

KATHERINE K. YUNKER
kyunker@mmlk.com
www.mmlk.com



201 E. MAIN ST., STE. 900
LEXINGTON, KY 40507
859.231.8780 EXT. 103

June 22, 2018
via U.S. Mail

RECEIVED

JUN 25 2018

PUBLIC SERVICE
COMMISSION

Gwen R. Pinson, Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

Re: Ky PSC Case No. 2018-00157
CMN-RUS, Inc. v. Windstream Kentucky East, LLC

Dear Ms. Pinson:

Enclosed please find for filing in the above-referenced case, the unbound original and 10 copies of the First Set of Discovery Requests from CMN-RUS, Inc. to Windstream Kentucky East, LLC ("Windstream"). Also enclosed is an additional copy of the First Set and this cover letter to be stamped with the date of receipt and returned in the enclosed self-addressed, postage prepaid envelope.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Katherine K. Yunker". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Katherine K. Yunker

Enclosures

cc (w/encl): counsel for Windstream Kentucky East, LLC

RECEIVED

JUN 25 2018

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

CMN-RUS, Inc.

Complainant

v.

Windstream Kentucky East, LLC

Respondent

No. 2018-00157

First Set of Discovery Requests from CMN-RUS, Inc.

CMN-RUS, Inc. (“CMN”), submits this First Set of Discovery Requests to Windstream Kentucky East, LLC (“Windstream”), with responses to be given in accordance with the following Instructions and Definitions and served no later than July 13, 2018.

INSTRUCTIONS and DEFINITIONS

Responses in paper medium shall be appropriately bound, tabbed, and indexed. Each response shall include the name of the person responsible for responding to questions related to the information provided. Each response shall be answered under oath or be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of Windstream that the response is true and accurate to the best of that person’s knowledge, information, and belief formed after a reasonable inquiry.

For any request to which Windstream refuses or fails to furnish all or part of the requested information, please provide a written explanation of the specific grounds for the failure to completely and precisely respond. If there is personal information in any response Windstream files in this case, it should comply with 807 KAR 5:001, Section 4(10), and encrypt or redact the response so that personal information cannot be read.

Definitions:

“Windstream” or “you” means Windstream Kentucky East, LLC.

“300 Pole Rule” means the Windstream rule, policy, or practice, that limits the number of poles for which an attacher may apply to 300 poles in a rolling 30-day period.

“KDL” means Windstream KDL, LLC.

“CMN” means CMN-RUS, Inc.

DISCOVERY REQUESTS

1. Please refer to your Answer ¶5, in which you state that Windstream limits the number of attachment applications it will process “in order to effectively manage use of its resources.” Is it your contention that:

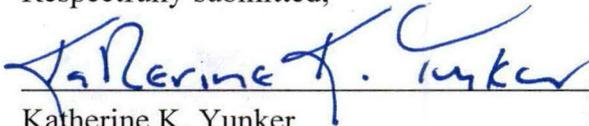
- a. the 300 Pole Rule is required to effectively manage the use of Windstream’s resources? If so, please produce any data supporting your contention.
- b. in circumstances in which a third party agrees to (i) assume all cost of retaining additional resources to process applications in excess of 300 poles per 30 days and (ii) pay all cost of contractors approved by Windstream to perform make ready, that processing more than 300 poles within a 30-day period interferes with the effective management of Windstream’s resources? If so, please produce any data supporting your contention.

2. Please refer to your Answer ¶5, in which you contend that the lack of specific time frames for application, survey, and make ready processing does not make the License Agreement unreasonable. Please state the basis (factual and legal) for that contention. Please also state:

- a. whether it is your contention that Windstream may take an indefinitely long amount of time to process and complete pole attachment requests and, if so, the basis for your contention; and
 - b. what, if any, are the minimum time frames Windstream contends are reasonable and the basis for your contention.
3. Please refer to your Answer ¶5, in which you deny that the provisions in Windstream's License Agreement (including the 300 Pole Rule) are unreasonable and contend that the License Agreement provisions are consistent with Kentucky law and the standards of the telecommunications industry.
 - a. Is it your contention that the 300 Pole Rule is consistent with the standards set forth in 47 CFR 1.1420(g)? If so, please state how or under what conditions the 300 Pole Rule is consistent with the standards set forth in 47 CFR 1.1420(g).
 - b. Please (i) identify with which Kentucky law(s) you contend that the 300 Pole Rule is consistent and (ii) state how or under what conditions the 300 Pole Rule is consistent with respect to the/those specific Kentucky law/s.
 - c. Is it your contention that the 300 Pole Rule is consistent with a standard in the telecommunications industry pertaining to the processing of poles other than the standards set forth in 47 CFR 1.1420(g)? If so, please (i) identify each such other standard with which the 300 Pole Rule is consistent and (ii) state how or under what conditions the 300 Pole Rule is consistent with the respective standard.
4. With respect to your denial in Answer ¶7 that eight (8) to twelve (12) months is a reasonable period to attach to 12,500 poles (*i.e.*, a rate of 1042 to 1562 poles per month), please:

- a. explain how and under what conditions your denial is consistent with the standards set forth in 47 CFR 1.1420(g);
 - b. state all facts on which you base your denial that 8-12 months is a reasonable period to attach to 12,500 poles, and produce any data, statistics, or analyses supporting your denial.
5. Please refer to your denial in Answer ¶10 that Windstream was unwilling to negotiate any provisions of its License Agreement with CMN. If Windstream is / has been willing to negotiate provisions of the License Agreement with CMN, please identify:
- a. the circumstances under which Windstream is / has been willing to negotiate the provisions of the License Agreement with CMN; and,
 - b. any provisions Windstream is not / has not been willing to negotiate with CMN.
6. Please refer to your Answer ¶¶10 and 23. Is it your contention that the outstanding invoice to your affiliate, KDL, has a negative impact on Windstream? If so, please state in detail what you contend is the negative impact on Windstream and the basis for your contention.
7. Please refer to your Answer ¶22 denial that you have not attempted to negotiate terms agreeable to both Windstream and CMN concerning the matters stated in the Complaint. Please describe all such attempts and list all such terms.

Respectfully submitted,



Katherine K. Yunker

kyunker@mmlk.com

MCBRAYER, MCGINNIS, LESLIE &

KIRKLAND PLLC

201 East Main Street; Suite 900

Lexington, KY 40507-1310

859-231-8780, ext. 137

Attorney for CMN-RUS, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of June, 2018, a copy of the foregoing has been served on the attorneys for Respondent by email and first-class mail, postage prepaid, addressed to: Casey C. Stansbury <cstansbury@mrrlaw.com>, Tia J. Combs <tcombs@mrrlaw.com>; MAZANEC, RASKIN & RYDER CO.; 230 Lexington Green Circle, Suite 605; Lexington, KY 40503.



Attorney for Complainant