

KENTUCKY PUBLIC SERVICE COMMISSION

In the Matter of:)
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)
ELECTRONIC INVESTIGATION OF THE) CASE NO. 2022-00108
PROPOSED POLE ATTACHMENT)
TARIFFS OF INCUMBENT LOCAL)
EXCHANGE CARRIERS)
)
)

The Kentucky Broadband and Cable Association and its members¹ (“KBCA”), pursuant to the Commission’s March 30, 2022, Order, respectfully submits these initial Requests For Information (“RFI”) to Windstream Kentucky East, LLC, and Windstream Kentucky West, LLC, in accordance with the following Definitions and Instructions.

DEFINITIONS

1. The terms “You,” “Your,” and “the Company” refer individually to Windstream Kentucky East, LLC (“Windstream East”), and Windstream Kentucky West, LLC (Windstream West”).
2. The term “KBCA” refers to the Kentucky Broadband and Cable Association.
3. The term “Commission” refers to the Kentucky Public Service Commission.
4. The term “Poles” refers to utility poles in Your electric distribution network in Kentucky that You own or control.
5. The term “Proposed Tariff” refers to the tariffs issued March 22, 2022, by Senior Regulatory Counsel, in connection with this proceeding.

¹ The KBCA’s members are Access Cable, Armstrong, C&W Cable, Charter Communications, Comcast, Inter Mountain Cable, Lycom Communications, Mediacom, Suddenlink, and TVS Cable. Kentucky Broadband & Cable Association, Our Members, *available at* <https://www.kybroadband.org/members>.

6. All capitalized terms not defined herein shall have the meanings given to them under the Proposed Tariff.

INSTRUCTIONS

1. To the extent a response differed between Windstream East and Windstream West, including referencing different data, each entity must respond separately.

2. In answering these Requests for Information, please furnish all information that is known or available to You, regardless of whether the information is possessed directly by You or Your agents, employees, representatives, or investigators, or by Your attorneys or their agents, employees, representatives, or investigators.

3. Please identify at the end of Your response to each Request for Information the person or persons most knowledgeable about such response and the person or persons responsible for the preparation of such response.

4. If any information responsive to these Request for Information is withheld, identify the Requests as to which such information is withheld and the reason(s) for withholding it.

5. For any information that You claim is unavailable, state why it is unavailable. If You cannot respond to the Request for Information precisely as it is stated, provide any information that is available and is responsive to the Request at a level of detail different from that specified herein.

6. KBCA requests that You produce all documents referenced in any response or that you referenced, reviewed, or relied upon to respond to any Request for Information.

REQUESTS FOR INFORMATION

1-1. Identify the number or percentage of Your poles that are currently red-tagged.

1-2. Provide data related to the number of Your Poles that are anticipated to be red-tagged in the next five years.

1-3. Explain how You will determine if a pole is red-tagged.

- a. Explain what You will do when You are notified of a red-tagged pole.
- b. Explain how an attacher can determine and assess whether or not a pole is or will be red tagged.

1-4. Explain the basis for Your proposed requirement that an attacher pay the entire cost of replacing a pole that is not red-tagged, including all economic basis for this requirement.

- a. Explain your accounting treatment of a non-red-tagged pole that is replaced with a new pole paid for by an attacher.
- b. Explain whether or not You receive any financial or other benefit as a result of an attacher paying to replace an existing pole with a new pole so that it may attach.

1-5. Explain and provide data related to “the regular and customary methods used by Licensor in determining such costs” for “performing such work for Licensee to include, without limitation, costs to transfer or moving of Licensor facilities and removal of old Poles,” as referenced in Section 6, Original Page 20, of Your Proposed Tariff.

- a. Explain the basis for and provide data related to the calculation of Your “reasonable overhead,” including explaining how these costs are not recovered in the annual rental rate. Proposed Tariff Section 6, Original Page 20.

1-6. Explain the basis for and provide data concerning Your requirement that You may terminate KBCA’s rights under the tariff and remove its attachments for failure to pay amounts You are claim are due. Proposed Tariff Section 7(A), Original Page 20.

- a. Explain the basis for terminating KBCA's rights under the tariff and removing its attachments if You and KBCA are engaged in a dispute regarding the terms, conditions, or rates set forth in Your tariff.
- b. Explain the basis for denying access to a pole for payment disputes.

1-7. Please provide a copy of the "Licensor requirements and specifications of Licensor" referenced in Section 11, Page 26 of Your Proposed Tariff.

1-8. Please identify and provide data concerning all costs (including how such costs are calculated) incurred by You in connection with overloading.

1-9. Please explain why an "engineering analysis" would be necessary before or after every overload, even for extremely lightweight fiber overloading. See Section 12, Original Pages 28, of Your Proposed Tariff.

1-10. Please state whether You maintain current pole loading data for all of Your poles and, if so, explain how such data is maintained.

- a. Please identify the number or percentage of poles you own that are currently at, near, or over their load capacity.

1-11. Explain the cost basis for Your \$100 penalty for unauthorized attachments when a party with unauthorized attachments declines to participate in an inventory survey. Proposed Tariff, Section 18, Original Page 33.

- a. Explain and provide data concerning all costs you incur as a result of unauthorized attachments.
- b. Explain how those costs are not recovered in the unauthorized attachment fee set forth in section 18(b) of Your Proposed Tariff.

- c. Explain whether you would consider a third party attacher to have participated in an inventory survey if it cooperates with Windstream during the audit process, but does not actually go into the field with the auditors.

1-12. Explain the basis for and provide all data concerning Your requirement that “Licensee represents and warrants that all Licensee Contractors shall maintain the same insurance coverage and limits as are required under this Agreement, and if not Licensee’s insurance will provide such coverage.” Proposed Tariff Section 20, Original Page 37.

1-13. Explain the basis for and provide data concerning Your requirement that KBCA carry additional (double) insurance when an Approved Contractor (a contractor that Windstream itself has approved) works on Your poles. Proposed Tariff Section 23, Original Page 42.

1-14. Explain why third party attachers should be liable for Your negligence.

1-15. Explain why the same standard of liability does not apply to the You and to third party attachers.

1-16. Explain the cost basis for Your field or engineering fee of \$75.00 per hour, including how You calculate that fee.

- a. Explain how those costs are not recovered in the annual rental rate.

1-17. Explain the cost basis for Your \$125 per application fee, including how You calculate that fee.

- a. Explain how those costs are not recovered in the annual rental rate.

1-18. Explain the cost basis for Your \$400 one time agreement fee, including how You calculate that fee.

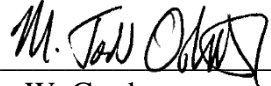
- a. Explain how those costs are not recovered in the annual rental rate, and why this cost is reasonable when attachers wish to use this tariff.

1-19. Explain the cost basis for Your \$15 per pole removal verification fee, including how You calculate that fee.

a. Explain how those costs are not recovered in the annual rental rate.

Dated: April 21, 2022

Respectfully submitted,

/s/ 

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Counsel for KBCA

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2022, I electronically filed the foregoing document using the Kentucky Public Service Commission's electronic system for filing, which sent notice of filing to counsel of record.

/s/  _____