

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>AN INQUIRY INTO THE STATE</b>	)	<b>CASE NO.</b>
<b>UNIVERSAL SERVICE FUND</b>	)	<b>2016-00059</b>

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**MOTION FOR CONFIDENTIAL TREATMENT**

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Come now McLeod USA Telecommunications Services, LLC; Network Telephone, LLC; PAETEC Communications, LLC; Talk America, LLC; The Other Phone Company, LLC; US LEC of Tennessee, LLC; Windstream Communications, LLC; Windstream KDL, LLC; Windstream Kentucky East, LLC; Windstream Kentucky West, LLC; Windstream Norlight, LLC; Windstream NTI, LLC; Windstream NuVox, LLC (collectively, the “Windstream Companies”), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to certain portions of Responses to Data Requests tendered simultaneously herewith in the above-captioned proceeding, respectfully states as follows:

1. In the Commission Staff’s First Requests for Information to All Parties, Commission Staff Request No. 1 requests that completed copies of the KUSF reimbursement forms submitted to both the Commission and the Finance and Administration from January 2014 to present be provided.

2. Information provided by the Windstream Companies on this form includes (i) the total number of access lines the Windstream Companies are collecting the USF surcharge on; (ii) the amount of the surcharge remitted to the KUSF fund; (iii) the number of access lines the

Windstream Companies have receiving Lifeline Support; and (iv) the amount of reimbursement requested from KUSF (collectively, the “Confidential Information”.

3. The Windstream Companies believe the Confidential Information includes proprietary information regarding the number of access lines the Windstream Companies have in Kentucky and the amount remitted to and requested from the KUSF fund. The Windstream Companies believe the open disclosure of this Confidential Information would allow the Windstream Companies’ competitors to gain an unfair advantage and that the Confidential Information also constitutes a trade secret since it is commercial information, if disclosed to the public, could cause competitive harm to the Windstream Companies.

4. The Windstream Companies believe the Confidential Information is generally recognized as confidential and proprietary in the telecommunications industry, and the public disclosure of the Confidential Information would potentially harm the Windstream Companies’ competitive position in the marketplace, to the detriment of the Windstream Companies, and their customers. In light of these facts, the Kentucky Open Records Act exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(c)(1).

5. KRS 61.878(1)(c)(1) protects “records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” The Kentucky Supreme Court has stated, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The Confidential Information is critical to the Windstream Companies’ effective execution of business decisions and strategy. If disclosed, the Confidential Information would give the

Windstream Companies competitors and unfair commercial advantage. Accordingly, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

6. In accordance with the provisions of 807 KAR 5:001, Section 13(2), the Windstream Companies are filing, in a separate sealed envelope marked confidential, one (1) copy of the Responses to Commission Staff's First Set of Information to All Parties Requests No. 1 under each section of the Information Requests, with the Confidential Information highlighted. Redacted copies of these responses are attached to the Windstream Companies responses which are being tendered simultaneously herewith.

7. In accordance with the provisions of 807 KAR 5:001, Section 13(2), the Windstream Companies respectfully requests that the Confidential Information be withheld from public disclosure for ten (10) years.

8. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, the Windstream Companies will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, the Windstream Companies respectfully requests that the Commission classify and protect as confidential the specific Confidential Information described herein for a period of ten (10) years.

This 27<sup>th</sup> day of April, 2016.

Respectfully submitted,

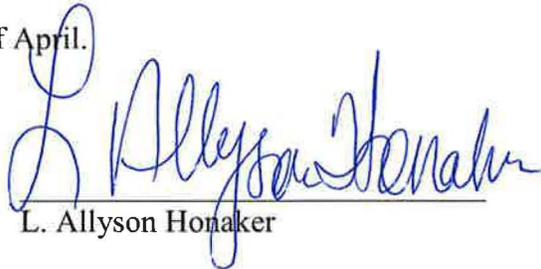


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CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on April 27, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand delivered to the Commission on this the 28<sup>th</sup> day of April.



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L. Allyson Honaker