Bergmann
Aaron Goldberger
John Hunter
Nick Alexander
Tom Navin
Don Stockdale



EXHIBIT

CC2

tabbles



Henry Hultquist
Vice President
Federal Regulatory

AT&T Services, Inc. T: 202.457.3821
1120 20th Street, NW F: 202.457.3072
Suite 1000
Washington, DC 20036

July 23, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

FILED/ACCEPTED
JUL 23 2007
Federal Communications Commission
Office of the Secretary

RE: WCB/Pricing Docket No. 07-10, July 1, 2007 Annual Access Charge
Tariff Filings

Dear Ms. Dortch:

AT&T supports Windstream's efforts¹ to remove its tariff from those under investigation for traffic pumping. While the fact that Windstream's new rates are lower than those under the NECA tariff would not, standing alone, warrant such relief, Windstream has also demonstrated opposition to traffic pumping,² is a large, diversified carrier that operates under both price cap and rate of return regulation, and is a significant provider of interexchange services. It is therefore implausible that Windstream would engage in the very arbitrage it recognizes as a threat to the "integrity of the existing intercarrier compensation system."

As a leader in the fight against the traffic pumping carriers AT&T appreciates and supports the Commission's efforts to address this threat to the access charge regime, but urges the Commission to reconsider the inclusion of Windstream's tariff in its investigation.

Please call me if you have any questions.

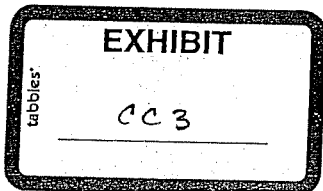
Sincerely,

/s/ Henry Hultquist

cc: Thomas Navin
Donald Stockdale
Albert Lewis
Deena Shetler

¹ See July 17, 2007 letter from Eric Einhorn to Marlene Dortch.

² See April 30, 2007 letter from executives of fifteen local exchange carriers (including Windstream) to all five FCC commissioners urging the FCC to "move swiftly to investigate and shut down these potentially de-stabilizing schemes."



EX PARTE OR LATE FILED

Donna Epps
Vice President
Federal Regulatory Advocacy

FILED/ACCEPTED

JUL 25 2007

Federal Communications Commission
Office of the Secretary



1300 I Street, NW, Suite 400 West
Washington, DC 20005

Phone 202 515-2527
Fax 202 336-7922
donna.m.epps@verizon.com

July 25, 2007

ORIGINAL

Ex Parte

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street S.W., Room TWB-204
Washington, D.C. 20554

Re: WCB/Pricing Docket No. 07-10, July 1, 2007 Annual Access Charge Filings

Dear Ms. Dortch

Verizon supports Windstream's July 17, 2007 request to have its access tariff removed from the list of tariff filings that the Commission is currently investigating in connection with traffic pumping. Windstream has publicly opposed traffic pumping and has been supportive of the Commission's efforts to eliminate this practice.¹ Moreover, Verizon is unaware of any evidence or allegation that Windstream was or is engaged in traffic pumping. Indeed, Windstream and its predecessors or affiliates have been exiting the NECA pool since 1993 without evidence of engaging in traffic pumping and without attempting to re-enter the NECA pool to camouflage their demand.

AT&T correctly notes that the fact that the rates in Windstream's latest annual tariff filing are lower than those in NECA's 2007 annual tariff filing would not, standing alone, warrant relief from investigation.² However, given Windstream's past advocacy against traffic pumping and its behavior after exiting the NECA pool in the past, the evidence fails to support investigating Windstream for potential traffic pumping.

¹ See Letter from E. Einhorn (Windstream), T. Boaldin, A. Hayes, G. Gilmer, D. Zesiger, and M. Rubin to Chairman Martin and Commissioners Copps, Adelstein, Tate, and McDowell (April 30, 2007).

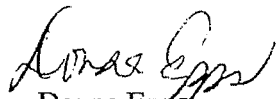
² See Letter from H. Hultquist (AT&T) to Marlene Dortch, WCB/Pricing Docket No. 07-10 (July 23, 2007).

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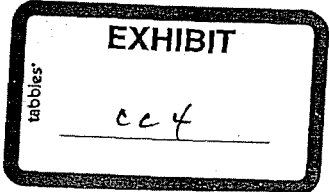
Please do not hesitate to contact me at 202.515.2527 with any questions.

Sincerely,



Donna Epps

cc: Tom Navin
Don Stockdale
Al Lewis
Deena Shetler
Pam Arluk



1. Please explain your responses to AT&T Date Request No. 10(d) where you state the, "Neither Windstream West no Windstream East believes that its current interstate switched access rates, by themselves, are compensatory.

OBJECTIONS AND RESPONSE: Windstream East and Windstream West object that this question seeks information irrelevant to this proceeding and further is in excess of a reasonable number of discovery questions that are or should be allowed under Kentucky Rules. Without waiving the foregoing objections, Windstream East and Windstream West state the Federal Communications Commission's access reform efforts include meaningful opportunities to recover revenues lost as a result of switched access rate reductions that were part and parcel of the rate reductions. Without these opportunities, the interstate switched access rate may not be compensatory.

Windstream East / Windstream West Respondent: Cesar Caballero
Objections prepared by counsel for Windstream East / Windstream West