

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

Brandenburg Telephone Company; Duo County)	
Telephone Cooperative Corporation, Inc.; Highland)	
Telephone Cooperative, Inc., Mountain Rural)	
Telephone Cooperative Corporation, Inc.; North)	
Central Telephone Cooperative Corporation; South)	
Central Rural Telephone Cooperative Corporation, Inc.))	
And West Kentucky Rural Telephone Cooperative)	
Corporation, Inc.)	
)	
Complainants)	Case No.
)	2007-00004
v.)	
)	
Windstream Kentucky East, Inc.; and)	
Windstream Kentucky West, Inc.)	
)	
Defendants)	

PETITION FOR CONFIDENTIAL TREATMENT

Windstream Kentucky East, LLC moves the Commission pursuant to 807 KAR 5:001, Section 7 and KRS 61.878 for an Order granting confidential treatment to certain information filed in response to data requests propounded in this proceeding. In support thereof, Windstream states:

The Information For Which Confidential Treatment Is Sought.

Windstream seeks confidential treatment for the following information that is being filed today in response to the data requests propounded in this proceeding:

(a) The cost study provided in response to Intervenor Data Request No. 4, as well as certain information regarding the cost study furnished in response to Intervenor Data Request No. 1, Complainants' Data Request No. 30, and Staff Data Request No. 3.

(b) Two agreements provided in response to Complainants' Data Request No. 7.

(c) Certain customer proprietary information regarding the Complainants provided in Response to Complainants' Data Request No. 9 and Data Request No 36.

(d) Information regarding the minutes and dollars billed by Windstream for transit traffic services under its tariff and other contractual arrangements.

The Statutory Standard.

KRS 61.878(c)(1) excludes from the Open Records Act:

"[r]ecords 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 present an unfair commercial advantage to competitors of the entity that disclosed the records.

This exception applies to the information to be provided by the Windstream for which confidential treatment is sought.

The Records Are Being Confidentially Disclosed To The Commission.

The information for which confidential protection is sought is being disclosed to the Public Service Commission in connection with data requests propounded by Commission staff and the parties to the this ongoing proceeding before the Commission. As such, it is both being disclosed to the Commission and is required by the Commission to be disclosed to it.

The Information Is Generally Recognized As Confidential and Proprietary.

The information for which confidential treatment is sought is "generally recognized as confidential or proprietary." Items (a), (b) and (d) are highly confidential and confidentiality is critical to Windstream's ability to provide competitive products. Dissemination of the requested

information is restricted by the Windstream and it takes all reasonable measures to prevent its disclosure to the public as well as persons within the company who do not have a need for the information. Windstream takes steps to ensure that only a restricted list of employees have access to such information. This type of information is provided only to those employees who have a particular need to know the information.

The customer proprietary information regarding the RLECs (item (c)) likewise is treated by Windstream as highly confidential and is regularly protected by Windstream from public disclosure.

None of the information for which confidential protection is sought is readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use. Moreover, with respect to the cost study, (item (a)) no amount of independent research could reveal this level of detailed information to Windstream's competitors.

Disclosure Of The Information Will Result In An Unfair Commercial Advantage.

The wireline industry in Kentucky is highly competitive. In addition to Windstream, other wireline providers in Kentucky providing local exchange service in the areas served by Windstream include competitive local exchange carriers such as SouthEast Telephone, Inc. and Big Rivers Telephone, as well as Time-Warner Telephone and Insight Phone. If required to provide the information described above in items (a), (b) and (d) Windstream's competitive position will be compromised. As a result, disclosure of the confidential information will result in a significant, non-trivial unfair commercial advantage to competitors of Windstream.

Southeastern United Medigroup, Inc. v. Hughes, Ky. App., 952 S.W.2d 195, 199 (1997).

Public disclosure of the transit services cost study (item (a)) would unfairly aid entities seeking to negotiate for the purchase of such services by providing them with Windstream's

costs in providing such services. Indeed, this type of detailed cost information is closely protected by non-regulated entities because of the unfair competitive advantage it would give their competitors and customers.

Public disclosure of the terms of the two agreements for which confidential protection is sought (item (b)) will adversely affect Windstream's ability to negotiate such agreements in the future, and will hinder Windstream's ability to obtain more favorable terms in the future from other providers. Such agreements are privately negotiated and entered into voluntarily by the parties.

The information regarding the minutes of transit service usage (item (d)) is an input for the cost study, which in turn, is protected from public disclosure for the reasons set forth above. The revenue produced by the sale of such services will allow Windstream's competitors to (i) assess the relative efficacy of Petitioners' marketing and strategic business initiatives in Kentucky; and (ii) make strategic changes to their own business and marketing plans based upon Windstream's business performance as disclosed by the revenue data.

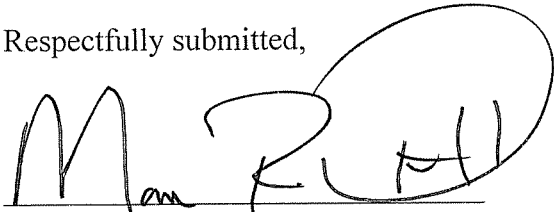
Customer proprietary information (item (c)) typically has been protected from public disclosure by the Commission.

Windstream derives independent economic value from the information contained in items (a) through (c) not being generally known to, and not being readily ascertainable by other persons who can obtain economic value from its disclosure or use. Accordingly, Windstream would be placed at a competitive disadvantage vis-à-vis other wireline providers if required to disclose the information publicly.

Wherefore, Windstream respectfully request the Public Service Commission of Kentucky to protect from public disclosure of items (a) through (d).

This 20th day of March, 2009.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark R. Overstreet". The signature is written in a cursive style with a large, prominent "M" and "R".

Mark R. Overstreet, Esq.
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COUNSEL FOR WINDSTREAM
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CERTIFICATE OF SERVICE

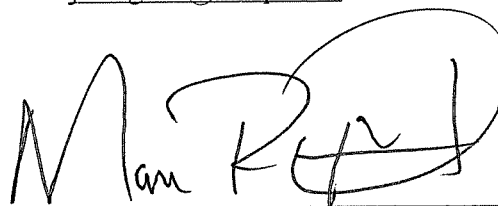
I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, on this 20th day of March, 2009 upon:

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A handwritten signature in black ink, appearing to read "Mark R. Overstreet", written over a horizontal line.

Mark R. Overstreet