

John E. Selent
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April 15, 2009

RECEIVED

APR 15 2009

**PUBLIC SERVICE
COMMISSION**

VIA HAND DELIVERY

Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Blvd
P.O. Box 615
Frankfort, KY 40602-0615

**Re: *In the Matter of: Brandenburg Telephone Company, et al. v. Windstream
Kentucky East, Inc., before the Public Service Commission of the
Commonwealth of Kentucky, Case No. 2007-00004***

Dear Mr. Derouen:

With this letter I enclose the original and ten copies for filing with the Public Service Commission of the Commonwealth of Kentucky in the above-styled matter a Motion to Amend Procedural Schedule.

I should note, at least from our perspective, this Motion is somewhat urgent as the Motion seeks modification of a procedural schedule which requires us to prefile testimony in this matter on Tuesday, April 21, 2009.

I should further note, as the Motion itself makes clear, that the Memorandum of Informal Conference in this matter contemplated that such a Motion might be necessary and specifically allows for it. We have found this Motion to be necessary and are therefore filing it.

We have, by e-mail, served a copy of this Motion on all parties, although counsel to NuVox Communications, Inc.; Xspedius Management Switched Services, LLC d/b/a Xspedius Communications; T-Mobile USA, Inc.; Powertel/Memphis, Inc.; T-Mobile Central LLC, Sprint Communications Company L.P.; Sprint Spectrum, L.P.; SprintCom, Inc. d/b/a Sprint PCS; Nextel West Corp. Inc.; and NPCR, Inc., d/b/a Nextel Partners have indicated that those parties have no objection to this Motion.

Should you have any questions with regard to this matter, please call me.

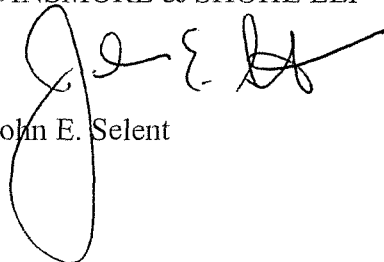
Jeff Derouen, Executive Director
April 15, 2009
Page 2

And, thank you very much.

Very truly yours,

DINSMORE & SHOHL LLP

John E. Selent

A handwritten signature in black ink, appearing to read "John E. Selent". The signature is written in a cursive style with a large, looping initial "J" and a distinct "S" at the end.

cc: All Parties of Record

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**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED

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**PUBLIC SERVICE
COMMISSION**

In the Matter of:

**Brandenburg Telephone Company; Duo County
Telephone Cooperative Corporation, Inc.; Highland
Telephone Cooperative, Inc., Mountain Rural
Telephone Cooperative Corporation, Inc.; North
Central Telephone Cooperative Corporation; South
Central Rural Telephone Cooperative Corporation, Inc.)
And West Kentucky Rural Telephone Cooperative
Corporation, Inc.**

Complainants

) **Case No.**
) **2007-00004**

v.

**Windstream Kentucky East, Inc.; and
Windstream Kentucky West, Inc.**

Defendants

COMPLAINANTS' MOTION TO AMEND PROCEDURAL SCHEDULE

Brandenburg Telephone Company, Duo County Telephone Cooperative Corporation, Inc., Highland Telephone Cooperative, Inc., Mountain Rural Telephone Cooperative Corporation, Inc., North Central Telephone Cooperative Corporation, South Central Rural Telephone Cooperative Corporation, Inc., and West Kentucky Rural Telephone Cooperative Corporation, Inc. (collectively, the "RLECs"), by counsel, hereby move the Public Service Commission of Kentucky (the "Commission") to amend the procedural schedule in this matter to: (i) incorporate a second set of data requests to be served no later than April 24, 2009; (ii) amend the date by which prefiled direct testimony must be filed to a date two weeks following the date on which answers to the second set of data requests are served; and (iii) amend the date by which prefiled rebuttal testimony must be

filed to a date three weeks following the date that direct testimony is filed. As grounds for this motion, the RLECs state the following.

On February 6, 2009, the Commission held an informal conference in this matter. All parties (including intervenors) were represented. During the informal conference, having contemplated the potential need for multiple sets of data requests, all parties "agreed to schedule one round of data requests, but [also agreed] to leave flexibility within the prehearing schedule to accommodate a second round of requests, if needed." (Emphasis added.) This agreement is memorialized in the Commission's February 9, 2009 Intra-Agency Memorandum summarizing the issues discussed during the informal conference. (Attached as Exhibit 1.)

Because the potential need for a second set of data requests was contemplated, the Commission designed the procedural schedule with the flexibility necessary to accommodate such requests. The hearing date, now set for July 29-30, 2009, is far enough into the future that amending the procedural schedule to allow the RLECs to file a second set of data requests and to postpone the date by which parties must submit their prefiled direct and rebuttal testimony would not require a postponement of the hearing date. In all likelihood, even with the requested amendments, all parties would still have at least a month from the date they receive prefiled rebuttal testimony to prepare for the hearing.

Furthermore, the data requests that the RLECs seek to file go straight to the heart of one of the two principal issues presented by this matter. Within the last three weeks, with its responses to the RLECs' first set of data requests, Windstream Kentucky East, Inc. ("Windstream") supplied an electronic version of what it claims is a Total Element Long Run Increment Cost Model (hereinafter, a "TELRIC study"). The TELRIC study is both voluminous and detailed. It will take time to analyze the study to determine whether it is, indeed, a true TELRIC study and, further, to determine

whether the resulting rates are fair, just, and reasonable. The RLECs will then need the time and opportunity to submit questions (in the form of data requests) generated by their, and their expert consultants', analyses of the TELRIC study to Windstream. Upon receiving responses to its data requests, the RLECs will need time to digest that information and incorporate it, as necessary, into its prefiled direct testimony. As noted above, the RLECs do not expect that the requested amendments to the procedural schedule will have any effect on the hearing date now scheduled in this matter. However, without an amendment of the procedural schedule to allow a second set of data requests and without a postponement of the date by which prefiled direct and rebuttal testimony must be submitted, the RLECs will not be able to adequately present their case to the Commission.

The RLECs further state that this motion is not made for purposes of delay and that the requested amendments to the procedural schedule will not prejudice any of the parties (including intervenors) or delay the resolution of this matter.

The RLECs note that, on April 14, 2009, they consulted with Windstream about the procedural amendments sought in this motion and were told, without explanation, that Windstream would not accommodate such requests or agree to amend the procedural schedule. Conversely, counsel to NuVox Communications, Inc.; Xspedius Management Switched Services, LLC d/b/a Xspedius Communications; T-Mobile USA, Inc.; Powertel/Memphis, Inc.; T-Mobile Central LLC, Sprint Communications Company L.P.; Sprint Spectrum, L.P.; SprintCom, Inc. d/b/a Sprint PCS; Nextel West Corp. Inc.; and NPCR, Inc., d/b/a Nextel Partners have indicated that those parties have no objection to this Motion.

For the foregoing reasons, the RLECs respectfully request that their motion be granted and the Commission amend the procedural schedule to: (i) incorporate a second set of data requests to be served no later than April 24, 2009; (ii) amend the date by which prefiled direct testimony must

be filed to a date two weeks following the date on which answers to the second set of data requests are served; and (iii) amend the date by which prefiled rebuttal testimony must be filed to a date three weeks following the date that direct testimony is filed. No continuance to the hearing dates of July 29 and 30 will be required, and no such continuance is requested.

Respectfully submitted,



John E. Selent
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Holly C. Wallace
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500 West Jefferson Street
Louisville, Kentucky 40202
(502) 540-2300 (telephone)
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Counsel to RLECs

CERTIFICATE OF SERVICE

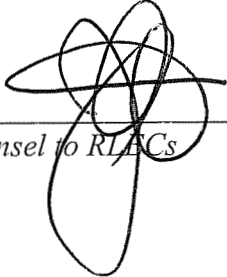
I hereby certify that a copy of the foregoing was served via electronic mail and United States First Class Mail, sufficient postage prepaid, on this 15th day of April, 2009 upon:

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Counsel to RLACs

INTRA-AGENCY MEMORANDUM
KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File
FROM: Tiffany Bowman, Staff Attorney
DATE: February 9, 2009
SUBJECT: Case No. 2007-00004
Rural Local Exchange Carriers v. Windstream Kentucky East, LLC
Informal Conference

An informal conference ("IC") was held in this matter on Friday, February 6, 2009. A copy of the conference attendance list is attached. The purpose of the IC was to set a prehearing procedural schedule, pursuant to the Commission's January 26, 2009 Order in this matter.

During the course of the IC, the parties discussed the following issues:

- The Commission's January 26, 2009 Order stating that a hearing would be held in this matter.
- Potential Hearing Dates. The parties agreed to hold a two-day hearing on June 16-17, 2009, subject to the availability of the Commission.
- Data Requests. Parties agreed to schedule one round of data requests but to leave flexibility within the prehearing schedule to accommodate a second round of requests, if needed. Data Requests will be issued on February 19, 2009. Responses will be due on March 12, 2009.
- Prefiled Testimony. The parties agreed to submit prefiled direct testimony no later than April 21, 2009. The parties agreed to submit prefiled rebuttal testimony no later than May 12, 2009.
- The parties discussed the submission of post-hearing briefs. Commission Staff stated that they would inform the Commission of the parties' request and that the Commission would likely set the date for the submission of briefs at the conclusion of the hearing.
- The parties briefly discussed the cost-support study submitted by Windstream in December 2007, pursuant to the Commission's Order dated November 13, 2007.

- The rural local exchange carriers stated that they expect to file several procedural motions prior to the hearing.
- Commission Staff agreed to ask the Commission to issue an Order formally establishing the procedural schedule agreed to by the parties during the course of this IC.

The informal conference then adjourned.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CASE NO. 2007-00004

BRANDENBURG TELEPHONE COMPANY; DUO COUNTY TELEPHONE COOPERATIVE CORPORATION, INC.; HIGHLAND TELEPHONE COOPERATIVE, INC.; MOUNTAIN RURAL TELEPHONE COOPERATIVE CORPORATION, INC.; NORTH CENTRAL TELEPHONE COOPERATIVE CORPORATION; SOUTH CENTRAL RURAL TELEPHONE COOPERATIVE CORPORATION, INC.; AND WEST KENTUCKY RURAL TELEPHONE COOPERATIVE CORPORATION, INC. (COMPLAINANTS) V. WINDSTREAM KENTUCKY EAST, INC. (DEFENDANT)

SIGN IN

February 6, 2009

PERSON	REPRESENTING
<u>Attany Bowman</u>	<u>PSC Staff</u>
<u>Jim Stevens</u>	<u>PSC STAFF</u>
<u>Allyson Honaker</u>	<u>PSC Staff</u>
<u>John Selent</u>	<u>RLECs</u>
<u>Allison Willoughby</u>	<u>Brandenburg Telephone</u>
<u>Holly Wallace</u>	<u>RLECs</u>
<u>Tip Depp</u>	<u>"</u>
<u>Eileen Bodamer (phone)</u>	<u>RLECs</u>
<u>Kyle Willard</u>	<u>PSC - Engineering</u>
<u>J.E.B. Pinney</u>	<u>PSC Staff</u>

PERSON

MARK R. OVERSTREET

Daniel Logsdon

Douglas F. Brent

Jack Hupler

* Doug Nelson

* Bill Atkinson

* Garnet Hanly

* Susan Berlin

* Carolyn Ridley

* Eilene Bodamer

* By Phone

REPRESENTING

WINDSTREAM

Windstream

Intervenor3

Sprint

Sprint NEXTEL

Sprint NEXTEL

T-Mobile

NuVox

TW Telecom

RLECS