

**BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of: )  
)  
MCI COMMUNICATIONS SERVICES, INC.; )  
BELL ATLANTIC COMMUNICATIONS, INC.; )  
NYNEX LONG DISTANCE COMPANY; TTI )  
NATIONAL, INC.; TELECONNECT LONG )  
DISTANCE SERVICES AND & SYSTEMS )  
COMPANY; AND VERIZON SELECT )  
SERVICES, INC. )

COMPLAINANTS )

v. )

WINDSTREAM KENTUCKY WEST, INC.; )  
WINDSTREAM KENTUCKY EAST, INC. – )  
LEXINGTON; AND WINDSTREAM )  
KENTUCKY EAST, INC. – LONDON )

DEFENDANTS )

**RECEIVED**

MAR 22 2010

PUBLIC SERVICE  
COMMISSION

Case No. 2007-00503

**SPRINT NEXTEL’S MOTION TO COMPEL RESPONSES TO ITS INITIAL  
REQUESTS FOR INFORMATION TO WINDSTREAM**

Sprint Communications Company L.P., Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners (collectively, “Sprint Nextel”) file their Motion to Compel (“Motion”) responses by Windstream Kentucky West, LLC and Windstream Kentucky East, LLC (collectively, “Windstream”) to Sprint Nextel’s Initial Requests for Information. The requests were filed on March 31, 2009 and Windstream provided its responses and objections on March 5, 2010. The responses Sprint Nextel seeks to compel concern information that is directly relevant to the subject matter of this proceeding and

involves requests for which Windstream has provided only objections and no substantive responses.<sup>1</sup> The contested requests involve information related to: 1) Windstream's revenues for services other than switched access for the period 2004 through 2008, including unregulated services such as digital subscriber line service, and the potential for growth in the number of customers subscribing to these services (Request Nos. 4 and 5); and 2) the percentage of Windstream customers in Kentucky who purchase various levels of service (e.g. bundles, basic local service only) (Request No. 17).

**Request Nos. 4 and 5: Windstream's Revenues for Services Other Than Access**

While it cannot be seriously argued that there is no subsidy inherent in Windstream's intrastate switched access rates, the central issue in this proceeding is how much the subsidy should be reduced. Revenue support from other sources, specifically services other than switched access, are therefore relevant in determining how much the subsidy Windstream receives through switched access rates should be pared down. In addition to the switched access revenues Windstream receives from other providers such as Sprint Nextel, Windstream receives revenue from several categories of services - retail local telephone service, long distance, and broadband (DSL) - all of which support its ability to recover the costs of maintaining its network and providing its full set of services to its customers, separately and in increasingly popular service bundles. The level of Windstream's revenues for all such services is relevant to this proceeding because it provides a picture of how additional services and revenues present in today's market increase Windstream's overall revenues and reduce the need for continuing subsidies collected from Windstream's competitors through its switched access rates. Sprint

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<sup>1</sup> Sprint Nextel reserves the right to file an additional motion or motions to compel pending review of the information and partial responses provided to other information requests not addressed herein.

Nextel's fourth and fifth requests seek such relevant information. Request No. 4 seeks revenue collected from Windstream's local service customers for several categories of service for calendar years 2004 through 2008 and seeks documents concerning such revenue. Request No. 5 seeks information on the potential growth in subscribership to various services that Windstream could realize as its customers add additional services that are available to them (i.e., a customer with local exchange service who has the potential to add long distance and DSL may do so, significantly increasing Windstream's revenue for that customer).

The text of the requests for information follows:

**Request No. 4**

Please provide the revenue collected from Windstream local service customers for the calendar years of 2004 through 2008 for each of the following services from Windstream in Kentucky. Please split the revenues between residential and business customers. Please provide this information separately for each of the three Windstream filing entities in Kentucky. Identify and provide all documents concerning, constituting, discussing, referencing, addressing, or describing such revenue.

- (a) basic local service including mandatory additive services such as extended area calling, dial tone, etc.
- (b) long distance toll service
- (c) DSL
- (d) all calling features
- (e) wireless services

**Request No. 5**

Please provide the count of Windstream local service customers that could have obtained each of the following services from Windstream at the end of each of the calendar years of 2004 through 2008. Please split the customer counts between residential and business customers. Please provide this information separately for each of the three Windstream filing entities in Kentucky. Identify and provide all documents concerning, constituting, discussing, referencing, addressing, or describing such customer counts.

- (a) Basic local service
- (b) long distance toll service
- (c) DSL

(d) wireless service

Windstream has provided no information other than a statement that it does not provide wireless service and that Windstream East is one legal entity with two service areas. Windstream has not provided revenue figures on behalf of Windstream East or Windstream West for the services listed.

In order to evaluate the need for continued subsidization of Windstream and its services through inflated switched access rates, the Commission and the parties need to know the full picture of Windstream's revenues, including the revenues it receives from all services other than switched access and the potential growth in subscribership to those services. In recent years, the amount of revenues from services such as DSL has been rising for many incumbent providers, including Windstream,<sup>2</sup> so it is highly likely that these services, or at least some of them, are a substantial and growing source of revenues for Windstream in Kentucky. The potential growth of revenues for such services is directly relevant to assessing the need for continued subsidies.

Windstream's objections regarding Request Nos. 4 and 5 are without merit and should be overruled. Windstream's objection that certain terms used in the requests (e.g., "long distance toll", "revenue" and "all calling features") are overly broad and vague is unjustified. Nevertheless, for purposes of clarification, Sprint Nextel seeks gross retail revenues collected from Kentucky customers associated with the listed services. The term "long distance toll" is intended to describe all voice telephone service other than local exchange service and to include intrastate and interstate interexchange

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<sup>2</sup> See The February 18, 2010 new release entitled "Windstream reports fourth-quarter earnings results" regarding high-speed Internet customer growth ([http://news.windstream.com/article\\_display.cfm?article\\_id=1192](http://news.windstream.com/article_display.cfm?article_id=1192)).

service, commonly referred to as “long distance service.” In the definition set forth in Windstream East’s General Customer Services Tariff P.S.C. KY No. 7, long distance message telecommunications services are “communications on an individual basis between rate centers of exchanges not within each other’s local calling area.” The term “long distance toll” is intended to refer to long distance service provided on a per-minute basis as well as long distance service provided as part of a bundle or calling package (e.g. “Home Phone with 100 Minutes of Long Distance”<sup>3</sup>) offered by Windstream. “All calling features” refers to features like caller ID and call waiting. For purposes of the request, “all calling features” should be interpreted as including, but not limited to, those features listed in the “useful calling features” tab at <http://www.windstream.com/support/>. For avoidance of doubt, “mandatory additive services” indicates services such as extended calling area service that are required by Commission rule or other relevant law to be provided and for which revenue is obtained.

Windstream’s objection as to relevance must be dismissed for the reasons stated above. Specifically, in order to assess the need for continued subsidization of Windstream’s operations, it is necessary to know the full picture of Windstream’s revenues, including the revenues it receives from all services other than switched access and the potential growth in subscribership to those services, including digital subscriber line service. The fact that such service is not regulated by the Commission is not a valid objection because the revenue derived from such service contributes to Windstream’s ability to maintain and recover network and service costs over its telephone network and impacts the need for continued subsidization. The Commission has established no limit on the number of information requests that may be asked and therefore, Windstream’s

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<sup>3</sup> See e.g. <http://www.windstream.com/residential/voice.aspx>.

objection that this fourth request “is in excess of a reasonable number of discovery questions that should be allowed under law” is not valid. To the contrary, an arbitrary limit of less than four questions would be unreasonable. Further, the specific services listed simply clarify the information sought in Request Nos. 4 and 5 and do not seek unique information that constitutes additional requests for information unrelated to the primary issue of the data request. Windstream’s charge that the request “further appears to seek information that would only be used by Sprint for its own competitive purposes” is also invalid. A nondisclosure agreement recently signed between Sprint Nextel and Windstream prohibits such use and it is common for confidential information with relevance to a particular case to be exchanged among competitors subject to such agreements. The information requested is relevant and has been requested in a manner that permits a reasonable respondent to conduct a narrow, focused search of existing company records regarding revenue figures without undue burden.

Similarly, Windstream’s objections regarding the relevance of the information sought in Request No. 5 are without merit and also should be overruled. In requesting a count of customers who could have obtained the enumerated services, Sprint Nextel is simply requesting information on the availability of various services to existing Windstream local exchange customers (e.g., how many Windstream local exchange customers could obtain DSL service from Windstream if they requested it). Network and marketing plans are routinely prepared for purposes of evaluating the potential market for services such as broadband and to target marketing in areas where services are available. It is very unlikely that Windstream does not know how many of its customers could be provided with DSL or long distance service in its territory. It is doubtful Windstream

would not have information on, for instance, how many lines in its territory are enabled to offer DSL. Network planning documents and marketing assessment are likely to include such information. Such information is directly relevant to the potential revenue growth per subscriber for Windstream's territory. As discussed above, such revenues are relevant to an inquiry into Windstream's various sources of support for its network and services other than through switched access revenues and, in particular to the trend in the growth of such revenues.

**Request No. 17: Percentage of Windstream Customers Who Subscribe to Bundles**

As stated above in the discussion of Requests 4 and 5, revenue support received by Windstream from other means, specifically services other than switched access, is directly relevant to assessing the need for a continued subsidization of Windstream and its services through high switched access rates. Increasingly, local exchange carriers are offering bundles of services that include basic local exchange service and additional services such as long distance, broadband and other services and revenues from such bundles is driving dramatic growth in average revenue per user. Sprint Nextel's Request No. 17 seeks the proportion of Windstream customers who subscribe to bundles as well as the proportion who subscribe to basic local service only and the proportion who subscribe to basic local service with at least one additional local service. This information is relevant because it can show both the present level of subscribership to different levels of service and also the potential for growth in subscribership and Windstream's revenues. For instance, if the proportion of customers in Windstream's

Kentucky service area who subscribe to bundles is presently low, there is greater potential for growth in bundled service subscriptions and thus in revenues.

The text of the interrogatory follows:

**Request No. 17**

Please provide the percentage of Windstream's Kentucky residential customers:

- a) that purchase a service bundle
- b) that purchase basic local service only
- c) that purchase basic local and at least one additional local service

Windstream has provided no information.

In order to evaluate the need for continued subsidization of Windstream and its services through inflated switched access rates, the Commission and the parties need to know the full picture of Windstream's revenues, including the growth and potential growth in subscribership to bundled services. In recent years, the amount of revenues from bundled service offering that include phone service, long distance and other services such as DSL has been rising for many incumbent providers, so it is highly likely that these services, or at least some of them, are a substantial and growing source of revenues for Windstream. The potential growth of revenues for such services is directly relevant to assessing the need for continued subsidies.

Windstream's objections regarding Request No. 17 are without merit and should be overruled. Windstream's objection as to relevance must be dismissed for the reasons stated above. Specifically, to assess the need for continued subsidization of Windstream's operations, it is necessary to know the full picture of Windstream's revenues, including the present level and potential growth in subscribership to those services. The Commission has established no limit on the number of information requests that may be asked and therefore, Windstream's objection that this request "is in excess of

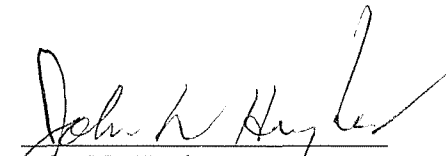


a reasonable number of discovery questions that should be allowed under law” is not valid. Further, the specific percentages listed simply clarify the information sought in Request Nos. 17 and do not seek unique information that constitutes additional requests for information unrelated to the primary issue of the data request.

**Conclusion**

In recognition of the foregoing, Sprint Nextel requests that Windstream’s objections be overruled and that the Commission compel Windstream to respond to the information requests identified and discussed herein.

Submitted this 22<sup>nd</sup> day of March, 2010.

  
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John N. Hughes  
Attorney for Sprint Nextel

I certify that a copy of this Motion has been served by first class mail on the parties listed below this 22<sup>nd</sup> day of March, 2010.

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