

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE)	CASE NO.
UNIVERSAL SERVICE FUND)	2016-00059

BRIEF IN RESPONSE TO COMMISSION'S APRIL 20, 2017 ORDER

Come now McLeodUSA 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 their Brief in Response to the Commission's April 20, 2017 Order respectfully state as follows:

INTRODUCTION

In the Commission's April 20, 2017 Order, the Commission ordered each party to file a response (in the form of testimony, comments or brief) regarding the effect, if any, Senate Bill 10 would have on the Commission's Order in this case: (1) eliminating the Kentucky Universal Service Fund ("KUSF") support for wireless carries after the April 2017 reimbursement; (2) lowering the surcharge amount to \$0.03 per line; and (3) increasing the KUSF support to landline telephones to a maximum of \$7.50 as the federal USF support decreases for landline telephones. Senate Bill 10 was signed into law ten days after the Commission's March 10, 2017 Order. Senate Bill 10 essentially deregulates retail basic telephone service after September 1, 2017.

ARGUMENT

The Windstream Companies do not believe that Senate Bill 10 has any effect on the Commission's March 10 Order. First, as the Commission points out in its April 20 Order, carriers that could be impacted by Senate Bill 10 are designated as eligible telecommunications carriers ("ETCs") for purposes of receiving Lifeline support. As an ETC, these carriers will still be required to meet the obligations imposed on ETCs under federal law. Second, the KUSF was established pursuant to federal law. In Administrative Case No. 360,¹ the Commission established the KUSF to provide state matching support for the federal Lifeline program in Kentucky. Specifically, 47 U.S.C. § 254(f) provides for states to adopt mechanisms that preserve and advance universal service. KRS 278.5435 (which is the statute Senate Bill 10 revised) states in section (5) that "Nothing in this section: (a) Shall affect the obligations of a modifying utility under federal law..." Therefore, the Windstream Companies do not believe Senate Bill 10 will change the scope of the Commission's March 10 Order regarding the collection of the \$0.03 surcharge per line nor the reimbursement amounts available under the KUSF.

Furthermore, 47 U.S.C. § 254(b) provides that the guiding principle of the USF is to ensure that just, reasonable and affordable rates are charged for quality service. As a result of the federal USF subsidy to landline customers being phased out over the next few years, the Commission's finding that the KUSF support will need to be increased to benefit those landline customers in order to satisfy this guiding principle of providing quality service at just, reasonable and affordable rates is justifiable, appropriate and laudable.

¹ PSC Administrative Case 360, *An Inquiry Into Universal Service and Funding Issues* (Ky. PSC May 22, 1998).

WHEREFORE, on the basis of the foregoing, the Windstream Companies respectfully request that the Commission affirm its March 10 Order since Senate Bill 10 will not affect the Commission's March 10 decision.

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 May 8, 2017; 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 the 9th day of May, 2017.



L. Allyson Honaker