

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CMN-RUS, INC.)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2018-00157
)	
WINDSTREAM KENTUCKY EAST, LLC)	
)	
DEFENDANT)	

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION
TO WINDSTREAM KENTUCKY EAST, LLC

Windstream Kentucky East, LLC (Windstream East), pursuant to 807 KAR 5:001, is to file with the Commission an original and seven copies in paper medium of the following information, with a copy to all parties of record. The information requested herein is due within 14 days of the entry of this request for information. Responses to requests for information in paper medium shall be appropriately bound, tabbed, and indexed. Each response shall include the name of the individual responsible for responding to questions related to the information provided.

Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

Windstream East shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any request to which Windstream fails or refuses to furnish all or part of the requested information, it shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Windstream East shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Refer to Windstream East's response to Commission Staff's First Request for Information (Staff's First Request), Item 1 and WIN0304. Provide the total number of poles included in the applications identified in WIN304 during each period shown in the tables.

2. Identify the total number of poles in Kentucky owned or controlled by Windstream East and any affiliate of Windstream East, including those poles identified in response to Staff's First Request, Item 9 that are located in Kentucky.

3. Refer to Windstream East's response to Staff's First Request, Item 5. State the typical time period during which the following portions of the procedure for processing

pole attachment applications are completed by Windstream East (assuming there is no delay for the payment of invoices by the applicant and each application is for 25 pole attachments):

a. From when the Permitting Team receives the application to when the application is sent to the OSP Engineering Managers and OSP Engineers;

b. From when the application is sent to the OSP Engineering Managers and OSP Engineers to when the application is sent to the Engineering Contractor;

c. From when the application is sent to the Engineering Contractor to when the application is sent back to the OSP Engineering Managers and OSP Engineers to review the survey work;

d. From when the application is returned to the OSP Engineering Managers and OSP Engineers following the survey work to when the application is first referred to the construction contractor for a bid or, if no bid is necessary, to complete the make-ready work; and

e. From when the application is first referred to the construction contractor until the completion of the make-ready work by the construction contractor.

4. If the time periods provided in response to Request No. 3 above do not account for any material step or period from the time Windstream East receives the applications to the time Windstream East's construction contractors complete their make-ready work, please describe the step and identify the time it typically takes to complete the step.

5. Refer to Windstream East's response to Staff's First Request, Item 5 in which Windstream East discusses the role of Third Party Attachments.

- a. State when Third Party Attachers are notified of the need to perform make-ready work;
- b. State how Third Party Attachers are notified of the need to perform make-ready work; and
- c. Identify the period during which each Third Party Attacher in Fayette County is currently required to complete its make-ready work pursuant to any agreement with Windstream East or a parent, sister, or other affiliated company.

6. Refer to Windstream East's response to Staff's First Request, Item 5 in which Windstream East discusses make-ready work performed by its construction contractor. State whether the make-ready work performed by Windstream East's construction contractor includes work for Third Party Attachers and, if so, state why some make ready is performed by Windstream East's construction contractors on behalf of Third Party Attachers and other work is not.

7. Refer to Windstream East's response to Staff's First Request, Item 5 in which Windstream East states "[t]he Windstream OSP Engineering Manager then updates the Excel tracker with the JobTrac number, Windstream internal application number, and whether a permit is required." Describe the "permit" referred to in that response and state when it would be required and how it would be obtained.

8. Refer to Windstream East's response to Staff's First Request, Item 15 in which Windstream East indicated that "[t]here are currently five ongoing projects in Lexington: KIH, Mobilite (ATT), Crown Castle; FiberTech, and CMN."

a. State whether Windstream East would accept pole attachment applications containing up to 300 poles in total from each of those entities in each rolling 30-day period;

b. State whether Windstream East has the capacity to review applications, including the processing of the application, the completion of survey work, and the completion of make-ready work, in the time periods identified in response to Item 3 and Item 4 above assuming KIH, Mobilite (ATT), Crown Castle, FiberTech, and CMN each submitted applications containing a total of 300 poles during each rolling 30-day period; and

c. If not, state the time periods Windstream East contends would be necessary to review those applications, including the time necessary to process those applications, complete the survey work, and complete the make-ready work, and explain the basis for Windstream East's contention as to the necessary time periods.

9. State the maximum total number of applications that Windstream East contends it could review, including the processing of the applications, the completion of survey work, and the completion of make-ready work, in the time periods identified in response to Item 3 and Item 4 above assuming that each application contains the maximum number of requests for pole attachments allowed by Windstream East.

10. State the maximum total number of applications that Windstream East contends it could review, including the processing of the applications, the completion of survey work and the completion of make-ready work, in the time periods established by the Federal Communications Commission's regulations assuming that each application

contains the maximum number of requests for pole attachments allowed by Windstream East.

11. State whether any representative of Byers Engineering has indicated to Windstream East or its affiliates in the last year and a half that Byers Engineering does not have the capacity to perform additional survey work related to new pole attachments on behalf of Windstream East.

12. State whether any representative of Windstream East or its affiliates have had any communication, whether in writing or orally, with any representative of Byers Engineering within the last year and a half regarding Byers capacity to perform additional survey work related to new pole attachments on behalf of Windstream East. If so, please describe each such communication in detail by:

- a. Describing when the communication took place;
- b. Identifying those involved in the communication on behalf of Windstream East and Byers Engineering and their positions;
- c. Describing the content of the communication and any response with respect to Byers Engineering's capacity; and
- d. If such communications are in writing, regardless of form, then please provide such communications.

13. State whether any representative of Triple D Communications has indicated to Windstream East or its affiliates in the last year and a half that Triple D Communications does not have the capacity to perform additional survey work related to new pole attachments on behalf of Windstream East.

14. State whether any representative of Windstream East or its affiliates have had any communication, whether in writing or orally, with any representative of Triple D Communications within the last year and a half regarding Triple D Communications capacity to perform additional make-ready work related to new pole attachments on behalf of Windstream East. If so, please describe each such communications in detail by:

- a. Describing when the communication took place;
- b. Identifying those involved in the communication on behalf of Windstream East and Triple D Communications and their positions;
- c. Describing the content of the communication and any response with respect to Triple D Communications' capacity; and
- d. If such communications are in writing, regardless of form, then please provide such communications.

15. Refer to the Testimony of James Lloyd at pages 6 and 7 in which he indicates that outsourcing the review of the surveys and the make-ready work could result in increased liability to Windstream.

- a. Identify all civil actions against Windstream East or any other subsidiary of Windstream Services, LLC, in the state of Kentucky in the last 5 years that alleged the type of liability referred to in the testimony of James Lloyd at pages 6 and 7.
- b. State whether and, if so, why Windstream East contends that it cannot obtain security against such risk by including an indemnity, defense, and hold harmless agreement; a requirement to obtain insurance; a requirement to list Windstream

East as an additional insured in any agreement with independent contractors retained to perform such work; or some combination of the above.

16. State whether Windstream Services, LLC, or any subsidiary or affiliate of Windstream Services, LLC, owns or controls poles in any state in which the Federal Communications Commission regulates pole attachments because the state has not exercised reverse preemption. Describe how Windstream Services, LLC, or any subsidiary or affiliate of Windstream Services, LLC, handles pole attachment applications that exceed the 300 poles in each rolling 30-day period in those states.

17. Refer to the Testimony of Ashley Sanders at page 3 and page 4, which states, “[a]ll surveys and applications must be reviewed by Windstream to ensure CMN is not illegally attaching to poles or placing attachments to poles in an unsafe manner or improper manner.”

a. State whether Windstream East or Windstream Services, LLC, or its subsidiary ever assign other engineers, whether from another area, an affiliated company, an affiliated contractor, or otherwise, to assist the OSP Engineering Managers and OSP Engineers responsible for pole attachments in a given area with their review of surveys and make-ready work.

b. If so, describe the circumstances under which that would occur and why.

c. If not, state whether it would be possible under any circumstances and why or why not.

18. Refer to the Testimony of Daniel King at page 4 in which he indicates that Windstream East is skeptical that CMN will appropriately honor new agreements to pay

costs associated with Windstream East's review of applications for pole attachments. State what type of security, if any, Windstream East contends would be necessary to ensure CMN's payment of costs incurred in reviewing the applications in this matter, including the processing of the applications, the completion of survey work, and the completion of make-ready work, and explain the basis for that contention.

19. Refer to the Testimony of Daniel King at page 4 in which he indicates that CMN should be made to honor its prior agreements with Windstream KDL, LLC "before Windstream extends the company further credit." State whether Windstream KDL, LLC, and Windstream East maintain separate corporate forms.



Gwen R. Pinson
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

DATED SEP 17 2018

cc: Parties of Record

*Casey C. Stansbury
Mazanec, Raskin & Ryder Co., LPA
230 Lexington Green Circle, Suite 60
Lexington, KENTUCKY 40503

*CMN-RUS, Inc.
3701 Communications Way
Evansville, IN 47712

*CMN-RUS, Inc.
CMN-RUS, Inc.
3701 Communications Way
Evansville, IN 47712

*Katherine Yunker
McBrayer, McGinnis, Leslie and Kirkland, PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507

*Tia J Combs
Mazanec, Raskin & Ryder Co., LPA
230 Lexington Green Circle, Suite 60
Lexington, KENTUCKY 40503

*Windstream Kentucky East, LLC
4001 N Rodney Parham Road
Little Rock, AR 72212

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Windstream Kentucky East, LLC
4001 N Rodney Parham Road
Little Rock, AR 72212