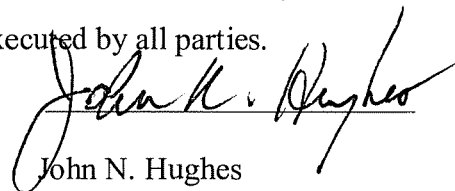


**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of:)	RECEIVED AUG 13 2010 PUBLIC SERVICE COMMISSION Case No. 2007-00503
MCI COMMUNICATIONS SERVICES, INC.;)	
BELLATLANTIC 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)	

**REBUTTAL TESTIMONY OF SPRINT COMMUNICATIONS COMPANY, L.P.,
SPRINT SPECTRUM L.P., NEXTEL WEST CORP., AND NPCR, INC. D/B/A
NEXTEL PARTNERS**

Sprint Communications Company L.P., Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners (collectively, "Sprint Nextel") files the rebuttal testimony of James A. Appleby. One copy of the confidential version and an original and ten copies of the redacted version are being filed. The confidential testimony has been provided to the parties subject to the NDA agreements executed by all parties.



John N. Hughes
Attorney at Law
124 West Todd Street
Frankfort, Kentucky 40601
(502) 227-7270

CERTIFICATE OF SERVICE

I certify that the rebuttal testimony has been served this day by first class mail to:

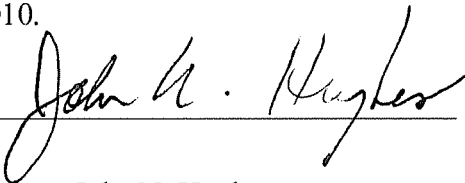
Douglas F. Brent
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

Robert C. Moore
Hazelrigg & Cox, LL.P
41 5 West Main Street
P.O. Box 676
Frankfort, KY 40602

Kimberly K. Bennet
Windstream Communications
4001 Rodney Parham Rd.
Little Rock, AR 72212-2442

Mary K Keyer
General Counsel/Kentucky
BellSouth Telecommunications, Inc. dba AT&T
601 West Chestnut Street, Room 408
Louisville, KY 40203

This 13th day of August, 2010.

A handwritten signature in black ink, reading "John N. Hughes", is written over a horizontal line. The signature is cursive and stylized.

John N. Hughes

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

In the Matter of:)
)
MCI COMMUNICATIONS SERVICES, INC.;)
BELLATLANTIC 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)

Case No. 2007-00503

REBUTTAL TESTIMONY

OF

JAMES A. APPLEBY

On Behalf of

Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel West Corp.

and NPCR, Inc.

PUBLIC VERSION

August 13, 2010

1 **Q. Please state your name and business address.**

2 A. My name is James A. Appleby. My business address is 6450 Sprint Parkway,
3 Overland Park, Kansas 66251.

4

5 **Q. Are you the same James A. Appleby who filed Direct Testimony in this**
6 **proceeding?**

7 A. Yes I am.

8

9 **Q. What is the purpose of your Rebuttal Testimony?**

10 A. The purpose of my Rebuttal Testimony is to respond to certain statements made by
11 witnesses for the other parties active in the proceeding. Specifically, I will address
12 certain statements in the Direct Testimonies of Mr. Cesar Caballero on behalf of the
13 Windstream Kentucky East, LLC and Windstream Kentucky West, LLC, Dr. Debra J.
14 Aron and Dr. Ola A. Oyefusi on behalf of Bellsouth Telecommunications, Inc. d/b/a
15 AT&T Kentucky and AT&T Communications of the South Central States, LLC and
16 Mr. Don Price on behalf of Verizon.

17

18 **Q. Please summarize your testimony.**

19 A. The Direct Testimony filed in this proceeding has clearly demonstrated that Kentucky
20 consumers are harmed by Windstream's high intrastate switched access rates.
21 Consumers can expect better pricing, more competitive choices and more product
22 choices if competing carriers can get Windstream's intrastate switched access service

1 at Windstream's interstate rate level.¹ The continued development of a fully
2 competitive Kentucky telecommunications market requires intrastate switched access
3 reform.²

4 Windstream can collect the access revenue reduction from its own retail customers if
5 that is its choice. With the variety of retail services now offered by Windstream and
6 the magnitude of the customer base that now purchases more than just basic local
7 service, the impact to any specific Windstream customer should be minimal. Further
8 the existence of competitive alternatives will help protect customers from large
9 increases. Finally, Windstream's suggestions of dire consequences resulting from
10 intrastate access reform simply are not supported by the financial record in this
11 proceeding.

12

13 **Q. If the long distance market is already competitive, can Windstream's high access**
14 **rates cause harm in the market?**³

15 A. Yes. There can be no doubt that the inflated intrastate switched access charges of
16 Windstream are inflating the input costs of the competitors in the Kentucky intrastate
17 long distance market that must pay those inflated rates. This means the prices of the
18 services offered by these competitors are not reflective of the actual cost of the long
19 distance service. The regulation of Windstream's intrastate switched access is
20 distorting the market and causing the prices for these services to be higher than they

¹ Aron Direct Testimony p. 9-11.
² Price Direct Testimony p.3, line 16-20.
³ Caballero Direct Testimony p. 9 line 15-18. (Mr. Caballero incorrectly asserts, without offering proof, that "there should be no doubt" that the existence of competition means Windstream's rates are just and reasonable.)

1 otherwise would be. Customers are simply not getting the best value if they purchase
2 the services of the providers that must pay Windstream's inflated access rates.

3

4 **Q. So although the market is competitive today, access reductions would improve**
5 **the operation of the long distance market?**

6 A. Yes. The reduction of Windstream's intrastate access rates and the market distortion
7 they create will benefit the customers and competition in the market as well. History
8 shows the direct correlation between access rate reductions and toll prices.⁴ There is
9 nothing in the record that suggests this historic trend would not continue.

10

11 **Q. Is Mr. Caballero correct that a comparison of its intrastate switched access rates**
12 **to the rates of other rural ILECs in Kentucky is meaningful?**⁵

13 A. No. As I documented in my Direct Testimony, the only ILEC operations in Kentucky
14 that compares favorably to Windstream in Kentucky is AT&T Kentucky's operations.
15 Recall that the teledensity of the two service territories were fairly close with
16 Windstream's teledensity in Kentucky at 39.9 working loops per square mile while
17 AT&T's teledensity is 48.3.⁶ It is also important to understand that only AT&T
18 Kentucky has reformed its intrastate access rates thus far. To compare inflated
19 Windstream rates to inflated rates for other rural ILECs is just not meaningful to
20 determining the reasonableness of the Windstream rates.

21

⁴ See Figure 4 of Aron Direct Testimony p.43.

⁵ Caballero Direct Testimony p.10 line 18-21.

⁶ Appleby Direct Testimony p.12 line 19-21.

1 **Q. Mr. Caballero disagrees with Verizon's suggestion that Windstream could**
2 **collect its reduced access revenues from its own retail customers. He states his**
3 **company would have to collect those access costs from competitive services.**⁷

4 **Please comment.**

5 A. There are several aspects of Mr. Caballero's Testimony that are worth comment.
6 First, it is my understanding the Windstream basic local service rates will only be
7 capped until July of 2011, so increases to the rates of those services will be possible
8 in the near term. Second, I'm sure Windstream would prefer that its competitors
9 continue to be required to recover large portions of Windstream's costs from their
10 customers. It certainly is easier to compete in a market if you can simultaneously
11 reduce the expense you need to recover in your service prices while increasing your
12 competitor's costs and therefore the prices your competitor can offer. This is exactly
13 what happens with the existence of high access rates. There can be no better
14 testimonial to the competitive harm of high access rates than the company charging
15 those high rates complaining that it can't cover those costs in the rates of its
16 competitive services.

17
18 **Q. Does Mr. Caballero imply that because the FCC's CALLS plan created a new**
19 **universal service fund to collect some of the lost access revenues, then a true**
20 **intrastate access reform in Kentucky would include universal service funding as**
21 **well?**⁸

⁷ Caballero Direct Testimony p.28 line 11-16.
⁸ Caballero Direct Testimony p.30 line 8 through p.35 line 21.

1 A. Yes. Without any analysis of the Kentucky market, Mr. Caballero suggests an
2 explicit fund is needed to offset Windstream's access revenue reductions. But a
3 universal service fund should have a targeted purpose. And that purpose should not
4 be revenue guarantees for one service provider in the market. Dr. Aron accurately
5 defines universal service to be when all consumers (or nearly all of them) have
6 telephone service available to them at reasonable rates.⁹ A fund is only needed if this
7 goal is not being achieved.

8

9 **Q. Under what circumstances would additional intrastate universal service support**
10 **be necessary in connection with reducing Windstream's access rates?**

11 A. As described in Dr. Aron's definition, two situations may cause the need to a
12 universal service fund. First, a fund may be necessary if all consumers (or nearly all)
13 do not have access to telephone service. If 95% of the population over the age of 15
14 in Kentucky currently subscribes to wireless service,¹⁰ landline service for the ILECs
15 continues to be available and other providers such as cable telephony and VoIP
16 providers are also providing service in the market, the evidence is strong that
17 customers have access to telephone service. Second, telephone service must be
18 provided at reasonable rates. "Affordable" is another word often used to describe
19 service within the definition. Again, with wireless service penetrating 95% of the
20 population, these folks have deemed the price of wireless service affordable.
21 Additionally, Windstream's current rates were affordable when they were set and will
22 continue to be affordable if the rates are adjusted for inflation that has occurred since

⁹ Aron Direct Testimony p.69 line 4-5.

¹⁰ Aron Direct Testimony p.70 line 20-21.

1 the rates were last set.¹¹ In conclusion, telephone service is available to all, or nearly
2 all, at affordable rate levels. There is ample data to see universal service is available
3 in Kentucky and simply no data in the record suggesting a state universal service fund
4 is needed to reduce Windstream's intrastate rates to interstate rate levels.

5

6 **Q. Do you agree with Mr. Caballero that access reform will have dire consequences**
7 **for Windstream?**¹²

8 A. No. As I presented in my Direct Testimony, Windstream is financially strong as
9 evidenced by their large and growing average revenue per user.¹³ Windstream will
10 soon have the ability to increase basic local service rates to collect lost access
11 revenues and already possesses the flexibility to change rates for many other services
12 it offers. Windstream is distributing \$12.57 in profits per access line per month to its
13 shareholders.¹⁴ And finally, ILECs in other states have not experienced dire
14 consequences when access rates are reformed. Windstream is fully capable of
15 navigating the transition of its intrastate rates to interstate rate levels.

16

17 **Q. When discussing the magnitude of the access loss to Windstream's operations,**
18 **does Mr. Caballero limit the comparison to intrastate revenues only?**

19 A. Yes. Windstream would prefer if the Commission only considered the intrastate
20 services provisioned on the Windstream local network. Even though Windstream and
21 other ILECs are generating significant new revenue through broadband, video and

¹¹ According to Dr. Oyefusi, adjusting the Windstream local rates from [Begin Confidential] [End Confidential] to [Begin Confidential] [End Confidential] Oyefusi Direct Testimony p.49 Table 2

¹² Caballero Direct Testimony p.38 line 21-22.

¹³ Appleby Direct Testimony p.23 line 1-3.

¹⁴ Appleby Direct Testimony p.27 line 15-17.

1 data transport services such as wireless backhaul, Windstream would like the
2 Commission to view only the revenue for services that are not growing. But, although
3 the Commission does not regulate all of Windstream's services, Windstream's ability
4 to sell these services and generate significant revenues from those services speaks to
5 the financial viability of Windstream operations. The existence of the services also
6 gives Windstream services other than basic local service upon which they can collect
7 access revenue reductions if they so choose.

8

9 **Q. Can you illustrate the different perspectives Sprint and Windstream put forth in**
10 **this case on a per customer basis?**

11 A. Yes. Windstream would have the Commission believe that since local rates of on
12 average **[Begin Confidential]** **[End Confidential]**¹⁵ are capped and the other
13 intrastate services are competitive, Windstream has no opportunity to recover reduced
14 access revenues. Even if the local cap was gone, Windstream would explain the
15 access revenue replacement per line will increase the basic local rate over **[Begin**
16 **Confidential]** **[End Confidential]**.¹⁶ In contrast, the Commission should view
17 the percentage change for the customer by dividing the access revenue reduction by
18 the customer total average revenue. Nationally, Windstream reported average
19 revenue per customer to be \$82.31.¹⁷ Thus, the average customer impact is only
20 about **[Begin Confidential]** **[End Confidential]**.¹⁸

¹⁵ Oyefusi Direct Testimony p.43 line 11.

¹⁶ Oyefusi Direct Testimony p. 43 **[Begin Confidential]** **[End Confidential]**

¹⁷ Appleby Direct Testimony p.23 line 1-2.

¹⁸ **[Begin Confidential]** **[End Confidential]** This analysis assumes Windstream's average revenue per customer in Kentucky is approximately the same as the national average. Windstream's response to Sprint-Windstream data requests 1-4 and 1-5 support this assumption. Also see Confidential Exhibit JAA-8.

1 **Q. Is it accurate that Windstream would have no other choice but to reduce its**
2 **operating expense budget or capital expenditures budget in response to lost**
3 **access revenues?**¹⁹

4 A. No. As I have explained above and in my Direct Testimony, Windstream's financial
5 position is quite strong. I have also explained that the revenue shift viewed in the
6 proper perspective is not large on a per customer basis, permitting Windstream to
7 collect some or all of the lost access revenues from end users if it chooses. Finally, if
8 Windstream is able to identify some operating efficiencies in its operating budget,
9 that would benefit the customers because Windstream's prices in the market will
10 remain that much lower and Windstream's ability to compete will accordingly be
11 enhanced. Competition drives companies to become more efficient. Windstream
12 should not remain somewhat insulated from this market force by permitting it to
13 continue to charge inflated switched access rates.

14
15 **Q. Does this conclude your Rebuttal Testimony?**

16 A. Yes, it does.

¹⁹ Caballero Direct Testimony p.40 line 10-11.

CONFIDENTIAL Exhibit JAA-8
to the Rebuttal Testimony of James A. Appleby
Filed on Behalf of Sprint Nextel
in CASE NO. 2007-00503

Total Revenues

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Source</u>
Windstream - East				Confidential - Sprint #4 and #5 Attachment A
Windstream - West				Confidential - Sprint #4 and #5 Attachment A

Access Lines

Windstream - East				
R1's				Confidential - Sprint #4 and #5 Attachment A
B1's				Confidential - Sprint #4 and #5 Attachment A
Total				Calc

Windstream - West

R1's				Confidential - Sprint #4 and #5 Attachment A
B1's				Confidential - Sprint #4 and #5 Attachment A
Total				Calc

Total Revenue per Access Line Per Month

Windstream - East				Calc - Revenues/Lines
Windstream - West				Calc - Revenues/Lines

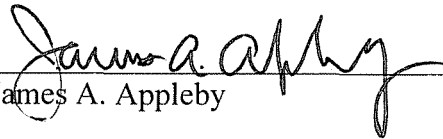
COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

VERIFICATION

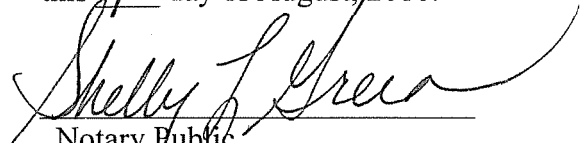
STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

I, James A. Appleby, being first duly sworn on oath, state I am Regulatory Policy Manager for Sprint Nextel Corporation and that I have prepared the foregoing rebuttal testimony which is true and correct to the best of my knowledge, information and belief.

Respectfully submitted,


James A. Appleby

Subscribed and sworn to before me
this 9th day of August, 2010.


Notary Public

