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PUBLIC SERVICE
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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FORMAL COMPLAINT)	
BY INSIGHT PHONE OF KENTUCKY, LLC TO)	
REQUIRE WINDSTREAM KENTUCKY EAST, LLC)	CASE NO.
AND WINDSTREAM KENTUCKY WEST, LLC)	2008-00335
TO PROVIDE ACCOUNT NUMBERS WHEN)	
AUTHORIZED BY CUSTOMERS IF IT REQUIRES)	
AN ACCOUNT NUMBER FOR PORTS)	

**RESPONSE TO INSIGHT’S SUPPLEMENTAL AUTHORITY TO ITS BRIEF
IN SUPPORT OF ITS FORMAL COMPLAINT AND MOTION TO DISMISS**

Windstream Kentucky East, LLC (“Windstream East”) and Windstream Kentucky West, LLC (“Windstream West”) (collectively, “Windstream”) submit the following Response to Insight of Kentucky, LLC’s (“Insight”) Supplemental Authority to Its Brief In Support of Its Formal Complaint and Motion to Dismiss.

DISCUSSION

On May 20, 2010, the FCC released its Report and Order In the Matters of Local Number Portability Porting Interval and Validation Requirements and Telephone Number Portability (“FCC Order”)¹, which Insight attached to its Supplemental Authority to Its Brief In Support of Its Formal Complaint (“Supplemental Authority”), filed with the Kentucky Public Service Commission (“PSC”) on May 28, 2010. Insight’s Supplemental Authority is correct that the FCC issued its order which speaks conclusively to the issues at the heart of this proceeding, but Insight is misguided as to the substance of the FCC’s order. Having been integrally involved in the FCC proceeding and having participated in several *ex parte* discussions with the FCC,

Windstream states definitively that Insight's interpretation of the FCC's order as set forth in the Supplemental Authority is misguided. As a general statement, the result of the FCC's order is that Windstream's verification policy has been upheld in part by the FCC and denied in part by the FCC. Specifically, the FCC determined that reasonable verification fields such as account numbers and customer-established passcodes may be used to validate CSRs and LSRs and that the "answers to the test" do not have to be provided for CSRs. However, the FCC determined that company-assigned passcodes should not be used as verification fields.

While Insight correctly cites the FCC Order as supplemental authority in this case, Insight misinterprets the FCC Order in two key respects. First, Insight asserts incorrectly that the FCC Order requires Windstream to stop validating Customer Service Requests ("CSRs") and Local Service Requests ("LSRs") using all "passcodes". Second, Insight erroneously contends that the FCC's ruling regarding passcodes "would also support" Insight's reasoning that account numbers cannot be used as a requirement to obtain account information in the CSR.² Insight's analysis is incorrect and inconsistent with the FCC's intention as explained below.

I. INSIGHT IS INCORRECT THAT WINDSTREAM MUST STOP VALIDATING CSRs AND LSRs USING ALL PASSCODES

Insight makes the blanket statement that the FCC's order requires Windstream to stop using passcodes to validate port requests. Insight fails to note the distinction made by the FCC between carrier-initiated and customer-initiated passcodes. While the FCC Order does not allow for the use of carrier-initiated passcodes for port validation, the FCC clearly stated that *passcodes requested and assigned by the end user* are allowed to be used as an optional field in

¹ See In the Matters of Local Number Portability Porting Interval and Validation Requirements and Telephone Number Portability, Report and Order Released May 20, 2010, FCC 10-85.

² See Supplemental Authority at p.4.

the porting process.³ Consequently, Windstream's verification policy is compliant with the FCC's order to the extent it relies on customer-requested passcodes to validate port orders.

II. INSIGHT CONTENDS INCORRECTLY THAT ACCOUNT NUMBERS CANNOT BE USED AS A REQUIREMENT TO OBTAIN ACCOUNT INFORMATION IN THE CSR OR BE USED TO PORT A NUMBER UNLESS THEY ARE AVAILABLE ON WINDSTREAM EXPRESS

Windstream agrees with Insight that the FCC's order confirms that current service providers must provide on the CSR any information required for validation of a Local Service Request ("LSR"). However, Insight's reasoning that "account numbers may not be used as a requirement to obtain account information in the CSR" is absolutely inconsistent with the FCC's directive. With respect to this particular issue, Insight appears to acknowledge in its Supplemental Authority that the FCC does not state this and that it reached its own conclusion.⁴ Insight's conclusion is incorrect. Insight's mischaracterization of the FCC Order may be based on Insight's lack of understanding of this issue given that Insight was not involved in the many meetings the FCC held with various parties on this issue. However, Windstream participated extensively in the meetings with the FCC and understands directly from the FCC what the FCC's position is with respect to the use of account numbers to verify port orders.⁵

In support of protecting sensitive customer information disclosed through the CSR process, the FCC applied the same validation requirements to CSRs as is applied LSRs. For instance, in paragraph 21 of the Order, the FCC states:

³ See In the Matters of Local Number Portability Porting Interval and Validation Requirements and Telephone Number Portability, Report and Order Released May 20, 2010, FCC 10-85 at ¶ 16.

⁴ Insight draws its own conclusions as it states, "the same reasoning...*would* also support Insight Phone's position..." (emphasis added). Supplemental Authority at p. 4.

⁵ See *Ex Parte* information regarding March 11, 2010 meeting with Ann Stevens, Michelle Sclater, Heather Hendrickson, Melissa Kinkel and Marilyn Jones of the Wireline Competition Bureau; May 10, 2010 meeting with Jennifer Schneider, Senior Policy Advisor and Legal Advisor to Commissioner Michael Copps, and Christine Kurth, Policy Director and Wireline Counsel to Commissioner Robert McDowell; and May 12, 2010 meeting with Christi Shewman, Legal Advisor to Commissioner Meredith Attwell Baker, and Angela Kronenberg, Acting Legal Advisor

“The NANC recommendation does not address, nor do we address in this Order, what information the current service provider can require from a new service provider to verify the existence of a port request before it will disclose a CSR⁷⁴. However, *as we have stated in the porting interval context, and find equally applicable here*, (emphasis added) “limiting carriers to requiring a minimum but reasonable amount of information...will ensure that customers can port their numbers without impairment of the convenience of switching providers due to delays in the process that can result when additional information is required.””⁶

In its *ex parte* communications with the FCC, Windstream expressed its concern that sensitive customer information should be protected from unauthorized access. The FCC recognized Windstream’s concern and stated that it finds equally applicable the limits to information required by the current service provider to verify both a port request and a CSR. As the FCC notes at paragraph 21, neither the NANC Recommendation nor the FCC Order addressed what information can be required by the current service provider when validating a CSR. In fact, the FCC even went so far to further clarify this at footnote 74, which clarified only that “carrier-assigned passcodes may not be required in order to obtain a CSR.” The FCC, therefore, continues to allow current service providers to validate CSRs using both account numbers and customer-initiated passcodes. Furthermore, the FCC “stated in the porting interval context” that it limits the information the current service provider uses to validate the LSR to “a minimum but reasonable amount of information.” This “minimum” information continues to include the telephone number, zip code, account number and customer-requested passcode. The FCC found “equally applicable here” (“here” referring to “disclose a CSR”) that it limits “carriers to requiring a minimum but reasonable amount of information”, again the minimum but

to Commissioner Mignon Clyburn, Cathy Seidel, Michelle Sclater, Marilyn Jones, Jenny Prime, Ann Stevens, Heather Hendrickson and Melissa Droller Kinkel of the Wireline Competition Bureau.

⁶ See In the Matters of Local Number Portability Porting Interval and Validation Requirements and Telephone Number Portability, Report and Order Released May 20, 2010, FCC 10-85 at ¶ 21.

reasonable information being telephone number, zip code, account number and customer-requested passcode.⁷

To emphasize again, Windstream's discussion above is not based on its unilateral interpretation of the FCC's order but instead reflects the guidance it received directly from the FCC in its extensive discussions with the FCC on these issues. The FCC through its Order has definitively ruled on the issues which are at the heart of this Kentucky proceeding and has affirmed in part and denied in part Windstream's existing verification policy. To reiterate, Windstream's validation policy for CSRs is affirmed except to the extent that it relies upon carrier-initiated passcodes. In accordance with the FCC Order, all information required to process an LSR will be returned to the requesting carrier on the CSR once Windstream validates that the requesting carrier has provided all requisite information for Windstream to validate the CSR, including telephone number, zip code, account number and customer-requested passcode.

For the reasons discussed above, the FCC's Order has definitively addressed the issues at the heart of Insight's Complaint. The Commission, therefore, should dismiss the Complaint with prejudice. In the alternative, the Commission should issue an order stating that the parties are to conduct their port validation processes in compliance with the FCC's Order on the NANC recommendation and that Insight should pursue any further questions it may have regarding interpretation of that order before the FCC.

CONCLUSION

The FCC Order will be effective thirty (30) days from the date it is published in the Federal Register. Publication of the FCC Order has not occurred as of the date of this filing. Nevertheless, Windstream is currently in the process of implementing that portion of the NANC

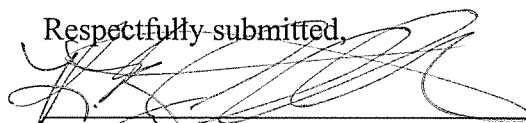
⁷ See NANC Nov. 2, 2009 *Ex Parte* Letter, Attachment 4-B.

recommendation pertaining to its port validation policy. Specifically, Windstream is initiating process and system changes to cease validating LSRs and CSRs using Windstream-assigned passcodes.⁸ All other aspects of Windstream's validation process for LSRs and CSRs are already compliant with the FCC Order and the NANC recommendation regarding the usage of account numbers and customer-requested passcodes.

Because the FCC has definitively addressed the issues which are the focus of Insight's complaint and because Windstream already has begun implementation of the applicable portions of the FCC Order pertaining to carrier-assigned passcodes, Insight's Complaint in this matter is now moot. Any further questions by Insight regarding interpretation of the FCC's Order are properly directed to the FCC.

WHEREFORE, Windstream requests that the Commission dismiss with prejudice Insight Phone of Kentucky, LLC's Complaint in this matter or, alternatively, issue an order merely directing the parties to follow the FCC's Order on the NANC recommendation; instruct Insight to direct any further questions regarding interpretation of the FCC Order to the FCC; and grant any and all other relief to which Windstream may be entitled.

Respectfully submitted,



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⁸ The work being processed at this time that is relevant to this proceeding is limited to the use of carrier-assigned passcodes for validation of CSRs and LSRs. Windstream will comply with the FCC Order with respect to remaining aspects of the NANC recommendation in accordance with the deadline specified by the FCC Order.

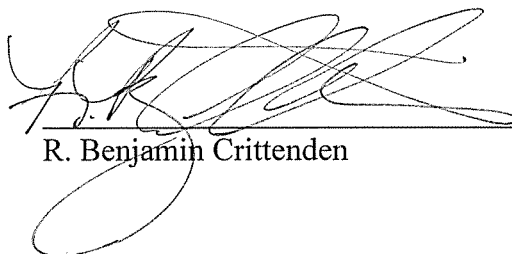
CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Response To Insight's Supplemental Authority To Its Brief In Support Of Its Formal Complaint And Motion To Dismiss was served by United States First Class Mail, postage prepaid, upon:

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on this the 7th day of June, 2010.



A handwritten signature in black ink, appearing to read 'R. Benjamin Crittenden', is written over a horizontal line. The signature is stylized and cursive.

R. Benjamin Crittenden