

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WINDSTREAM KENTUCKY)	
EAST, LLC AND WINDSTREAM KENTUCKY)	
WEST, LLC (1) FOR A DECLARATORY RULING)	
THAT APPROVAL IS NOT REQUIRED FOR)	
THE TRANSFER OF A PORTION OF THEIR)	CASE NO.
ASSETS; (2) ALTERNATIVELY FOR APPROVAL)	2014-00283
OF THE TRANSFER OF ASSETS; (3) FOR)	
A DECLARATORY RULING THAT)	
COMMUNICATIONS SALES AND LEASING,)	
INC. IS NOT SUBJECT TO KRS 278.020(1); AND)	
(4) FOR ALL OTHER REQUIRED APPROVALS)	
AND RELIEF)	

ORDER

On October 24, 2014, the Communications Workers of American (“CWA”) filed a motion for full intervention in this matter, which arises from Windstream Kentucky East, LLC’s and Windstream Kentucky West, LLC’s (collectively “Windstream”) joint application to transfer certain assets currently owned and controlled by Windstream to a third party, Communications Sales and Leasing, Inc. (“CSL”). CWA is a labor union that represents approximately 250 employees of Windstream in Kentucky. CWA states that Windstream’s application is unclear as to whether CSL will have legal right to hold title to easements and rights of way that may be limited to the provision of service by a public utility if, as the application asserts, CSL will not be a public utility as defined by KRS 278.010. On this basis, CWA claims that the decision will have direct impact upon its members’ ability to obtain unfettered and safe access to operate, maintain, repair, or replace Windstream facilities located on easements or rights of way. As a further basis,

CWA alleges that the proposed transaction may have a negative effect on Windstream's financial position, and therefore its ability to improve service to Kentucky customers.

On October 27, 2014, Windstream filed its response in opposition to CWA's motion for full intervention. First, Windstream argues that the Commission should deny CWA's motion because the motion for intervention is not timely, noting that CWA received notice of the transaction on July 28, 2014, but waited to file its motion until 42 days prior to the expiration of the statutory period for the Commission's consideration of Windstream's application.¹ Next, Windstream argues that allowing intervention at this time will unduly complicate and disrupt the proceeding, and that CWA is unlikely to present issues or develop facts that will aid the Commission. Lastly, Windstream argues that CWA has not identified a special interest in the proceeding because, as set forth in Windstream's responses to Staff's First Request for Information, Item 11, the proposed transfer will not result in any reduction or decrease to the number of employees, and thus the proposed transfer will have no impact upon Kentucky employees.

On October 31, 2014, CWA filed a reply to Windstream's response. CWA asserts that its motion is timely, noting that it filed its motion to intervene one week after it became aware of a filing in a related proceeding in another state that CWA believes has implications for this matter. CWA further asserts that it has a special interest arising from operational and financial concerns with the proposed transaction that directly impact the safety of Windstream's Kentucky employees who are represented by CWA.

¹ Pursuant to KRS 278.020(6), the Commission shall, within 60 days from the date of filing, grant, modify, or refuse an application to transfer of ownership or control of a jurisdictional utility. For good cause, the Commission may continue the application for up to 60 days. The application in this matter was filed on August 7, 2014. On September 30, 2014, the Commission entered an Order continuing the application up to and including December 5, 2014.

Lastly, CWA asserts that it will abide by the existing procedural schedule and will limit issues it raises to those issues that fall within the Commission's jurisdiction, and thus CWA's participation will not complicate or disrupt this proceeding.

It appears to the Commission that CWA's intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Commission, being otherwise sufficiently advised, finds that CWA should be granted full rights of a party in this proceeding. To ensure that this matter continues to move forward in a timely manner, CWA shall abide by the existing procedural schedule set forth in the Appendix to the Commission's October 23, 2014 Order.

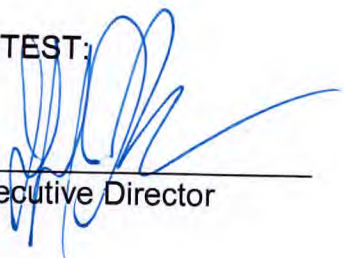
IT IS HEREBY ORDERED that:

1. The petition of CWA to intervene is granted.
2. CWA shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. CWA shall abide by the existing procedural schedule entered by the Commission on October 23, 2014.
4. Should CWA file documents of any kind with the Commission in the course of these proceedings, CWA shall also serve a copy of said documents on all other parties of record.

By the Commission

ENTERED
NOV 10 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2014-00283

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