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September 14, 2011

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RECEIVED

SEP 15 2011

PUBLIC SERVICE
COMMISSION

RE: PSC Case No. 2010-00447

Dear Mr. DeRouen:

Enclosed for filing in this case please find an original and ten copies of Petitioner's Motion for Confidential Treatment. Please place your file stamp on the extra copy and return to me via the enclosed, self-addressed, postage-paid envelope.

If you have any questions concerning this filing, please do not hesitate to contact me. Thank you very much for your attention to this matter.

Sincerely yours,

C. Kent Hatfield

CKH: jms
Enclosures
cc: Parties of Record

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 15 2011

PUBLIC SERVICE
COMMISSION

In the Matter of:

DANA BOWERS)
COMPLAINANT)

v.)

WINDSTREAM KENTUCKY EAST, LLC)
DEFENDANT)

CASE NO. 2010-00447

MOTION FOR CONFIDENTIAL TREATMENT

Petitioner Dana Bowers, through counsel, for her Motion for Confidential Treatment for Exhibits 3 and 8 to her merits brief filed August 29, 2011, pursuant to 807 KAR 5:001, Section 7 and KRS 61.878(1)(k), states as follows:

BACKGROUND

Petitioner and Windstream are parties in *Bowers et al v. Windstream Kentucky East, LLC*, Docket No. 3:09-CV-440, filed in the U.S. District Court for the Western District of Kentucky. That lawsuit includes claims arising under KRS Chapter 278. The District Court has stayed, but not dismissed, Petitioner's Chapter 278 claims in order that the Commission may address legal issues arising from Count III of the lawsuit. Those issues are described in a Petition for Declaratory Ruling filed at the Commission on November 16, 2010. The parties have filed two rounds of briefs and the matter is submitted.

As Petitioner has previously informed the Commission, on April 1, 2011 the District Court entered a Protective Order related to all Discovery Materials to be used for prosecuting or defending claims in the litigation.

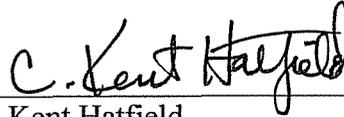
GROUNDS FOR PETITION

1. KRS 61.878(1)(k) protects from disclosure “information the disclosure of which is prohibited by federal law or regulation[.]”
2. The April 4, 2011 Protective Order, already of record, permits a party to the federal court action to designate materials as “Confidential” or “Attorneys’ Eyes Only.”
3. Parties to the action are permitted to use such materials to prosecute and defend claims in the litigation, including in examination of any witness.
4. As the Commission is aware, some of the claims arise under state law, including claims in Count III of the lawsuit arising from KRS Chapter 278, and the district court stayed Count III to allow the PSC to address the dispute. Thereafter, Petitioner sought a ruling from the Commission on issues related to Windstream’s state tariffs.
5. Windstream and Petitioner have each made filings including Discovery Materials disclosed in the litigation that have been marked “Confidential” and are subject to the Protective Order. Windstream filed a Motion for Confidential Treatment on June 10, 2011, and Petitioner filed one on June 24. Petitioner’s was granted July 29, 2011.¹
6. Petitioner’s brief includes two exhibits containing Discovery Materials subject to the Protective Order. Each have previously been included in filings and were previously granted confidential treatment.
7. Although Petitioner does not agree the filed documents are inherently confidential, they have been so designated by Windstream and the Commission, and accordingly, were filed with the Commission under seal.

¹ See Exhibit 1.

For the reasons stated above, Petitioner asks that this Motion for Confidential Treatment be granted.

Respectfully submitted,



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Deborah T. Eversole
STOLL KEENON OGDEN PLLC
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Louisville, Kentucky 40202
Ph: (502) 333-6000
Fax: (502) 333-6099

Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served by first class mail on those persons whose names appear below this 14th day of September 2011:

Mark R. Overstreet
Benjamin R. Crittenden
Stites & Harbison
421 West Main Street
P.O. Box 634
Frankfort, KY 40602-0634

Jeanne Shearer
Windstream Kentucky East, LLC
4139 Oregon Pike
Ephrata, PA 17522



C. Kent Hatfield



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
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David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Charles R. Borders
Commissioner

July 29, 2011

Stoll Keenon Ogden PLLC
Attention: C. Kent Hatfield
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202

Re: Dana Bowers v. Windstream Kentucky East, LLC
Petition for Confidential Treatment received 6/24/11.
PSC Reference – Case No. 2010-00447

Dear Mr. Hatfield:

The Public Service Commission has received the Petition for Confidential Treatment you filed on June 24, 2011 on behalf of Dana Bowers, Complainant ("Complainant") to protect certain information filed with the Commission as confidential pursuant to Section 7 of 807 KAR 5:001 and KRS 61.870. The information you seek to have treated as confidential is identified as being contained in the Rebuttal materials filed in response to Stephen Weeks Direct Testimony and in accordance with the U.S. District Court Protective Order entered April 1, 2011, Western District of Kentucky. The information is described as documents describing various charges to customers through Kentucky Gross Receipts Surcharge and the explanation of non-uniformity and/or changes in rates.

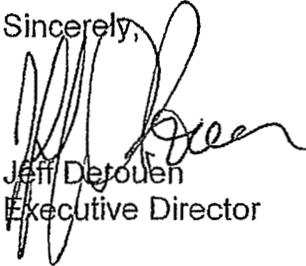
Your justification for having the Commission handle this material as confidential is that the public disclosure of the information would be in violation of the Protective Order entered in U.S. District Court, Western District of Kentucky on April 1, 2011.

Based on a review of the information and pursuant to KRS 61.878 and 807 KAR 5:001, Section 7, the Commission has determined that the information requested to be held confidential is protected by Order entered April 1, 2011 in U.S. District Court, Western District of Kentucky, and therefore **meets the criteria for confidential protection** and will be maintained as a nonpublic part of the Commission's file in this case. The procedure for usage of confidential materials during formal proceedings may be found at Section 7(8) of 807 KAR 5:001.

Mr. Hatfield
July 29, 2011
Page 2

If the information becomes publicly available or no longer warrants confidential treatment, Dana Bowers is required by Section 8(9)(a) of 807 KAR 5:001 to inform the Commission so that the information may be placed in the public record.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Detouen". The signature is stylized and cursive, with a large initial "J" and "D".

Jeff Detouen
Executive Director

kg/

cc: Parties of Record