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January 20, 2011

VIA ELECTRONIC MAIL

RECEIVED

R. Benjamin Crittenden
Stites & Harbison PLLC
421 W. Main Street
P.O. Box 634
Frankfort, KY 40602

JAN 24 2011

PUBLIC SERVICE
COMMISSION

RE: *Kentucky Public Service Commission Case No. 2010-00447*

Dear Ben:

We have read the thirty seven paragraphs of proposed stipulated facts you provided by email last Friday. Most of the assertions of “fact” relate to legal disputes or to matters that are irrelevant to the legal issues referred to the Commission by the Federal District Court. Others simply restate facts that are beyond dispute, e.g., that Dana Bowers is a customer of Windstream Kentucky East. In our view, jointly filing a long statement of largely irrelevant “facts” to which the parties do, or do not stipulate will unnecessarily complicate and prolong what should be a straightforward dispute of the law that applies to Windstream’s addition of the “Kentucky Gross Receipts” surcharge to its customer bills.

As we explained at the informal conference, we believe that the essential facts are already of record and are beyond dispute, as follows:

- There are Windstream tariffs on file with the Commission.
- The tariffs do not state that Windstream will charge a 1.3% “Kentucky Gross Receipts” surcharge.
- One tariff states that Windstream will charge a “proportionate part of any license, occupation, franchise, or other similar fee or tax now or hereafter agreed to or imposed ... by local taxing authorities.”
- Windstream charged its customers a “Kentucky Gross Receipts Surcharge”.

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- The gross revenues tax in KRS 136.616(2)(b) is imposed by the state government upon Windstream, not upon its customers.

As requested by the Commission's counsel, we will file a procedural motion on or before January 28. Please let me know if there are any questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Douglas F. Brent", with a long horizontal line extending to the right.

Douglas F. Brent

DFB: jms

cc: Kentucky Public Service Commission