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PUBLIC SERVICE  
COMMISSION

November 2, 2006

**Via Hand Delivery**

Hon. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

**Re: *In the Matter of: Mountain Rural Telephone Cooperative Corporation, Inc. v. Kentucky Alltel, Inc. before the Kentucky Public Service Commission, Case No. 2006-00198***

Dear Ms. O'Donnell:

I have enclosed for filing in the above-styled case the original and ten (10) copies of the Prefiled Direct Testimony of Angela K. Pennington.

Thank you, and if you have any questions, please call me.

Sincerely,

DINSMORE & SHOHL LLP

  
Holly C. Wallace

HCW/rk  
Enclosure

115240v1

1400 PNC Plaza, 500 West Jefferson Street Louisville, KY 40202  
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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

ORIGINAL

In the Matter of:

MOUNTAIN RURAL TELEPHONE )  
COOPERATIVE CORPORATION, INC. )  
Complainant )  
v. )  
KENTUCKY ALLTEL, INC. )  
Defendant )

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Case No. 2006-00198

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PUBLIC SERVICE  
COMMISSION

PREFILED DIRECT TESTIMONY

OF

ANGELA K. PENNINGTON

ON BEHALF OF

MOUNTAIN RURAL TELEPHONE COOPERATIVE CORPORATION, INC.

November 2, 2006

*Counsel to Complainant:*

John E. Selent  
Holly C. Wallace  
Edward T. Depp  
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**PREFILED DIRECT TESTIMONY OF ANGELA K. PENNINGTON**

**I. INTRODUCTION**

1 **Q. PLEASE STATE YOUR FULL NAME, PLACE OF EMPLOYMENT AND**  
2 **BUSINESS ADDRESS.**

3 A. My name is Angela K. Pennington and I am the Office Manager of Mountain  
4 Rural Telephone Cooperative, PO Box 399, West Liberty KY 41472.

5 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND**  
6 **EXPERIENCE.**

7 A I have a Bachelor's degree in business administration with an emphasis in  
8 accounting. I have been employed by Mountain Rural in various positions for the  
9 past 15 years. For the past 3 ½ years I have served as the company's Office  
10 Manager, prior to that I spent 11 years in the company's data processing  
11 department with 2 of those years spent as the information technology manager.

12 **Q. PLEASE DESCRIBE YOUR JOB DUTIES AS OFFICE MANAGER.**

13 As the Office Manager I manage the daily operations of the company's  
14 commercial accounting and information technology ("IT") departments including  
15 the direct supervision of the IT department. The generation of Carrier Access  
16 Billing ("CABs") is performed by my department and I directly oversee the  
17 preparation and rendering of all such invoices. Prior to July 2004, that position  
18 also included the review of settlement statements with BellSouth processed by our  
19 accounting department.

20 **Q. HAVE YOU EVER TESTIFIED BEFORE THIS COMMISSION?**

21 A. No, I have not.

**II. HISTORY OF SWITCHED ACCESS SERVICES PROVIDED TO  
WINDSTREAM**

1 **Q. DOES WINDSTREAM DELIVER SWITCHED ACCESS TRAFFIC TO**  
2 **MOUNTAIN RURAL?**

3 A. Yes.

4 **Q. IS THE SWITCHED ACCESS TRAFFIC SUBJECT TO TARIFFED**  
5 **RATES?**

6 A. Yes. The rates charged for switched access traffic are governed by Mountain  
7 Rural's tariff on file with the Kentucky Public Service Commission.

8 **Q. HOW DID WINDSTREAM DELIVER THE SWITCHED ACCESS**  
9 **TRAFFIC TO MOUNTAIN RURAL PRIOR TO DECEMBER 2005?**

10 A. Prior to December 2005, Windstream's access traffic was commingled with  
11 BellSouth Telecommunications' toll and optional calling traffic and delivered on  
12 a BellSouth intraLATA toll trunk group connecting Mountain Rural with  
13 Windstream's tandem.

14 **Q. HOW WAS MOUNTAIN RURAL PAID FOR THESE ACCESS**  
15 **SERVICES?**

16 A. Prior to the conversion to CABs in July 2004, Mountain Rural reported the end-  
17 user toll minutes of usage and revenues to BellSouth, and BellSouth self-  
18 determined the amount of switched access compensation, including non-traffic  
19 sensitive revenue ("NTSR"), it was responsible for and the amount for which  
20 Windstream was responsible. Mountain Rural then received payment from both  
21 BellSouth and Windstream.

1 **Q. DID MOUNTAIN RURAL PARTICIPATE IN THE DETERMINATION OF**  
2 **THE PERCENTAGES OF TRAFFIC THAT BELONGED TO**  
3 **BELLSOUTH AND WINDSTREAM?**

4 A. No. Those determinations were conducted solely by and between BellSouth and  
5 Windstream.

6 **Q. DOES MOUNTAIN RURAL STILL RECEIVE PAYMENT FOR ACCESS**  
7 **SERVICES VIA THE ARRANGMENT YOU JUST MENTIONED?**

8 A. No. Starting in July 2004 Mountain Rural began issuing its own CABS bills to  
9 BellSouth.

10 **Q. WHY DID MOUNTAIN RURAL DECIDE TO GENERATE ITS OWN**  
11 **CABS BILLS?**

12 A. Based on an audit conducted by the company, it became clear that the previous  
13 arrangement understated revenues for a variety of reasons. By converting to  
14 CABS, Mountain Rural was able to take responsibility for capturing and billing  
15 the access usage it was owed without depending on the payers of those charges to  
16 self-report the amounts they owed.

17 **Q. DID THE CONVERSION TO CABS BILLING LEAD TO A DISPUTE**  
18 **WITH BELLSOUTH?**

19 A. Yes. Mountain Rural's CABS bills to BellSouth included Windstream's access  
20 traffic which was commingled with BellSouth's traffic. BellSouth disputed the  
21 inclusion of Windstream's traffic, as well as the applicability of NTSR to traffic  
22 self-labeled by BellSouth and Windstream as "optional calling."

1 **Q. DID MOUNTAIN RURAL AND BELLSOUTH SETTLE THEIR**  
2 **DISPUTE?**

3 A. Yes, BellSouth settled its dispute with Mountain Rural in the fourth quarter of  
4 2005. As part of that resolution, BellSouth requested, and Mountain Rural  
5 supported, the movement of BellSouth's intraLATA toll trunks from a tandem  
6 owned by Windstream to tandems owned by BellSouth. By doing so, BellSouth  
7 gained control of traffic in its network in a similar manner to which Mountain  
8 Rural sought to control traffic into *its* own network. As a result, BellSouth  
9 stopped delivering traffic to Mountain Rural over the trunk group that  
10 Windstream still uses. That change occurred in December 2005.

11 **Q. HOW ARE INTRALATA TOLL SERVICES PROVIDED BY YOUR**  
12 **COMPANY TODAY?**

13 A. Mountain Rural does not provide its own toll services. Instead, customers are  
14 given the choice of intraLATA carriers including a variety of IXC's and BellSouth  
15 as the "default" intraLATA toll carrier.

16 **Q. IS WINDSTREAM AN INTRALATA TOLL CARRIER FOR YOUR**  
17 **CUSTOMERS?**

18 A. No, to my knowledge, Windstream is only an intraLATA toll carrier for  
19 customers in Windstream local exchange service areas.

20 **Q. WHAT TYPE OF INTRALATA ACCESS TRAFFIC DOES**  
21 **WINDSTREAM EXCHANGE WITH MOUNTAIN RURAL?**

22 A. Because Windstream is not an end user toll provider in Mountain Rural's service  
23 territory, all intraLATA access traffic delivered by Windstream is terminating;

1 there is no originating Windstream intraLATA toll traffic from Mountain Rural  
2 end users riding over the Windstream toll trunks.

### III. THE DISPUTE WITH WINDSTREAM

3 **Q. WHAT IS YOUR DISPUTE WITH WINDSTREAM?**

4 A. Our initial dispute with Windstream concerned Windstream’s refusal to fully  
5 compensate Mountain Rural for access services. Windstream sends a variety of  
6 traffic into Mountain Rural over its access group. Windstream claimed that a  
7 large portion of that traffic, self-reported by Windstream to Mountain Rural, was  
8 due to one of their area calling service plans (“ACS”) and as such should be  
9 exempt from a portion of the access charges—namely, the NTSR charge—under  
10 some historic “gentlemen’s agreement.” Since December 2005, Mountain Rural  
11 has received no compensation for NTSR on any traffic delivered by Windstream.

12 **Q. IS THERE SUCH A GENTLEMEN’S AGREEMENT AND WAS IT EVER  
13 FILED WITH THIS COMMISSION?**

14 A. No. Mountain Rural searched extensively for any record supporting such an  
15 agreement and could find no evidence – filed or otherwise – that supported the  
16 claim that Mountain Rural agreed to waive NTSR charges to Windstream to allow  
17 Windstream to offer competitive services to its end users by receiving a discount  
18 from Mountain Rural.

19 **Q. IS ACS TRAFFIC DIFFERENT FROM INTRALATA TOLL?**

20 A. No, it is not. ACS is merely a way for Windstream to enhance the competitive  
21 services available to its customers by providing selected intraLATA toll services  
22 to Windstream customers under different pricing structures. It is an alternative

1 toll service offered by Windstream to compete with other toll providers including  
2 CLECs and IXCs. To Mountain Rural, all such traffic appears as inbound  
3 intraLATA access and Mountain Rural is indifferent to how the service is priced  
4 to the end user by that end user's service provider.

5 **Q. WHAT WOULD BE THE EFFECT OF WAIVING THE NTSR AS**  
6 **CONTEMPLATED BY WINDSTREAM?**

7 A. The rate element in dispute – NTSR – is a fixed revenue recovery for the  
8 company. Per the terms of our tariff, that rate element is applied to all  
9 terminating state access minutes regardless of how they are billed by the carriers  
10 to their originating end users. If Windstream, or any other carrier including  
11 BellSouth, is allowed to avoid such charges based on their own retail billing, then  
12 the unpaid revenues would be reallocated to the remaining access carriers raising  
13 their cost to terminate traffic in Mountain Rural's service area.

14 **Q. HAVE YOU REVIEWED WINDSTREAMS'S QUESTIONS ABOUT**  
15 **WHAT MINUTES ARE INCLUDED IN THE APPLICATION OF THE**  
16 **NTSR? ARE ALL MINUTES BEING INCLUDED IN THIS**  
17 **CALCULATION?**

18 A. Yes. Since conversion to CABs all in-bound access recorded from all carriers,  
19 with the exception of the CMRS traffic delivered by BellSouth that is subject to a  
20 separate agreement on file with this Commission, is included in the calculation of  
21 NTSR regardless of how it is rated to the end user.

22 **Q. WHAT IS THE CURRENT TOTAL OF UNPAID CHARGES THAT**  
23 **WINDSTREAM OWES MOUNTAIN RURAL?**

1 A. Windstream currently owes a total of \$574,857.19 in unpaid charges to Mountain  
2 Rural.

3 **Q. IS THE TOTAL OF UNPAID CHARGES STATIC, OR IS IT**  
4 **INCREASING ON A MONTHLY BASIS?**

5 A. It is increasing. Windstream continues to refuse to pay Mountain Rural's tariffed  
6 NTSR charges. As a result, the total of unpaid charges increases each month.

7 **Q. DOES WINDSTREAM OWE MOUNTAIN RURAL FOR CHARGES**  
8 **OTHER THAN THE NTSR CHARGES?**

9 A. Yes, the total of unpaid charges includes \$25,632.00 in facilities charges. In  
10 addition, the total unpaid charges include short pays for new disputes recently  
11 raised by Windstream as well as late fees. NTSR, however, accounts for the  
12 single largest component of unpaid charges.

13 **Q: DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

14 A: Yes.

Respectfully submitted,



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John E. Selent

Holly C. Wallace

Edward T. Depp

**DINSMORE & SHOHL LLP**

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1400 PNC Plaza

Louisville, Kentucky 40202

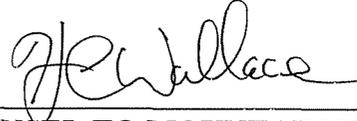
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**COUNSEL TO MOUNTAIN RURAL  
TELEPHONE COOPERATIVE  
CORPORATION, INC.**

**CERTIFICATE OF SERVICE**

It is hereby certified that the foregoing was served by mailing a copy of the same by First Class United States mail, postage prepaid, to Daniel Logsdon, Esq., Alltel Kentucky, Inc., 229 Lees Valley Road, Shepherdsville, KY 40165 and Mark R. Overstreet, Esq., Stites & Harbison, 421 W. Main Street, P.O. Box 634, Frankfort, KY 40602-0634, this 2<sup>nd</sup> day of November, 2006.

A handwritten signature in cursive script, appearing to read "J. Wallace", is written above a horizontal line.

**COUNSEL TO MOUNTAIN RURAL  
TELEPHONE COOPERATIVE  
CORPORATION, INC.**