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November 27, 2018

PARTIES OF RECORD

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

Attached is a copy of the informal conference memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Benjamin Bellamy, Staff Attorney III, at 502-782-2584.

Sincerely,

A handwritten signature in blue ink that reads "Gwen R. Pinson".

Gwen R. Pinson
Executive Director

BAB

Attachment

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File No. 2018-00157

FROM: Benjamin Bellamy, Staff Attorney III

DATE: November 27, 2018

Re: Informal Conference of November 9, 2018

Pursuant to an order filed on November 2, 2018, an informal conference (IC) was conducted on November 9, 2018 at the offices of the Kentucky Public Service Commission. Commission Staff and representatives from both Windstream Kentucky East, LLC (Windstream East) and CMN-RUS, Inc. (CMN) were in attendance. A sign in sheet identifying each person who attended and their affiliation is attached hereto as an appendix.

The November 9, 2018 informal conference was requested by the parties to discuss potential settlement. Commission Staff indicated that the settlement discussions should be confidential. The parties agreed that the substance of and statements made during the course of the settlement discussions at the IC would be confidential such that neither party would attempt to introduce evidence regarding what occurred or what was said during the settlement discussions into the record. No settlement was reached at the IC but the parties are continuing their discussions and indicated that they would report any settlement to the Commission on or before December 3, 2018.

Following discussions of settlement, the parties and Commission Staff discussed outstanding procedural issues related to the hearing scheduled for December 11, 2018 and December 12, 2018. When the parties and Commission Staff began discussing the procedural issues, Commission Staff indicated that the settlement discussions had ended and that statements made when discussing the procedural issues could be included in the record. Commission Staff further indicated that they would draft a memo to be placed in the record documenting the discussions and that the parties would have the opportunity to file a response to the memo if they believed it did not accurately reflect the discussion.

Commission Staff first attempted to clarify the parties positions regarding whether they would like an in person hearing or for the case to be decided on the written record. Both parties made filings requesting or indicating that they had no objection to the matter being decided on the written record. However, one of the filings referenced the summary judgment standard under the Kentucky Rules of Civil Procedure and indicated that a hearing was not necessary because there was no dispute in the material facts.

Commission Staff sought to clarify whether the parties were seeking to have the Commission rule on the written record only if the Commission determined that there is no

dispute in the material facts or whether the parties were seeking to have the Commission rule on the written record even if the Commission determined that there is a dispute in the material facts that required the Commission to make a finding of fact to reach its ultimate decision. CMN and Windstream East both agreed that they were seeking to have the Commission make a decision on the written record even if the Commission determines that there is a dispute in the material facts and it is necessary for the Commission to make a finding of fact based on the written record.

Commission Staff explained that the parties request for the case to be submitted on the written record would be submitted to the Commission for a decision and order but reminded the parties that the current hearing date remain on the docket absent an order stating otherwise. In the event the Commission granted the parties request to take the matter under submission based on the written record, the parties inquired as to when the factual record would be closed. Commission Staff explained that issue would be addressed in any order on the issue but that the factual record would likely be considered closed as of the date of that order (though Commission Staff did inform the parties during the course of the informal conference that they cannot bind the Commission).

Counsel for CMN also inquired as to the status of a decision on Windstream's motions for confidential treatment. Commission Staff indicated that an order should be forth coming. The parties also agreed that the briefing on the motions for confidential treatment covered both the confidential nature of the documents and CMN's ability to access and use the documents in the proceeding if they are deemed confidential.

There being no further material discussions, the informal conference was then adjourned.

CC: Parties of Record

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CMN-RUS, INC.

COMPLAINT

v.

WINDSTREAM KENTUCKY EAST, LLC

DEFENDANT

CASE NO
2018-00157

Please sign in for November 9, 2018 informal conference:

NAME

ON BEHALF OF

DANIEL KING
James Lloyd
Tia Cumb
Anita Larson
Katherine K. Yunker
J.E.B. Pinney
Jim Stevens
Oleg Stepanov
Ben Bellamy

WINDSTREAM,
Windstream
Windstream
CMN-RUS, Inc,
MMLK for CMN-RUS
PSC - Office of General Counsel
PSC - FA
PSC-FA
PSC - Office of General Counsel

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