

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
Case No. 2018-00157

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SEP 07 2018

In the Matter of
CMN-RUS, INC.

PUBLIC SERVICE
COMMISSION
COMPLAINANT

v.

WINDSTREAM KENTUCKY EAST, INC.

RESPONDENT

**WINDSTREAM KENTUCKY EAST, INC.'s REPLY TO CMN-RUS, INC.'S
RESPONSE TO MOTION FOR CONFIDENTIAL TREATMENT OF
RATES AND CONFIDENTIAL CONTRACTS**

Comes the Respondent, Windstream Kentucky East, Inc. ("Windstream"), and for its Reply to CMN-RUS, Inc.'s ("CMN") Response to Motion for Confidential Treatment of Rates and Confidential Contracts, hereby states as follows:

1) Windstream has requested to redact rates on only 79 pages.

CMN argues that it "gathers" that Windstream has redacted 2,000 pages of documents. This is untrue. Perhaps Windstream should have provided a listing of each redacted page, so this is now provided at Exhibit A. Viewing this list, one can easily see that there are only 79 pages containing redaction of rates. It is a bit histrionic for CMN to state that "2,000 pages" have been redacted when the number is less than 100.

2) Windstream has followed the directions listed in by 807 KAR 5:001, Section 13(2) for requesting confidential treatment.

CMN argues that Windstream's request for confidential treatment amounts to some sort of *ex parte* with the PSC. However, by providing redacted copies to CMN and for public filing and unredacted copies under seal to the PSC, Windstream followed the directions given in 807 KAR 5:001, Section 13(2) exactly (the section pertaining to requesting confidential treatment). CMN cannot now insist that following this procedure is somehow unethical.

Furthermore, for CMN to suggest that Windstream is trying to get some sort of advantage by providing documents it requests be kept confidential in the exact manner directed by 807 KAR 5:001, Section 13(2) preposterous. Windstream has never suggested that these documents be used to decide the case. Windstream did not produce these documents in support of its own case, it produced them because the PSC requested them. Pursuant to 807 KAR 5:001, Section 13(2), Windstream is not permitted to simply hold back documents it believes are confidential when they have been requested by the PSC, it is required to produce unredacted documents under seal for the PSC's in-camera review. As stated previously, Windstream followed the directives of 807 KAR 5:001, Section 13(2) exactly; it is hardly fair for CMN to now criticize Windstream's following of the PSC's published rules.

3) The redacted documents and portions of documents are not essential to the case at hand.

CMN also argues that the rates redacted are "plainly relevant" for CMN to prove its case. This begs the question: Why did CMN fail to request documents that it so badly needed? The documents that are the subject of this Motion were requested only by the PSC, not CMN. In fact, Windstream faithfully provided all of the documents requested by CMN (even when CMN filed requests that were served without authority). Not one document provided in response to CMN's requests contained a single redaction.

Contrary to CMN's assertions, Windstream has redacted monetary rates only, and CMN has never once even hinted to Windstream that it does not agree with the monetary rates Windstream proposes to charge for anything. The issue in this matter is the quickness with which CMN will be allowed to submit applications and attach to Windstream's poles, not the money to be charged.

4) Windstream is entitled to confidential treatment for the documents containing pole attachment rates.

The redacted rates contained in the documents set forth in Exhibit A are not readily publically available and have been kept confidential in the past. As such, they are business financial information which are afforded exemption from disclosure under in KRS 61.878(1)(c). The rates in question are all rates charged to other private parties.

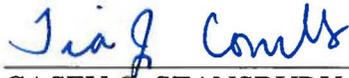
CMN is correct that one document provided that pertains to rates charged to the Commonwealth of Kentucky—the KIH Agreement. This agreement was disclosed in full as Windstream realizes that CMN's filing of it with the Complaint means it must already be in the public domain. (In its Response, CMN incorrectly criticized Windstream for disclosing this contract—it is the contract with a confidentiality clause found at WIN1593. *See* CMN Response at pg. 4.) Disclosure of this one document does not somehow mean that rates negotiated with private parties are not confidential.

5) Windstream is entitled to confidential treatment for contracts which contain confidentiality clauses.

CMN confusingly argues that confidentiality clauses in contracts do not necessarily make them confidential and that form agreements are somehow not confidential. Windstream cannot see how this could possibly matter. If Windstream has privately negotiated with another private party for bargained and paid for confidentiality, then Windstream has an obvious business reason to uphold that agreement. It would put Windstream in a situation where it could never promise confidentiality to any other party if it is now made to breach all of these contracts just because CMN has filed this lawsuit. This would put Windstream at a serious business and financial disadvantage, a situation KRS 61.878(1)(c) is meant to protect. As such, Windstream should be afforded confidentiality for these contracts.

WHEREFORE, Windstream requests the PSC to grant its Supplemental Petition for Confidential treatment of rates and confidential contracts.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing was served on September 6, 2018 upon the following:

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Exhibit A

Pages on which rates have been redacted are:

- 1) WIN0927
- 2) WIN0962
- 3) WIN1045
- 4) WIN1049
- 5) WIN1129
- 6) WIN1167
- 7) WIN1177
- 8) WIN1210
- 9) WIN1248
- 10) WIN1284
- 11) WIN1319
- 12) WIN1354
- 13) WIN1400
- 14) WIN1437
- 15) WIN1471
- 16) WIN1503
- 17) WIN1538
- 18) WIN1568
- 19) WIN1641
- 20) WIN1675
- 21) WIN1707
- 22) WIN1714
- 23) WIN1746
- 24) WIN1792
- 25) WIN1834
- 26) WIN1855
- 27) WIN1868
- 28) WIN1916
- 29) WIN1988
- 30) WIN2056
- 31) WIN2092
- 32) WIN2127
- 33) WIN2158
- 34) WIN2177
- 35) WIN2199
- 36) WIN2222
- 37) WIN2227
- 38) WIN2256
- 39) WIN2277
- 40) WIN2290
- 41) WIN2320
- 42) WIN2336

- 43) WIN2354
- 44) WIN2360
- 45) WIN2363
- 46) WIN2388
- 47) WIN2408
- 48) WIN2428
- 49) WIN2446
- 50) WIN2464
- 51) WIN2466
- 52) WIN2481
- 53) WIN2486
- 54) WIN2487
- 55) WIN2507
- 56) WIN2551
- 57) WIN2568
- 58) WIN2578
- 59) WIN2647
- 60) WIN2648
- 61) WIN2754
- 62) WIN2763
- 63) WIN2770
- 64) WIN2773
- 65) WIN2774
- 66) WIN2776
- 67) WIN2778
- 68) WIN2820
- 69) WIN2828
- 70) WIN2831
- 71) WIN2832
- 72) WIN2870
- 73) WIN2901
- 74) WIN2917
- 75) WIN2918
- 76) WIN2942
- 77) WIN2961
- 78) WIN2979
- 79) WIN3012