

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 CLEC’S SECOND DATA REQUESTS TO WINDSTREAM KENTUCKY WEST, LLC, WINDSTREAM KENTUCKY EAST, LLC

PUBLIC REDACTED VERSION

Windstream Kentucky East, LLC (“Windstream East”) and Windstream Kentucky West, LLC (“Windstream West”) submit the following responses and objections to the Second Data Requests served by tw telecom of kentucky, llc, Level 3 Communications, LLC, and US LEC of Tennessee L.L.C. d/b/a PAETEC Business Services, (collectively, the “CLECs”):

OBJECTIONS APPLICABLE TO ALL CLEC SECOND DATA REQUESTS

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

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 Second 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 Second 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 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.

7. 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.

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.

Data Requests Directed to All ILECs

1. State, for calendar years 2009 and 2010 separately, the amount of access revenue shift you would have experienced if your intrastate terminating switched access rates mirrored your interstate terminating switched access rates.

Note: On or about April 15, 2011, your company may have filed data with the Commission of the type requested herein, particularly in response to the 3/10/11 Order (Appx. A) mandate that ILECs provide “the amount of access revenue shift they would experience if their intrastate switched access rates mirror their interstate switched access rates.” To the extent that responsive data or materials have already been filed with the Commission or are being filed on August 29, 2011, in response to Commission Staff data requests, your response to the request(s) herein may be made by providing the requesting parties with such data/materials or by providing a specific reference to such data/materials elsewhere provided to the requesting parties.

RESPONSE: Please see Confidential Attachment 1 to this data request response.

Windstream East / Windstream West Respondent: Cesar Caballero

2. Provide the number of your terminating interstate and intrastate access minutes for 2009 and for 2010 (separately).

Note: On or about April 15, 2011, your company may have filed data with the Commission of the type requested herein, particularly in response to the 3/10/11 Order (Appx. A) mandate that ILECs provide “the amount of access revenue shift they would experience if their intrastate switched access rates mirror their interstate switched access rates.” To the extent that responsive data or materials have already been filed with the Commission or are being filed on August 29, 2011, in response to Commission Staff data requests, your response to the request(s) herein may be made by providing the requesting parties with such data/materials or by providing a specific reference to such data/materials elsewhere provided to the requesting parties.

RESPONSE: Please see Confidential Attachment 1 to Windstream’s response to Data Request No. 1.

Windstream East / Windstream West Respondent: Cesar Caballero

3. State, for calendar years 2009 and 2010 separately, the amount of access revenue shift you would have experienced if your intrastate and interstate terminating switched access rates mirrored your reciprocal compensation rates.

Note: On or about April 15, 2011, your company may have filed data with the Commission of the type requested herein, particularly in response to the 3/10/11 Order (Appx. A) mandate that ILECs provide “the amount of access revenue shift they would experience if their intrastate

switched access rates mirror their interstate switched access rates.” To the extent that responsive data or materials have already been filed with the Commission or are being filed on August 29, 2011, in response to Commission Staff data requests, your response to the request(s) herein may be made by providing the requesting parties with such data/materials or by providing a specific reference to such data/materials elsewhere provided to the requesting parties.

RESPONSE: Windstream East and Windstream West object to this data request as overly burdensome neither company maintains such information in the ordinary course of business.

Windstream East / Windstream West Respondent: Cesar Caballero

4. Provide the number of your reciprocal compensation minutes for 2009 and for 2010 (separately). This request is for the number of minutes on which you assess reciprocal compensation charges, not the number of minutes on which you paid reciprocal compensation.

RESPONSE:

Please see Confidential Attachment 1 to this data request response.

Windstream East / Windstream West Respondent: Cesar Caballero

5. Produce all workpapers, calculations, and formulas – in native format, including spreadsheets (Excel preferred) – for the revenue shift numbers stated in requests #1 and #3 above.

RESPONSE: Please see Confidential Attachment 1 to this data request response.

Windstream East / Windstream West Respondent: Cesar Caballero

Data Requests Directed Only to Windstream:

Windstream has designated its responses to data requests directed solely to Windstream East and Windstream West with the prefix “W” to separate such data requests from those directed to all ILECs.

W1. Do you (or an affiliate) accept residential customers’ presubscription to your intrastate long distance service in the areas in Kentucky not served by you (or an affiliate) as an ILEC? If yes, provide a link to a webpage (or similar citation to a publicly-available electronic document) that describes each residential intrastate long distance service available to such customers.

RESPONSE:

Neither Windstream East nor Windstream West accept residential customers’ presubscription to their intrastate long distance service in the areas in Kentucky in which they do not serve as an ILEC. Windstream East and Windstream West object to this data request to the extent that it seeks information from any of their affiliates that are not party to this proceeding.

Windstream East / Windstream West Respondent: Cesar Caballero

W2. State the respective percentages of your business customers and of your residential customers who take bundled long-distance and local service.

RESPONSE:

Windstream East and Windstream West object to this data request to the extent that it seeks information from any of their affiliates that are not party to this proceeding. While Windstream East accepts intrastate long distance presubscription within the areas in which it serves as an ILEC (but not outside such areas), it does not offer local/long distance “bundles.”

Windstream East / Windstream West Respondent: prepared by counsel

W3. On July 29, 2011, a group of six companies including you or your affiliate filed “America’s Broadband Connectivity Plan” (ABC Plan) in FCC WC Docket No. 10-90 et al. Provide any estimate or analysis, and the supporting spreadsheets, assumptions, calculations, formulae, and other work papers, of the effect the ABC Plan would have on Kentucky.

RESPONSE:

Windstream East and Windstream West object to this data request to the extent that it seeks information from any of their affiliates that are not party to this proceeding. Neither Windstream East nor Windstream West have any responsive documents.

Windstream East / Windstream West Respondent: prepared by counsel

Respectfully submitted,

s/Robert C. Moore
HAZELRIGG & COX, LLP
415 West Main Street, 1st Floor
P. O. Box 676
Frankfort, Kentucky 40602-0676
(502) 227-2271

Confidential Attachment 1

CONFIDENTIAL INFORMATION REDACTED