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May 6, 2010

Hon. Bruce F. Clark
Stites & Harbison, PLLC
421 West Main Street
P.O. Box 634
Frankfort, KY 40602-0634

Re: **Confidentiality Request dated March 30, 2010 -**
Windstream Exhibits and Answers in Response
to Brandenburg Request Nos. 7 and 9
PSC Case No. 2008-00203

Mr. Clark:

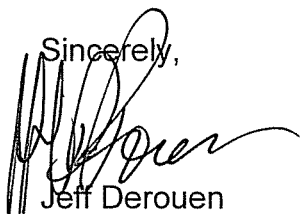
The Public Service Commission has received the Confidentiality Petition you filed on March 30, 2010 on behalf of Windstream Kentucky East, LLC ("Windstream") to protect certain information filed with the Commission as confidential under Section 7 of 807 KAR 5:001 and KRS 61.878. Windstream seeks confidential treatment for its responses to Brandenburg Telephone Company's ("Brandenburg") Request Nos. 7 and 9.

Windstream states the response to Request No. 7 pertains to "two high-level" audit studies performed by Windstream in September 2006 and January 2007 containing proprietary usage information for Brandenburg, as well as carriers who are not parties to this proceeding. Windstream states that the response to Request No. 9 contains a study performed by Windstream on April 14, 2008 with usage for March 2008 (containing a captured sample of total minutes of use and messages from Brandenburg, with dates and time frames included). Windstream states that the response to Request No. 9 includes customer proprietary network information ("CPNI") of customers of Windstream, Brandenburg, MCIMetro Access Transmission Services, LLC d/b/a Verizon Access ("Verizon") and other carriers who are not parties to this proceeding. Windstream provided the confidential versions of the responses to Request Nos. 7 and 9 in an electronic format.

In support of its petition, as to Request No. 7, Windstream contends that this usage information is proprietary and Windstream institutes measures to limit internal access to only those persons with a legitimate need for it in order to prevent disclosure outside the company. Windstream states that public disclosure would provide competitors with an unfair advantage by allowing them to learn the identity of customers and giving those competitors information about Windstream's market position and customer base – each of which could cause Windstream to suffer competitive economic injury. The Commission has carefully analyzed the information contained within the response to Request No. 7 and has determined that the information contained therein, if disclosed, would permit an unfair commercial advantage to Windstream's competitors and cause competitive injury. The Commission finds that the response to Request No. 7 satisfies the standard for protection under KRS 61.878(1)(c)(1) and 807 KAR 5:001 and, therefore, that portion of the request for confidentiality is **GRANTED**.

As to Request No. 9, Windstream contends the CPNI includes time, date, duration and destination number of each call made by a customer and certain other personal information included on a customer's bill. Windstream states that CPNI information is specifically protected from disclosure to third parties by the 1996 Telecom Act. Having reviewed the information, the Commission finds that 47 U.S.C. § 222(c), (f) and (h) provides that such customer data and usage information qualifies as CPNI and is eligible for confidential protection by the Commission.¹ The Commission finds that the response to Request No. 9 satisfies the standard for protection under KRS 61.878(1)(c)(1), 807 KAR 5:001, Section 7, as well as 47 U.S.C. § 222, *et seq.* and, therefore, that portion of the request for confidentiality is **GRANTED**.

As this information that has been **GRANTED** protection, the Commission will withhold the protected information contained in the current Petition from public inspection. If the information that has been granted protection becomes publicly available or no longer warrants confidential treatment, you are required by 807 KAR 5:001, Section 7(9)(a), to inform the Commission so that the information may be placed in the public record.

Sincerely,

Jeff Derouen
Executive Director

JD/tjb

cc: Parties of Record for Case No. 2008-00203

¹ ICG Communications, Inc. v. Allegiance Telecom, et al, 211 F.R.D. 610, 612-13 (N.D. Ca. 2002) and U.S. West, Inc. v. FCC, 182 F. 3d 1224, 1236 (10th Cir. 1999).