



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

Charles R. Borders  
Commissioner

February 24, 2010

**PARTIES OF RECORD**

Re: Case No. 2008-00203

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact John E.B. Pinney at 502/564-3940, Extension 427.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen  
Executive Director

JP/ew

Attachment

**INTRA-AGENCY MEMORANDUM**

**KENTUCKY PUBLIC SERVICE COMMISSION**

**TO:** Case File

**FROM:** J.E.B. Pinney, Staff Attorney



**DATE:** February 24, 2010

**SUBJECT:** Case No. 2008-00203

An Investigation Into the Traffic Dispute Between Windstream Kentucky East, LLC, Brandenburg Telephone Company and MCIMetro Access Transmission Services, LLC d/b/a Verizon Access

On February 2, 2010, representatives from Windstream Kentucky East, LLC ("Windstream"), Brandenburg Telephone Company ("Brandenburg"), and MCIMetro Access Transmission Services, LLC d/b/a Verizon Access ("Verizon") met with Commission Staff at the Commission's office for an informal conference. A copy of a list of the attendees is attached.

The informal conference was divided into two parts. The first part addressed the procedural issues surrounding the remaining issues in Case No. 2008-00203 dealing with what payment, if any, is due Windstream. All three parties participated in this portion of the conference. The second part addressed the status of negotiations between Verizon and Brandenburg relating to a traffic exchange agreement. Only Verizon and Brandenburg participated in this portion of the conference.

Commission Staff invited Windstream to speak first because the conference was scheduled at Windstream's behest. Windstream asserted that it believed that enough information was in the record for the Commission to reach a decision regarding payment to Windstream. Windstream proposed that the information be updated and stated that, if needed, testimony could be filed.

Verizon had no comment on Windstream's proposal. Brandenburg said its acceptance of Windstream's proposed procedure would depend upon how Windstream assigned liability to Verizon and Brandenburg. Brandenburg suggested that it be given an opportunity to review Windstream's testimony and provide Brandenburg and Verizon an opportunity to quickly file rebuttal testimony and/or data requests if they deemed it necessary. Brandenburg also suggested that parties be allowed to request a hearing on specific issues of material fact, if necessary.

Windstream proposed the simultaneous filing of testimony, establishing a hearing date and the opportunity to propound data requests, if a party deemed it necessary.

Commission Staff stated that the testimony should be more focused than the previously filed testimony in the proceeding. Commission Staff suggested that any testimony should state why the party was taking a particular position on liability, what rate should be applied, and which party should pay how much, and should dispute any alleged inaccuracies in the billing data.

The parties agreed that they would file a joint procedural schedule with the Commission incorporating the points discussed above.

Windstream elected not to remain for the second half of the conference.

Commission Staff first asked the parties in what capacity Commission Staff was expected to function, as arbitrators or mediators, as that would change the manner in which Commission Staff interacted with the parties. Brandenburg stated that it believed that the parties had not agreed on the issues and that resolution was unlikely. Brandenburg wanted to preserve Commission Staff impartiality and believed that briefs and/or a hearing would be necessary to resolve the dispute. Verizon questioned whether the negotiations were taking place under a Section 251/252 framework. Commission Staff responded that they were not.

Verizon stated that it thought that it might be possible to resolve the matters and presented three separate solutions. The first solution Verizon offered was to pay to build out to Brandenburg's exchange in Radcliff if Brandenburg would agree to pay reciprocal compensation at the .0007 rate. Verizon stated that it had a similar agreement with AT&T Kentucky and that it would also guard against Virtual NXX .

The second solution Verizon offered was to interconnect at Elizabethtown, where it had a CLEC affiliate, and then pick up the traffic sent out of Radcliff. Brandenburg would get the traffic to Elizabethtown via its CLEC affiliate; this, however, raised issues as to whether the CLEC affiliate had sufficient capacity to meet an increase in traffic.

The third solution would be a meet-point arrangement where the parties would split the cost and exchange traffic on a bill-and-keep basis. Brandenburg would agree to get its traffic to the meet-point (likely on Brandenburg's network) and Verizon would pay the cost to use an ILEC's (either Windstream or AT&T Kentucky) trunk to get to the meet-point.

The parties concluded that the third solution might resolve their dispute and that further negotiations among the technical experts were necessary. The parties proposed to allow the technical experts to continue discussions and offered to file status updates with the Commission regarding the state of the negotiations.

Thereafter the conference adjourned.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CASE NOS. 2008-00203

INVESTIGATION INTO TRAFFIC DISPUTE BETWEEN BRANDENBURG  
TELEPHONE COMPANY, WINDSTREAM KENTUCKY EAST AND VERIZON  
ACCESS

SIGN IN

February 2, 2010

PERSON

REPRESENTING

<u>1.3.73. Pinner</u>	<u>PSC Staff</u>
<u>Wallyson Honaker</u>	<u>PSC Staff</u>
<u>Tiffany Bowman</u>	<u>PSC Staff</u>
<u>Kyle Wilson</u>	<u>Staff</u>
<u>Jim Stevens</u>	<u>PSC Staff</u>
<u>Jeanne Shewer</u>	<u>Windstream</u>
<u>Mark R. Overstreet</u>	<u>STUBS<sup>1</sup> HARBORN for Windstream</u>
<u>Kerry Smith</u>	<u>Windstream</u>
<u>John Selet</u>	<u>Brandenburg Telephone (Dinsmore)</u>
<u>Tip Depp</u>	<u>" (Dinsmore)</u>
<u>Allison Wiloughby</u>	<u>"</u>
<u>Randall Bradley</u>	<u>"</u>
<u>Doug Brent</u>	<u>Verizon (SKO)</u>

Case No. 2008-00203  
February 2, 2010

PERSON

De O'Rourke  
Steve Weeks

REPRESENTING

Verizon  
W'stream