

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

DANA BOWERS

COMPLAINANT

v.

WINDSTREAM KENTUCKY EAST, LLC

DEFENDANT

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) CASE NO. 2010-00447
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WINDSTREAM KENTUCKY EAST, LLC'S MOTION TO AMEND PROCEDURAL
SCHEDULE

Windstream Kentucky East, LLC (“Windstream”) moves the Commission to amend the procedural schedule it established by Order entered on April 8, 2011. Windstream’s request is warranted because a number of the deadlines set in the Commission’s Order coincide with procedural deadlines previously set by the United States District Court for the Western District of Kentucky, or events agreed to by the parties before the Commission’s order was entered, in the ongoing federal court litigation between the parties. The following table illustrates several instances of overlapping deadlines in the two proceedings:

COMMISSION DEADLINE	FEDERAL COURT DEADLINES
May 13, 2011 – Answers to discovery requests to be filed.	May 12, 2011 – Deposition of Jeanne Shearer.
May 27, 2011 – Simultaneous prefiled direct testimony to be filed.	May 16, 2011 – Deadline for Windstream’s response to the Plaintiff’s motion for class certification.
	May 18, 2011 – Deposition of Caesar Caballero.
	May 19, 2011 – Deposition of Windstream’s 30(b)(6) representative.

June 10, 2011 – Supplemental discovery requests to be filed.	June 29, 2011 – Deadline to serve interrogatories, requests for production, requests to permit entry upon land, notices of depositions containing request for production, and requests for admission for all discovery (Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure, parties must respond to interrogatories, requests for production, and requests for admission within 30 days of being served).
June 24, 2011 – Response to supplemental discovery requests to be filed.	
July 15, 2011 – Simultaneous prefiled rebuttal testimony to be filed.	
July 22, 2011 – Request for hearing, if any, to be filed.	

Windstream anticipates the scope of the Commission and federal court proceedings will make it unduly burdensome for it to comply with all of the scheduling deadlines as presently constituted. For example, it will be difficult for Windstream to prepare answers to discovery requests and prefiled testimony in this proceeding while also preparing for and defending depositions, and preparing a response to the Plaintiff's motion for class certification, in the federal court litigation.

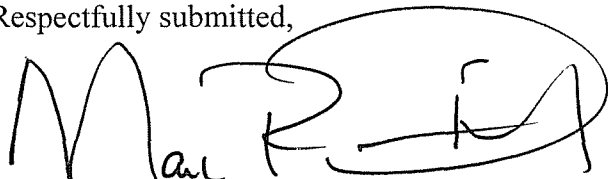
In consideration of the challenges arising from the overlapping scheduling deadlines in this proceeding and the federal court litigation, Windstream asks that the Commission extend all of the deadlines set in this proceeding by two weeks. This limited amendment to the current procedural schedule will afford Windstream the opportunity to give its full attention to both proceedings, and it will not prejudice the Complainant.

Counsel for Windstream contacted counsel for the Complainant to obtain her agreement to the proposed modification, but the parties were unable to reach an agreement. Accordingly, Windstream asks the Commission to adopt the following procedural schedule:

Parties shall file and serve discovery requests no later than	May 13, 2011
Answers to discovery requests to be filed	May 27, 2011
Simultaneous prefiled direct testimony to be filed	June 10, 2011
Supplemental discovery requests to be filed	June 24, 2011
Response to supplemental discovery requests to be filed	July 8, 2011
Simultaneous prefiled rebuttal testimony to be filed	July 29, 2011
Request for hearing, if any, to be filed	August 5, 2011
Simultaneous initial briefs	14 days after receipt of hearing transcript, if a hearing is granted; otherwise due August 26, 2011
Simultaneous post-hearing reply briefs	7 days after receipt of initial briefs or September 2, 2011 if no hearing is held

Wherefore, Windstream respectfully requests the procedural schedule be amended as described above.

Respectfully submitted,



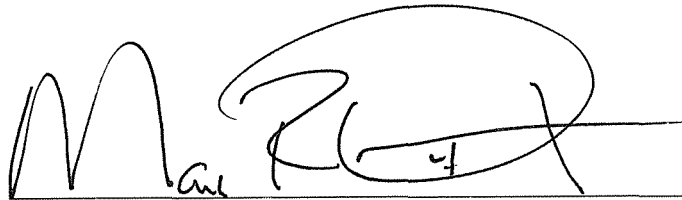
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing WINDSTREAM KENTUCKY EAST, LLC'S MOTION TO AMEND PROCEDURAL SCHEDULE was served by United States First Class Mail, postage prepaid, on this 21st day of April 2011 upon:

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