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September 30, 2010

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

*RE: MCI Communications, Inc. et al v. Windstream Kentucky East, LLC et al
Case No. 2007-00503*

Dear Mr. DeRouen:

Enclosed please find an original and ten copies of Verizon's Motion to Set Hearing Date in the above-captioned matter.

Please indicate receipt of this filing by placing your file stamp on the extra copy and returning to me via our runner.

Very truly yours,

STOLL KEENON OGDEN PLLC

Douglas F. Brent

DFB:

Enclosures

cc: Service List

105138.116493/571328.1

COMMONWEALTH OF KENTUCKY

BEFORE THE 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 Service & Systems)
and Verizon Select Services, Inc.)

Complainants)

vs.)

Windstream Kentucky West, Inc.,)
Windstream Kentucky East, Inc. – Lexington,)
and Windstream Kentucky East, Inc. – London)

Defendants)

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Case No. 2007-00503

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VERIZON’S MOTION TO SET A HEARING DATE

In its May 21, 2010 *Order*, the Commission set the hearing in this matter for October 26 and 27, 2010. On September 23, 2010, Commission staff contacted the parties by electronic mail, providing notice that the Commission would be continuing the scheduled hearing. Staff indicated that an order to that effect “will be issued within the next few days ... outlin[ing] the basis for the Commission’s decision for a continuance.” However, to date, no such order has been issued. Verizon¹ therefore respectfully requests that the Commission issue an order rescheduling the hearing for the earliest available date after October 26-27, 2010.

¹ Complainants MCI Communications Services, Inc. d/b/a Verizon Business Services, Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions, TTI National, Inc., Teleconnect Long Distance Services & Systems Company d/b/a Telecom*USA, and Verizon Select Services, Inc. are referred to herein collectively as “Verizon.”

As the Kentucky Supreme Court long has recognized, a public utility asserting an administrative claim has “the right to a final determination of its claim within a reasonable time and in accordance with due process.” *Kentucky Power Co. v. Energy Regulatory Comm’n of Ky.*, 623 S.W.2d 904, 908 (Ky. 1981). *See also MCI Telecommunications Corp. v. FCC*, 627 F.2d 322, 341 (DC Cir. 1980) (“... [D]elay in the resolution of administrative proceedings can ... deprive regulated entities, their competitors or the public of rights and economic opportunities without the due process the Constitution requires.”). Verizon filed the Petition initiating this docket on December 5, 2007. The Petition noted that, even then, the intrastate switched access rates charged by Defendants Windstream Kentucky East, Inc. and Windstream Kentucky West, Inc. (collectively, “Windstream”) had not been reviewed for some time, and asked that the Commission determine whether those rates were just and reasonable in the current telecommunications environment. Now, nearly three years later, the matter is still pending without a final determination by the Commission.

Undoubtedly, much of the delay has been caused by Windstream’s strategic efforts to disrupt the timely administration of the case in any way possible – including filing a myriad of motions variously seeking to dismiss the Petition, stay Commission action, hold the proceeding in abeyance pending potential action by the Federal Communications Commission, or otherwise postpone or altogether avoid Commission review. The Commission and various Kentucky state courts regularly have rejected those efforts (at least one of which still remains pending before the Kentucky Court of Appeals). But that process has taken a considerable amount of time, during which Windstream has continued to charge unjust and unreasonable intrastate switched access rates to Verizon and other carriers. Postponing the hearing exacerbates this inequity and only further delays the disposition of this case.

The Commission has long acknowledged the need to reform intrastate switched access charges, and has found that removing subsidies from switched access rates and pricing services more closely to their costs is in the public interest. *See, e.g., Order* (Mar. 11, 2009) at 5.² Rescheduling the hearing for the earliest available date and proceeding to a disposition of Verizon's claims would further those goals and avoid further delay in a case that already has been pending for nearly three years.

* * *

For all these reasons, Verizon asks the Commission to reschedule the hearing in this matter for the first available date after October 26-27, 2010.

Respectfully submitted on September 30, 2010



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² *See also Review of BellSouth Telecomm., Inc.'s Price Regulation Plan*, Order, Case No. 99-434 at 9-10 (Aug. 3, 2000); *Tariff Filing of BellSouth Telecomm., Inc. to Mirror Interstate Rates*, Order, Case No. 98-065, at 4-5 (March 31, 1999); *Cincinnati Bell Telephone*, Case No. 98-292, Order, at 13-14 (Jan. 25, 1999).

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Set Hearing Date has been served by First Class Mail on those persons whose names appear below this 30th day of September, 2010.

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