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JUN 10 2011

PUBLIC SERVICE  
COMMISSION

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June 10, 2011

Jeffrey DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40601

RE: PSC Case No. 2010-00447

Dear Mr. DeRouen:

Enclosed for filing in this case please find an original and ten copies of the Testimony of Dana A. Bowers. Ms. Bower's Verification Form will be filed separately. Please place your file stamp on the extra copy and return to me via our runner.

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

112694.134900/673234.1

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

DANA BOWERS  
COMPLAINANT

v.

WINDSTREAM KENTUCKY EAST, LLC  
DEFENDANT

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CASE NO. 2010-00447

**TESTIMONY OF**

**DANA A. BOWERS**

**Filed: June 10, 2011**

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**PUBLIC SERVICE  
COMMISSION**

1 **Q. Please state your name and address.**

2 A. Dana A. Bowers, 204 Ravenswood Drive, Elizabethtown, Kentucky 42701-6435

3 **Q. Have you previously testified before the Public Service Commission?**

4 A. No.

5 **Q. Are you a customer of Windstream Kentucky East?**

6 A. Yes, Windstream provides local telephone service at my home.

7 **Q. What is your understanding of the nature of this proceeding?**

8 A. My attorneys informed me that the United States District Court has asked the  
9 Commission to state whether under Kentucky law, Windstream (or any local telephone  
10 utility providing service under tariffs) may increase its rates without amending its tariff(s)  
11 to include the rate increase. Also, it is my general understanding that Windstream's  
12 voluntary regulation plan prohibits it from raising rates on some customers in any  
13 circumstance, because Windstream agreed to rate caps as part of the alternative  
14 regulation plan it elected.

15 **Q. Did Windstream increase your rates?**

16 A. Yes. As described in the Amended Complaint in the federal court action, beginning in  
17 June 2007 Windstream added the Kentucky Gross Receipts Surcharge to my bill and the  
18 bills of thousands of customers. The rate Windstream imposed has varied between 1.3%  
19 and 2.6%. At times it was 1.75%. It is my understanding that Windstream did not amend  
20 its tariffs on file with the Commission to include the right to charge extra for the  
21 Kentucky Gross Receipts Surcharge, and still has not done so. To my knowledge,  
22 Windstream did not tell me or its other customers what percentage it was charging for

1 this rate at any given time or why Windstream changed that percentage from time-to-  
2 time.

3 **Q. Why did you file your Petition with the Commission?**

4 A. I filed the Petition at the direction of the United States District Court for the Western  
5 District of Kentucky which has asked the Commission to address the two state tariff  
6 issues presented in Count III of my Complaint filed with the Court: “(1) whether the PSC  
7 would rule as the FCC did in *Irvin Wallace* on the issue of tariffs and pass-through taxes  
8 and (2) whether the ‘local taxing authority’ language of Windstream’s tariff encompasses  
9 state statutes.”<sup>1</sup> My attorneys will argue these legal issues here. The remaining issues  
10 presented by my Complaint will be determined by the Court.

11 **Q. Does that conclude your testimony?**

12 A. Yes.

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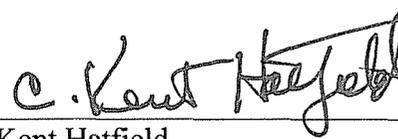
<sup>1</sup> *Dana Bowers v. Windstream Kentucky East, LLC*, 790 F.Supp.2d 526, 534 (W.D. Ky. 2010).

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Testimony of Dana A. Bowers was served by United States First Class Mail, postage prepaid, on this the 10<sup>th</sup> day of June, 2011 upon:

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R. Benjamin Crittenden  
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C. Kent Hatfield