

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

DEC 19 2014

The Application Of Windstream Kentucky)
East, LLC And Windstream Kentucky West,)
LLC For A Declaratory Ruling That Approval Is)
Not Required For The Transfer Of A Portion Of)
Their Assets; (2) Alternatively For Approval Of)
The Transfer Of Assets; (3) For A Declaratory)
Ruling That Communications Sales and Leasing,)
Inc. Is Not Subject To KRS 278.020(1); and (4))
For All Other Required Approvals And Relief)

PUBLIC SERVICE
COMMISSION

CASE NO. 2014-00283

**KENTUCKY CABLE TELECOMMUNICATIONS
ASSOCIATION'S RESPONSE TO WINDSTREAM'S MOTION FOR REHEARING**

Intervenor KCTA hereby responds to Windstream's Motion for Rehearing. KCTA does not object to Windstream's request that a Kentucky-specific LLC be required to acknowledge its utility status by registration with the Commission.¹

Windstream also asks the Commission to clarify it did not find CSL will provide telecommunications service to the public. The December 4 Order does not say CSL will be providing telecommunications service. The Commission explained that "CSL's owning facilities used [by Windstream] for providing service for the public qualifies as service under KRS 278.010(13)." Order at 16. The Commission did not characterize CSL's service to Windstream as anything other than the lease of property to Windstream, noting Windstream's claim it would maintain "complete control over the subject assets." Order at 4.

To be sure, the Commission found "elements of control" in the master lease sufficient to trigger KRS 278.020(5) (transfer of control statute) and 278.010(3)(a) (definition of "utility") regardless of whether CSL itself would be providing any service "to the public." The

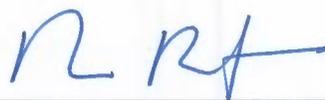
¹ The Petition refers to "CSL Kentucky Realty, LLC" and to "CSL Kentucky System, LLC."

Commission then stated “the fact that CSL *itself* does not provide service for the public is not dispositive, the fact that the facilities it will own are used [by Windstream] in connection with providing service to the public is dispositive in determining that [CSL] is a utility under Kentucky law.” Order at 14 (emphasis added). In other words, Windstream will retain *all* of its utility service obligations. At the same time, Windstream’s use of real property under the master lease with CSL triggers Chapter 278 jurisdiction over CSL as a matter of law. The Commission asserted that jurisdiction and imposed conditions.

KCTA does not object to the Commission clarifying its decision as follows: “CSL’s utility status under KRS Chapter 278 is not a finding that CSL will be providing telecommunications services to anyone, or utility services to the public.”

Respectfully submitted,

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(admitted under SCR 3.030)
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing motion has been served by first class mail on those persons whose names appears below this 19th day of December, 2014.

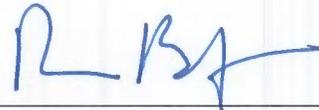
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