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September 20, 2010

RECEIVED

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PUBLIC SERVICE
COMMISSION

Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40601

RE: *Brandenburg Telephone Company, et al v. Windstream Kentucky East LLC*
Case No. 2007-00004

Dear Mr. Derouen:

We represent tw telecom of ky llc (“tw telecom”), one of the intervenors in the referenced complaint case. tw telecom supports the September 17, 2010 responses filed by intervenors T-Mobile and Sprint, and agrees that Windstream’s motion for rehearing should be denied for all of the reasons stated in those responses.

In addition, tw telecom writes to emphasize that this case illustrates the problems inherent in allowing incumbent local exchange carriers to file any type of wholesale tariff offering on short notice. Windstream had filed the challenged rate within its General Customer Services Tariff and claimed it was effective on the same day it was filed. The rural carriers that challenged the Windstream tariff argued that Windstream violated a Commission regulation requiring 20 days notice to the agency and the public. However, the Commission concluded Windstream’s tariff could be filed on shorter notice under the reasoning of an order in *BellSouth Telecommunications, Inc.*, Case No. 2002-00276 (the “*BellSouth Order*”).

Careful review of that case, however, shows that BellSouth sought presumptive validity and shortened notice only for retail service tariffs. Yet, the Commission’s August 16, 2010 Order that properly voided the Windstream tariff and criticizes Windstream for including transit rates in “a tariff devoted to rates and terms for retail telephone customers” refers to an “established Commission policy” whereby the *BellSouth Order* applies to tariffs affecting carrier-to-carrier services. August 16 Order, n. 8.

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Respectfully, tw telecom disagrees. If the "policy" of the *BellSouth Order* is to be extended to carriers that were not parties to that case, it should be done so in the form of a rule, after a generic proceeding in which the entire telecommunications industry can participate. In the meantime, the Commission could take steps to make sure that Windstream and other ILECs provide actual notice of proposed tariff changes that affect other carriers.

Please acknowledge receipt by returning a stamped copy of this filing via our runner.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Douglas F. Brent", with a long horizontal line extending to the right.

Douglas F. Brent

DFB: jms
Enclosures



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C E R T I F I C A T E O F S E R V I C E

The undersigned hereby certifies that a copy of the foregoing Motion for Intervention has been served by U.S. mail on those persons whose names appear below this 20th day of September, 2010.

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