

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION  
CASE NO. 2009-00058

RECEIVED

MAY 04 2009

PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF:

TERA BLUE, INC.

COMPLAINANT

V.

REPLY

WINDSTREAM KENTUCKY EAST, LLC.

DEFENDANT

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Comes the Complainant, Tera Blue, Inc. ("Tera Blue"), by and through counsel, and for its Reply in accordance with paragraph 3 of the Commissions' Order of March 27, 2009<sup>1</sup>, states as follows:

1. Tera Blue's pursuit of this matter is not a prophylactic effort to avoid otherwise appropriate disconnections or an unnecessary deposit. This filing is intended to address legitimate and repeated billing discrepancies and to seek to have the Commission require that Windstream bear its fair share the burden of its billing mistakes.

2. Windstream states in its Answer that its records reflect 5 instances of late payment and the imposition of embargo notices and late fees. Windstream admits that as a result of the reflection in its records of a poor payment history, it has demanded an increase in the security deposit. However, Windstream fails to acknowledge the repeated history of granting Tera Blue credits for billing errors. Evidence of the merit of Tera Blue's complaints in this matter is contained in Windstream's own records.

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<sup>1</sup> Pursuant to paragraphs 2 and 3 of the Commission's Order of March 27, 2009, Tera Blue submitted a statement relative to its authorization status on April 10, 2009 and a copy of its Interconnection Agreement with Windstream on April 28, 2009.

3. As noted in the original complaint, Tera Blue has endured a several year history of finding and ultimately correcting billing errors on the part of Windstream, but along the way, has suffered repeated embargo notices and late charges. Examples of billing errors include Windstream's failure to note and record payment, the charging of late fees on already paid invoices, and a failure to distinguish between separate and independent Tera Blue accounts. After difficult struggle, Tera Blue has managed, for the most part, ultimately receive a credit for these mistakes. However, persons or (computer systems) not familiar with the ongoing problems with Tera Blue's billing history, continue to impose late penalties, embargo notices and, now, the demand for an increased deposit.

4. Windstream cites an outstanding account of \$3.11 in paragraph 5 of its Answer. However, this amount was ultimately cleared by credits that Windstream admittedly owed to Tera Blue (Exhibit "A"). Though on its face, an obviously inconsequential amount, it is emblematic of the problems that Tera Blue faces with Windstream. Tera Blue's account representatives have changed over time and increasingly, it is painfully obvious that the right hand of Windstream is oblivious to the activity of its left hand. On several occasions, (December 12, 2008 and February 26, 2009 for example) Tera Blue has invoked the processes set forth in the dispute resolution provisions of paragraph 9.1.1 of the Interconnection Agreement. Utilization of this process is intended to trigger a series of actions, all of which are entitled to insure that there is a mutually satisfactory resolution to the billing dispute, and yet billing problems continue to persist.

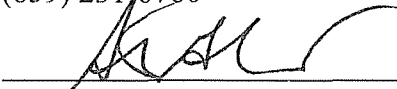
5. Notwithstanding the allegations set forth in the Complaint herein, and the relief sought herein, Tera Blue is prepared to attempt to reach an accommodation with Windstream that includes, most importantly, a solution to the pattern of ongoing billing discrepancies and/or communication problems between them, under paragraph 9.3 of the parties' Interconnection Agreement.

WHEREFORE, Tera Blue respectfully requests the relief sought in its original complaint herein, or in the alternative, an order from this Commission holding the matter in abeyance and directing the parties to engage in the process for the Informal Resolution of Disputes pursuant to paragraph 9.3 of the parties' Interconnection Agreement, without prejudice to Tera Blue's right to request resumption of this process.

Respectfully submitted,

McBRAYER, McGINNIS, LESLIE  
& KIRKLAND, PLLC  
201 East Main Street, Suite 1000  
Lexington, Kentucky 40507  
(859) 231-8780

BY:

  
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STEPHEN G. AMATO  
ATTORNEYS FOR COMPLAINANT

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of May, 2009, a true and correct copy of the foregoing was served via US Mail to the following:

Public Service Commission  
PO Box 615  
Frankfort, KY 40602-0615

Hon. Mark R. Overstreet  
Stites & Harbison, PLLC  
421 West Main Street  
PO Box 634  
Frankfort, KY 40602-0634

Hon. Jeremy R. Morgan  
PO Box 1268  
Hazard, KY 41702



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ATTORNEYS FOR COMPLAINANT

**Steve Amato**

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**From:** Goodman, Sara [Sara.Goodman@windstream.com]  
**Sent:** Wednesday, March 11, 2009 8:38 AM  
**To:** Scott Brooks; Powers, Lori A  
**Subject:** RE: \$3.11

**Attachments:** "AVG certification"



\_AVG  
tification\_.txt (444 I

Scott - The \$3.11 has already cleared the Tera Blue aging.

Thanks

All Windstream statements and correspondence are confidential and proprietary subject to the non-disclosure agreement or interconnection agreement as executed between the parties.

Sara Goodman | Windstream Communications | 4001 N. Rodney Parham Rd | MS 1170 B3F3 36B  
| Little Rock, AR 72211 | 501.748.6490

-----Original Message-----

From: Scott Brooks [mailto:sbrooks@openworldinc.com]  
Sent: Tuesday, March 10, 2009 3:04 PM  
To: Goodman, Sara; Powers, Lori A  
Subject: \$3.11

Can you send me documentations via e-mail that this is being thrown out. I thought this was odd to be showing up as a late charge in 12/5/08 when credits and everything were suppose to already be settled. Just wanted to get this confirmed

Thank you,

Scott Brooks, Operations Manager  
Office: 859-514-1800  
Fax : 859-280-3882  
e-mail: sbrooks@openworldinc.com

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The information contained in this message, including attachments, may contain privileged or confidential information that is intended to be delivered only to the person identified above. If you are not the intended recipient, or the person responsible for delivering this message to the intended recipient, Windstream requests that you immediately notify the sender and asks that you do not read the message or its attachments, and that you delete them without copying or sending them to anyone else.